

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

BONDS AND BOND
TAXES

The Board may obtain funds to construct, acquire, or equip school buildings, to purchase necessary sites, to purchase new school buses, or to acquire or refinance property financed under a contract entered under the Public Property Finance Act by issuing bonds and assessing annual ad valorem taxes sufficient to pay the principal and interest on the bonds as or before they come due. *Education Code 45.001(a)*

All bonds shall be issued in accordance with the Public Security Procedures Act. *Gov't Code 1201*

INSTRUCTIONAL
FACILITY
ALLOTMENT

Except as provided by Education Code 46.005 and 46.006, a district that issues bonds to construct, acquire, renovate or improve an instructional facility is guaranteed certain state funding to pay principal and interest on eligible bonds under the Instructional Facilities Allotment program, Education Code Chapter 46, Subchapter A. *Education Code 46.003; 19 TAC 61.1032*

EXISTING DEBT
ALLOTMENT

The District is guaranteed certain state funding to pay the principal and interest on eligible bonds under Education Code Chapter 46, Subchapter B. Bonds are eligible if the District made payments on the bonds during the final school year of the preceding state fiscal biennium or taxes levied to pay the principal and interest on the bonds were included in the District's audited debt service collections for that school year, and the District does not receive state assistance under the Instructional Facilities Allotment for payment of the principal and interest on the bonds. *Education Code 46.032-.033; 19 TAC 61.1035*

POLITICAL
ADVERTISING

No officer or employee of the District shall knowingly expend or authorize the expenditure of District funds for the purpose of political advertising. Funds may be expended, however, for advertising that describes the factual reasons for a measure and does not advocate the passage or defeat of such measure.

No officer or employee of the District shall spend or authorize the expenditure of District funds for a communication describing a measure if the communication contains information that:

1. The officer or employee knows is false; and
2. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense that the officer or employee reasonably relied on a court order, or an interpretation in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of a district that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to a measure complies with the section.

Election Code 255.003 [See CPAB]

NEWSLETTERS

A newsletter of a public officer of the District is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
2. It includes no more than eight personally phrased references on a page that is 8 1/2" x 11" or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and
3. When viewed as a whole and in the proper context:
 - a. Is informational rather than self promotional;
 - b. Does not advocate passage or defeat of a measure; and
 - c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

ELECTIONEERING

The Board may not use state or local funds or other resources of the District to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*

ELECTIONS

No bonds shall be issued or taxes levied unless approved by a majority of the qualified voters of the District who vote at an election held for such purpose. The election shall be called by Board resolution, which shall set the date, polling places, and propositions to be voted on.

The election shall be held on a uniform election date.

Education Code 45.003(a); Election Code 41.001(a) [See BBB]

CALL FOR
ELECTION

For an election to be held on the date of the general election for state and county officers, the November uniform election date of even-numbered years, the election shall be called not later than the 78th day before the election day.

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For an election to be held on a uniform election date other than the date of the general election for state and county officers, the election shall be called not later than the 71st day before election day.

Election Code 3.003, .005, 41.002 [See BBB]

NOTICE OF
ELECTION

Notice of each election shall be published not earlier than the 30th day or later than the tenth day before election day in a newspaper of general circulation in the District or a newspaper of general circulation in the territory if none is published in the District. The person responsible for giving the notice must retain a copy of the published notice that contains the name of the newspaper and the date of publication. *Election Code 4.003(a)(1), (c), .005*

The Board shall also deliver notice of the election to the county clerk of each county in which the District is located not later than the 60th day before election day.

Election Code 4.008 [See BBB]

POSTING

In addition, notice of the election, which must include the location of each polling place, must be posted not later than the 21st day before election day on the bulletin board used for posting notices of Board meetings. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the Board after the last posting is made. *Election Code 4.003(a)(1), (b), (c), .004-.005*

PRECLEARANCE
REQUIRED

A bond election is subject to federal preclearance requirements to the extent that the District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a bond election or scheduling of events leading up to or following a bond election is subject to the preclearance requirement. *28 CFR 51.17 [See BBB]*

NEW DEBT

Before issuing bonds, the District must demonstrate to the attorney general that, with respect to the proposed issuance, the District has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds, other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation.

CURRENT TAXABLE
VALUE

The District may demonstrate the ability to comply by using the most recent taxable value of property in the District, combined with state assistance to which the District is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.

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FUTURE TAXABLE
VALUE

The District may demonstrate the ability to comply by using a projected future taxable value of property in the District anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the District is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.

The District must submit a certification of the projected taxable value prepared by a registered, certified professional appraiser who has demonstrated professional experience in projecting taxable values or who can obtain any necessary assistance from an experienced person.

The certification of the District's projected taxable value must be signed by the Superintendent. The attorney general must base a determination of whether the District has complied on a taxable value that is equal to 90 percent of the value certified.

Education Code 45.0031

PROPOSITIONS

Each proposition submitted to authorize the issuance of bonds shall include the question of whether the Board may levy ad valorem taxes either:

1. Sufficient, without limits as to rate or amount, to pay the principal of and interest on said bonds; or
2. Sufficient to pay the principal of and interest on said bonds, provided that the annual aggregate bond taxes in the District shall never exceed the rate stated in the proposition.

Education Code 45.003(b)

In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the issuance of bonds shall specifically state:

1. The total principal amount of the bonds to be authorized, if approved; and
2. A general description of the purposes for which the bonds are to be authorized, if approved.

Election Code 52.072(e)

REFUNDING BONDS
AUTHORITY

The Board is authorized to refund or refinance all or any part of any of its outstanding bonds and interest thereon, payable from ad valorem taxes, by issuing refunding bonds payable from ad valorem

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taxes in accordance with legal requirements for the issuance.
Education Code 45.004; Gov't Code 1207

INSTRUCTIONAL
FACILITIES
REFUNDING BONDS

The District may use state funds received under Education Code Chapter 46 to pay principal of and interest on refunding bonds that:

1. Are issued to refund bonds eligible under Section 46.003;
2. Do not have a final maturity date later than the final maturity date of the bonds being refunded;
3. May not be called for redemption earlier than the earliest call date of all bonds being refunded;
4. Result in a present value savings as defined in Education Code 46.007.

Education Code 46.007

AUTHORIZED
UNISSUED BONDS

If the District has authorized school bonds for a specific purpose and that purpose has been accomplished by other means or has been abandoned and all or a portion of the authorized bonds remains unissued, the Board may call an election [see BBB] to determine whether the authorized bonds may be issued or sold for a different purpose or purposes specified in the election order. If a majority of those voting at the election favor the sale of the unissued bonds, the Board is authorized to issue the bonds and use the proceeds for the purpose or purposes stated in the election order. *Education Code 45.110*

GUARANTEED BONDS

The District may apply to the Commissioner of Education for approval to guarantee bonds issued in accordance with the provisions above or bonds issued under Government Code Chapter 1207, by the corpus and income of the permanent school fund. The application shall include:

1. The name of the District and the principal amount of the bonds to be issued;
2. The name and address of the financial institution designated by the District as its agent for payment of principal and interest for guaranteed bonds; and
3. The maturity schedule, estimated interest rate, and date of the bonds.

Education Code 45.051-.052, .054-.055

An application must be accompanied by a fee set by rule of the State Board in an amount designed to cover the costs of administering the program to provide the guarantee of eligible bonds.

Education Code 45.055(c)

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If approved, the guarantee of the bonds remains in effect until the date those bonds mature or are defeased in accordance with state law. *Education Code 45.052*

CREDIT
ENHANCEMENT
PROGRAM

If the District's application for guarantee of District bonds is rejected, the District may, in accordance with Education Code Chapter 45, Subchapter C and 19 Administrative Code 61.1038, apply for credit enhancement of bonds described by Education Code 45.054 by money appropriated for the Foundation School Program, other than money that is appropriated to school districts specifically:

1. As required under the Texas Constitution; or
2. For assistance in paying debt service.

The credit enhancement remains in effect until the date the bonds mature or are defeased in accordance with state law.

Education Code 45.252

ELIGIBILITY

To be eligible for approval by the Commissioner for credit enhancement:

1. Bonds must be issued in the manner provided by Education Code 45.054;
2. Payments of all of the principal of the bonds must be scheduled during the first six months of the state fiscal year;
3. The District's lowest credit rating from any credit rating agency may not be the same as or higher than that of the School District Bond Enhancement Program;
4. The bonded debt for which the credit enhancement is sought must be structured so that no single annual debt service payment exceeds two times the quotient produced by dividing the total proposed annual debt service, as defined in 19 Administrative Code 61.1038(b)(10), for the term of the bonds by the number of years in the amortization schedule; and
5. The District must agree in its application that the total annual debt service on bonds approved for the credit enhancement will be paid on or before August 15 of each state fiscal year.

Education Code 45.254; 19 TAC 61.1038(f)

APPLICATION

A district seeking credit enhancement of eligible bonds shall apply to the Commissioner using a form adopted by the Commissioner for the purpose. The application must:

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1. Include the information required by Education Code 45.055(b) and 19 Administrative Code 61.1038; and
2. Be accompanied by a fee set by State Board rule in an amount designed to cover the costs of administering the program to provide the credit enhancement of eligible bonds.

The District may not submit an application for a guarantee or credit enhancement before the successful passage of an authorizing proposition.

If the District does not receive a credit enhancement or for any reason does not receive approval of the bonds from the attorney general within the specified time period, the District may reapply in a subsequent month.

Education Code 45.255; 19 TAC 61.1038(d), (e)(1), (8)

USE OF BOND
PROCEEDS FOR
UTILITIES

The proceeds of bonds issued by the District for the construction and equipment of school buildings in the District and the purchase of the necessary sites for school buildings may be used, among other things, to pay the cost of acquiring, laying, and installing pipes or lines to connect with the water, sewer, or gas lines of a municipality or private utility company, whether or not the water, sewer, or gas lines adjoin the school, so that the District may provide its public school buildings the water, sewer, or gas services.

Education Code 45.101