

## FACILITIES

### General Obligation Bonds

The Governing Board recognizes that school facilities are an essential component of the educational program and that the Board has a responsibility to ensure that the district's facilities needs are met in the most cost-effective manner possible. When the Board determines that it is in the best interest of district students, it may order an election on the question of whether bonds shall be issued for school facilities.

*(cf. 1160 - Political Processes)*  
*(cf. 7110 - Facilities Master Plan)*  
*(cf. 7210 - Facilities Financing)*

The Board shall determine the appropriate amount of the bonds in accordance with law.

When any project to be funded by bonds will require state matching funds for any phase of the project, the ballot for the bond measure shall include a statement as specified in Education Code 15122.5, advising voters that, because the project is subject to approval of state matching funds, passage of the bond measure is not a guarantee that the project will be completed. (Education Code 15122.5)

### Bonds Requiring 55 Percent Approval by Local Voters

The Board may decide to pursue the authorization and issuance of bonds by approval of 55 percent majority of the voters pursuant to Article 13A, Section 1(b)(3) and Article 16, Section 18(b) of the California Constitution. If two-thirds of the Board agree to such an election, the Board shall vote to adopt a resolution to incur bonded indebtedness if approved by a 55 percent majority of the voters. (Education Code 15266)

*(cf. 9323.2 – Actions by the Board)*

The bond election may only be ordered at a primary or general election, a statewide special election, or a regularly scheduled local election at which all of the electors of the school district are entitled to vote. (Education Code 15266)

Bonded indebtedness incurred by the district shall be used only for the following purposes: (California Constitution Article 13A, Section 1(b)(3) and 1(b)(3)(A))

1. The construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities
2. The acquisition or lease of real property for school facilities

The proposition approved by the voters shall include the following accountability requirements: (California Constitution Article 13A, Section 1(b)(3))

1. A requirement that proceeds from the sale of the bonds be used only for the purposes specified in items #1-2 above, and not for any other purposes including teacher and administrative salaries and other school operating expenses
2. A list of specific school facility projects to be funded and certification that the Board has evaluated safety, class size reduction, and information technology needs in developing that list

*(cf. 0440 - District Technology Plan)*  
*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 6151 - Class Size)*

3. A requirement that the Board conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed
4. A requirement that the Board conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects

If a district general obligation bond requiring a 55 percent majority is approved by the voters, the Board shall appoint an independent citizens' advisory oversight committee. This committee shall be appointed within 60 days of the date that the Board enters the election results in its minutes pursuant to Education Code 15274. (Education Code 15278)

*(cf. 1220 - Citizen Advisory Committees)*  
*(cf. 9324 - Minutes and Recordings)*

The Superintendent or designee shall ensure that the annual, independent performance and financial audits conducted pursuant to items #3 and #4 above are issued in accordance with the U.S. Comptroller General's Government Auditing Standards. He/she shall submit the audits to the citizens' oversight committee by March 31 of each year. (Education Code 15286)

#### Bonds Requiring 66.67 Percent Approval by Local Voters

The bond election may be ordered to occur on any Tuesday, except a Tuesday that is a state holiday or the day before or after a state holiday, is within 45 days before or after a statewide election unless conducted at the same time as the statewide election, or is an established election date pursuant to Elections Code 1000 or 1500. (Education Code 15101)

Bonds shall be sold to raise money for any of the following purposes: (Education Code 15100)

1. Purchasing school lots
2. Building or purchasing school buildings
3. Making alterations or additions to school building(s) other than as may be necessary for current maintenance, operation, or repairs

4. Repairing, restoring, or rebuilding any school building damaged, injured, or destroyed by fire or other public calamity
5. Supplying school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature
6. Permanently improving school grounds
7. Refunding any outstanding valid indebtedness of the district, evidenced by bonds or state school building aid loans
8. Carrying out sewer or drain projects or purposes authorized in Education Code 17577
9. Purchasing school buses with a useful life of at least 20 years
10. Demolishing or razing any school building with the intent to replace it with another school building, whether in the same location or in any other location

Except for refunding any outstanding indebtedness, any of the purposes listed above may be united and voted upon as a single proposition by order of the Board and entered into the minutes. (Education Code 15100)

The Board may appoint a citizens' oversight committee to review and report to the Board and the public as to whether the expenditure of bond revenues complies with the intended purposes of the bond.

#### Certificate of Results

If the certificate of election results received by the Board shows that the appropriate majority of the voters are in favor of issuing the bonds, the Board shall record that fact in its minutes. The Board shall then certify to the eCounty bBoard of sSupervisors all proceedings it had in connection with the election results. (Education Code 15124, 15274)

#### Resolution Regarding Sale of Bonds

Following passage of the bond measure by the appropriate majority of voters, the Board shall pass a resolution directing the issuance and sale of bonds. The resolution shall prescribe the total amount of bonds to be sold and may also prescribe the maximum acceptable interest rate, not to exceed eight percent, and the time(s) when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. However, if the Board elects to issue the bonds pursuant to Government Code 53508, the maximum acceptable interest rate shall not exceed 12 percent and the time(s) when the whole or any part of the principal shall be payable shall not be more than 40 years. (Education Code 15140; Government Code 53508)

Prior to the sale of bonds, the Board shall disclose, as an agenda item at a public meeting, either in the bond issuance resolution or a separate resolution, all of the following information: (Education Code 15146; Government Code 53508.9)

1. Express approval of the method of sale (i.e., competitive, negotiated, or hybrid)
2. Statement of the reasons for the method of sale selected
3. Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are utilized for the sale, unless these individuals have not been selected at the time the resolution is adopted, in which case the Board shall disclose their identities at the public meeting occurring after they have been selected
4. Estimates of the costs associated with the bond issuance, including, but not limited to, bond counsel and financial advisor fees, printing costs, rating agency fees, underwriting fees, and other miscellaneous costs and expenses of issuing the bonds

After the sale, the Board shall be presented with the actual cost information and shall disclose that information at the Board's next scheduled meeting. The Board shall ensure that an itemized summary of the costs of the bond sale and all necessary information and reports regarding the sale are submitted to the California Debt and Investment Advisory Commission. (Education Code 15146; Government Code 53509.5)

#### Bond Anticipation Notes

Whenever the Board determines that it is in the best interest of the district, it may, by resolution, issue a bond anticipation note, on a negotiated or competitive-bid bases, to raise funds that shall be used only for a purpose authorized by a bond that has been approved by the voters of the district in accordance with law. (Education Code 15150)

Payment of principal and interest on any bond anticipation note shall be made at note maturity, not to exceed five years, from the proceeds derived from the sale of the bond in anticipation of which that note was originally issued or from any other source lawfully available for that purpose, including state grants. Interest payments may also be made from such sources. However, interest payments may be made periodically and prior to note maturity from an increased property tax if the following conditions are met: (Education Code 15150)

1. A resolution of the Board authorizes the property tax for that purpose.
2. The principal amount of the bond anticipation note does not exceed the remaining principal amount of the authorized but unissued bonds.

The notes may be issued only if the tax rate levied to pay interest on the notes periodically would not cause the district to exceed the tax rate limitations set forth in Education Code 15268 or 15270, as applicable.

*Legal Reference:*

**EDUCATION CODE**

7054 *Use of district property, campaign purposes*  
15100-15254 *Bonds for school districts and community college districts*  
15264-15288 *Strict Accountability in Local School Construction Bonds Act of 2000*  
17577 *Sewers and drains*  
17584.1 *Deferred maintenance, reports*  
47614 *Charter school facilities*

**ELECTIONS CODE**

324 *General election*  
328 *Local election*  
341 *Primary election*  
348 *Regular election*  
356 *Special election*  
357 *Statewide election*  
1302 *School district election*  
15372 *Elections official certificate*

**GOVERNMENT CODE**

1090-1099 *Prohibitions applicable to specified officers*  
1125-1129 *Incompatible activities*  
8855 *California Debt and Investment Advisory Commission*  
53506-53509.5 *General obligation bonds*  
53580-53595.5 *Bonds*  
54952 *Definition of legislative body, Brown Act*

**CALIFORNIA CONSTITUTION**

Article 13A, Section 1 *Tax limitation*  
Article 16, Section 18 *Debt limit*

**COURT DECISIONS**

*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District, (2006) 139 Cal.App.4th 1356*

**ATTORNEY GENERAL OPINIONS**

88 *Ops.Cal.Atty.Gen. 46 (2005)*  
87 *Ops.Cal.Atty.Gen. 157 (2004)*

*Management Resources:*

**CSBA PUBLICATIONS**

*Bond Sales – Questions and Considerations for Districts, Government Brief, December 2012*  
*Legal Guidelines: Use of Public Resources for Ballot Measures and Candidates, Fact Sheet, February 2011*

**WEB SITES**

CSBA: <http://www.csba.org>  
California Debt and Investment Advisory Commission: <http://www.treasurer.ca.gov/cdiac>  
California Department of Education: <http://www.cde.ca.gov>  
California Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

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