

Taxpayer Challenges in the Bond Issuance Process

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Introductions

Name: Frank Evans, Ed.D. Moderator

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Name: Anjali Vij, Speaker

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Name: Brittany Flaherty Theis, Speaker

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Name: Mark Staehlin, Speaker

- *Controller, Community High School District No. 99*



Agenda

- Introductions and Background
- Taxpayer Petitions
- Referenda
- Open Meetings Act
- Property Tax-Related Matters

Petition Period / Backdoor Referendum

- Applies to Working Cash Fund Bonds, Funding Bonds and Alternate Bonds
- School Board adopts a resolution setting forth the District's intent to issue bonds
- Notice of intent to issue the bonds is published in a newspaper of general circulation within the District
 - Publication commences the "Petition Period"
 - 30 day period during which a petition containing the requisite number of voter signatures may be submitted to the Secretary of the Board to request a referendum on issuing the bonds
 - For Working Cash Fund Bonds and Funding Bonds, the number of petitioners is equal to 10% of the number of voters registered in the District on the date registration closes before the regular election next preceding the day on which a petition may be filed.
 - For Alternate Bonds, the number of petitioners is equal to the greater of (i) 7.5% of the number of registered voters in the District or (ii) 200 of those registered voters or 15% of those registered voters, whichever is less.
- The Secretary is required to provide a petition form to anyone requesting one.
- If no petition is filed, or there are not enough valid signatures, the District can proceed with the issuance of the bonds (after BINA public hearing)
- If a petition is signed by the requisite number of voters, the District may challenge the petition, opt not to proceed with the issuance or proceed to referendum

Related Tips and Considerations

- Publish the Notice of Intent as soon as possible after the Resolution of Intent is adopted.
- In order to challenge a petition that has been filed with the requisite number of signatures, be mindful of the process and deadlines and prepare ahead of time.
- A petition is deemed valid unless it is objected to in writing within 5 business days after the last day for filing the petition.
- The electoral board is designated to hear and pass upon objections to petitions for school district public question.

Referenda

| | Deadline | November 6, 2018 General Election |
|--|---|--------------------------------------|
| Board Adopts Election Resolution | 79 days before the Election | August 20, 2018 |
| Board Secretary Certifies Question to Election Authorities | 68 days before the Election | August 29, 2018 |
| Election Authorities Publish Election Notice in Newspaper | Not more than 60 days and not less than 10 days before the Election | September 7 - October 26, 2018 |
| District and Election Authorities post Election Notice at Principal Office | Not less than 10 days before the Election | October 26, 2018 |
| Canvass by Election Authority | 21 days after the Election | November 27, 2018 |

Related Tips and Considerations

- In Cook, Kane, DuPage and Lake Counties, Spanish translation is required for election materials (need Certificate of translation)
- For PTELL referenda (Limiting Rate and Extension Limitation Increases), work with a financial advisor regarding property tax impact numbers required to be set forth in the election materials.
- Be aware of tasks and deadlines
- Coordinate with Election Authorities to proof election notices and ballots ahead of time

Example: Salt Creek School District Number 48 Bond Referendum

- School Board adopted Election Resolution to submit proposition for the issuance of building bonds to the voters at the November 8, 2016 general election and filed the Election Resolution with the DuPage County Election Commission.
- At the time, the Election Code required that Notice of the Election be published in a newspaper of general circulation not more than 30 nor less than 10 days prior to the date of the Election. The Election Notice was published 32 days before the Election.
- The proposition was approved by the majority of the voters of the District.
- Ultimately, corrective legislation was passed in Springfield. However, lawsuits were filed against other districts similarly situated, challenging the validity of the election. Additional lawsuits were filed regarding the constitutionality of such legislation.

Open Meetings Act (“OMA”) and Board Governance

- Subject to narrow exceptions, the OMA requires meetings of public bodies, including school districts, to be open to the public
- Requires public notice of the schedule of regular meetings and the posting of an agenda for each regular meeting
- The OMA provisions for special and emergency meetings
- The bond issuance process requires the execution of many financial and legal documents

Related Tips and Considerations

- Discuss open v. closed session considerations with bond counsel and/or local counsel
- Share your draft agenda item(s) with bond counsel and/or local counsel before posting
- Determine whether there are any planned vacations or extended absences among Board members or key administrators

Real Property Taxation

- Real property taxes make up a significant portion of revenue for school districts in Illinois.
- Property tax matters will be addressed within numerous documents throughout the bond issuance process.
- Issuers need to be aware of the potential for taxpayer challenges at each stage of the property tax cycle, as well as be prepared to discuss and disclose any such challenges during the bond issuance process.
- Also, issuers with a property tax base that is highly concentrated in a single taxpayer should be prepared to discuss the implications of that concentration.

Real Property Taxation-Tax Levies

- Truth in Taxation (Property Tax Code)
 - Estimate of taxes to be levied
(Board resolution ≥ 20 days prior to adoption of aggregate levy)
 - Public hearing if estimate is more than 105% of the prior year's extension
- Board of Education must formally adopt the levies and file them with the County Clerk(s)

Real Property Taxation - Assessments

- Historical data in Preliminary Official Statement
- Valuation Certifications & Non-availability Certificates
- Exemptions
- TIF Districts – proposed or existing
- Assessment appeals and tax objections
 - Disclosure of pending appeals
 - Real Property Tax Settlement Agreements

Real Property Taxation – Extension, Collection, & Distribution

- Historical data in Preliminary Official Statement
- Collection and distribution implications for tax anticipation warrants (as well as availability of other funds such as working cash)
- Excess accumulation claims

Related Tips and Considerations

- Be prepared to discuss any and all pending property tax matters with your financing team –including tax objections, assessment complaints, proposed TIF districts, etc.
- Be sure to take the time to thoroughly review the drafts of the Preliminary Official Statement for accuracy and thoroughness – this is the District’s statement to potential investors

Additional Thoughts

re: Tax Objections on Fund Balances

- Tax Rate Objections – Excessive Fund Balances
 - 2X Annual Expenditures
- Consider Deferral of Early Taxes
 - Connect to Working Cash Bond Issuances
 - Same Cash on Hand but lowers your apparent F/B
 - Helps in CBA negotiations
 - Easy BOE resolution – Intent to keep levy intact
 - Know 100% of your P-Tax when issuing your budget
- Lowers your revenues by $\frac{1}{2}$ of your levy increase

Questions and Answers

We thank you for your time!

Presenters:

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