



Issues Committee  
I.D. 980478

# Kindergarten through Community College Public Education Facilities Bond Act of 2016

## Current School Facility Program - Chapter 12.5

**Q. Why does the State School Bond initiative reference that funds will be apportioned pursuant to Chapter 12.5 as it read on January 1, 2015?**

**Answer.** This provision means the \$7 billion for K-12 facilities will be apportioned for the current School Facilities Program.

**Q. Why was this included?**

**Answer.** We thought that the voters deserved to know how the funds would be allocated when they signed the petition to place the State School Bond initiative on the November 2016 ballot.

**Q. Does this mean nothing can be changed?**

**Answer.** No. Many of the streamlining proposals suggested by the Governor can still be done because they are not part of Chapter 12.5. Other types of program reforms also can be done because they are not part of Chapter 12.5.

**Q. If streamlining and other program reforms can be done, then what cannot be changed?**

**Answer.** The grant program, full and final apportionment, eligibility requirements, local/state matching percentages, state review of compliance, audit provisions and similar fiscal requirements.



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## 2016 State School Bond and Polling

**Q. When was the last poll on a 2016 State School Bond?**

A. The last poll done by Californians for Quality Schools was in December 2014, just before the initiative was submitted.

**Q. Did the poll say the State School Bond was likely to pass?**

A. Yes. The poll results showed more than 60% would vote for the bond IF they heard about the State School Bond.

**Q. I have heard that the poll showed that if the school bond and the extension of the Proposition 30 taxes were on the ballot, the bond would pass but the taxes would fail. Is this correct?**

A. No. Our polling showed both would pass. Our pollster is the person who has reviewed all the polling data and the conclusion he reached is the bond could help the tax proposal. The people who say differently must be picking and choosing results out of context with an already established conclusion.

**Q. Will Californians for Quality Schools do a new poll?**

A. Yes. We are looking at possible dates but have not made a final decision.



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## 2016 State School Bond and Proposition 98

- Q. Does the 2016 State School Bond affect the Proposition 98 school funding minimum guarantee?**
- A. No. The Bond does not affect the guarantee. None of the state school bonds since 1988 (the year Proposition 98 was approved) have increased or decreased Proposition 98.
- Q. Do schools pay for the state bond debt service from Proposition 98?**
- A. No. The Proposition 98 implementing legislation excluded state bond debt service from Proposition 98.
- Q. I was told the Governor had proposed this in 2012.**
- A. Yes. The Governor proposed this but the Legislature never acted on the proposal because of the legal problems with the proposal. C.A.S.H., CBIA and almost every education organization opposed this proposal when it was made in 2012.
- Q. Would Californians for Quality Schools oppose the proposal if the Governor made it again?**
- A. Yes. We also hope every organization that opposed it in 2012 would oppose it again in 2016.



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## Frequently Asked Questions

*For Contributors to the Coalition for Adequate School Housing Issues Committee ("C.A.S.H. Issues Committee")*

**1. Question: Our firm is a broker, dealer, or municipal securities dealer ("dealer") subject to MSRB Rule G-37. Are we prohibited from contributing to C.A.S.H. Issues Committee?**

**Answer:** No. MSRB Rule G-37 does not prohibit or restrict dealers from contributing to bond ballot committees, such as C.A.S.H. Issues Committee.

**2. Question: If our firm contributes to C.A.S.H. Issues Committee, will our firm be disqualified from obtaining municipal securities business that arises out of the passage of the State School Bond Act of 2014?**

**Answer:** No. MSRB Rule G-37's prohibition on engaging in municipal securities business is not triggered by contributions to bond ballot committees. The rule simply requires dealers to report, on a quarterly basis, contributions to bond ballot committees, and any subsequent business they receive from the passage of the bond ballot.

**3. Question: Will this reporting requirement cause our firm to be singled out as a contributor to the C.A.S.H. Issues Committee?**

**Answer:** No. California law already requires all state and local campaign committees to file frequent campaign reports disclosing detailed information regarding their contributors, and this information is made publicly available. State law also requires that certain contributors file their own campaign reports disclosing their contributions. Thus, by the time a dealer files a quarterly Form G-37 disclosing a contribution to C.A.S.H. Issues Committee, information about the contribution likely would already be publicly disclosed on a required campaign report.

**4. Question: Our firm is an investment advisor subject to SEC Rule 206(4)-5. Are we prohibited from contributing to C.A.S.H. Issues Committee or subject to any special reporting requirements?**

**Answer:** No. SEC Rule 206(4)-5 does not cover contributions to bond ballot campaigns.

**5. Question: Our firm is a municipal advisor registered with the MSRB. Are we prohibited from contributing to C.A.S.H. Issues Committee or subject to any special reporting requirements?**

**Answer:** No. While the MSRB plans to address political contributions by municipal advisors in the future, it has not done so at this time. The MSRB has stated that its intent is to amend Rule G-37, discussed above, to cover municipal advisors.

If you have additional questions, please contact Greg Golik, Operations Director for C.A.S.H., at [ggolik@m-w-h.com](mailto:ggolik@m-w-h.com).



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## Technology

### **Internal Revenue Service**

The Internal Revenue Service (IRS) regulates the use of tax free municipal bonds. If a bond is issued that does not comply with the IRS provisions, then the bond becomes taxable and has a higher interest rate to recognize the investor costs for taxable bond interest compared to tax free interest revenue. The IRS regulations provide a safeguard against the use of long-term tax free municipal bonds for short-lifespan equipment.

Under Federal tax code housed in the Code of Federal Regulations, school districts and others issuing tax-exempt bonds must strive to match the maturity of the bond with the life of the item being purchased with bond proceeds. Governmental entities must ensure that the “weighted average maturity [...] does not exceed 120 percent of the average reasonably expected economic life of the financed capital projects” [Treasury Regulation 1.148-1(c)(4)(i)B(2)]. Failure to do so may subject them to penalties for the creation of “replacement proceeds.”

### **Bond Counsel**

Bond counsel is responsible for ensuring compliance with IRS requirements and certifying to purchasers that the bond interest will be tax free. Bond counsel is liable to the issuer and purchaser if an issued bond that is certified as tax free later becomes taxable. No bond counsel can afford the risk of being wrong on this fact.

### **State School Bonds**

The apportionment of state bond funds does not come with a certification of the bonds’ redemption terms for the bond(s) sold to fund the state matching apportionment. Consequently, the state bond funds need to be spent for long-term purposes such as site acquisition, facility construction and long-life equipment, such as heating, ventilation, and air-conditioning (HVAC) equipment. This ensures the state bond funds are not used for short-term equipment purchases.

### **Local School Bonds**

Local school bonds can be matched to issuance and redemption terms (1 year, 3 years, 5 years, up to 25 to 40 years) and expenditure purposes. The local bonds, however, also need to comply with IRS requirements and have bond counsel certification to be a tax free municipal bond.



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## *Why Not Just Use Taxable Bonds?*

### **Fiscal Reasons Why School Districts Do Not Issue Taxable Bonds**

School districts have tax rate control regarding most bond issuances. Because taxable bonds have significantly higher interest rates, the effect of the tax rate limitation is to reduce the principal amount for bonds that can be issued. Less principal means fewer projects can be funded compared to the bond principal amount that can be issued if the bond has tax free interest. School districts would bear significant local anger if the projects proposed for bond financing are not done because taxable bonds were used.

### **Political Controls**

Any school district that caused local taxpayers to pay more interest than the minimum possible would be a school district where the elected school board would face significant local opposition.

*Because of IRS regulations and for both fiscal and political reasons, school districts do not use long-term bonds for short life equipment expenditures.*



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## State and Local School Bond Accountability and Transparency

### State School Bond Funding Process

The state has multiple points of accountability prior to providing school districts with state bond fund apportionments. This starts with the application process that validates school district compliance with:

- State agency requirements such as a Division of the State Architect (DSA) approval of structural, fire, and life safety plans for school construction, compliance with California Environmental Quality Act (CEQA).
- Compliance with Department of Toxic Substances and Control (DTSC) on school site environmental safety.
- California Department of Education (CDE) site selection procedures.
- Eligibility for state funding based on state eligibility determination.
- Office of Public School Construction (OPSC) review of plans, costs, and validating local match funds.

After completing the process, the district is awarded funding authorization. Within 90 days, however, the district must be under contract for 50% or more of the construction costs or the authorized funds will not be released and the funds will revert for reallocation.

### After the Funds are Released

The state requires submittal of annual expenditure and progress reports to ensure the funds are being used for the approved purpose. Any scope changes have to be approved by the state, but no additional funding is provided, even if the state approves a scope change. The initial apportionment of state funds is considered to be “full and final.”

The state also requires close-out audits by OPSC to review expenditures and recover funds if they have been spent inappropriately. Additionally, a district can be denied future funding if it is determined they intentionally misrepresented data provided to the state in order to increase state funding.

In addition to the eligibility and audit process, the Department of Industrial Relations (DIR) requires information to be submitted during the course of construction. This information is used to enforce public works Project Labor Compliance requirements such as prevailing wage and similar requirements.



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## **Local School Bond Accountability - For Both Proposition 39 55% Voter Approved Bonds and Bonds Approved with 66 2/3 %.**

All voter approved bonds are subject to the required annual independent audit of all school district expenditures. Additionally, if used with a state funded project, the annual OPSC audits and close-out audits are required. Finally, because bond funds are used for public works projects, all of the DIR reviews are required.

## **Local School Bond Accountability - Additional for Proposition 39 (2000) 55% Voter Approved Bonds**

Current law contains tax rate caps for funding the principal and interest costs of voter approved Proposition 39 bonds. Additionally, these bonds must have annual local audits and Bond Oversight Committees (with a required taxpayer representative). Finally, Proposition 39 bonds must specify the purposes and projects that will be funded with the bond proceeds in the language placed before voters on the ballot.

## **State School Bonds - Transparency**

There are many significant transparency provisions for state school bonds. All actions of the State Allocation Board (SAB) are public and archived for easy access. The SAB agenda index is posted on the website at least ten days before the meetings. The full agenda with all the detailed material is posted at least three days before the meeting.

The Office of Public School Construction (OPSC) maintains a website to track state funded projects over the past decade, and to provide access to SAB prior agendas and minutes of actions. OPSC also maintains information of school district state approved eligibility for project matching funds available on the online tracking system.



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## Local School District Bonds - Transparency

During a public meeting, school districts must adopt an agenda item with the language, dollar amount and purpose of a local school bond before it is placed on the ballot. The agenda item is subject to all open meeting requirements regarding agenda item posting.

Local voters have the final decision whether local school bonds will be authorized. The election process and media scrutiny provide public transparency. Local school boards can be held accountable for appropriate expenditure of funds through the local elections process.

If the bond authorization is approved, prior to the sale of the authorized bonds, the school board must have public meetings and provide information to the county office of education and the county treasurer regarding the expected cost and tax rate associated with the bond sale. If the proposed sale is a negotiated sale, rather than a competitive sale, then there are additional public information requirements before action to approve a bond sale. In anticipation of the sale, the school district and its bond counsel must prepare the "official statement," which is a document available to potential investors and members of the public outlining the characteristics and terms of the bonds offered for sale. These official statements are posted to an online municipal bond database available to the public.

Finally, the Bond Oversight Committee and annual audit reports are public records and are usually part of an annual public school bond meeting.