

The New Year brings with it a host of new and amended laws that will affect school bonds and bond elections. As relayed in our recent [DWK legislative update](#), many of these revisions took effect on January 1, 2018, and some will change the way districts plan to incur debt, hold elections, and report debt activities to the public.



### Federal Tax Cuts and Jobs Act

The sweeping federal tax reforms signed into law in late December as the "Tax Cuts and Job Act" impact local district bonds. For example, starting in 2018 and beyond, district may no longer issue tax-exempt "advance refunding" bonds (to set aside in escrow money to pay off debt more than 90 days after the closing date). The only remaining option for districts seeking to reduce interest costs on outstanding bonds using tax-exempt structures are "current refunding" bonds (debt payoffs occurring within 90 days from the bond closing).

Also eliminated are federal tax credit bond programs, such as new Clean Renewable Energy Bonds (CREB) and Qualified Zone Academy Bonds (QZAB). For now, tax credit bonds issued prior to December 31, 2017, will continue to receive their subsidy payments, but these subsidies may be subject to future sequestration as the federal government looks for ways to offset the cost of the tax bill.

As to the effect of federal tax reform on the municipal bond market generally, we must wait and see. Some are predicting that the reduction in corporate tax rate from 35% to 21% will make tax-exempt bonds less attractive to investors, including banks that offer private placement loans. Alternatively, some have suggested that the tax changes may cause a demand for higher coupon rates, which, if the rate is above market rates, would generate more premium on a bond. Others believe that there will still be a strong demand for public agency bonds, given the continuing need to fill investment portfolios with creditworthy instruments. With the record volume of local agencies rushing to the market in December to beat the tax law changes, we may see a quieter first few months of 2018. This "quiet time" may be the perfect opportunity for school districts and their financial and legal advisors to discuss upcoming bond issues and bond or parcel tax measure elections.

To kick off those discussions, below is a recap of California law changes affecting bonds and bond/tax elections in 2018.



### AB 195 - ADDITIONAL DISCLOSURES FOR LOCAL BOND AND PARCEL TAX MEASURES

Assembly Bill 195 (AB 195) requires any ballot measure imposing a tax or raising the rate of a tax to include in the "ballot label" (i.e., the 75-word statement of the measure) the following additional information: the amount of money to be raised annually; the tax rate; and the duration of the tax.

AB195 was approved with little input from public agencies, many of which did not know that these amendments were progressing through the Legislature in 2017. Promoted by statewide taxpayer advocacy organizations, the new requirements of AB 195 will reduce the already limited number of words available to summarize the projects or programs to be financed with a bond or parcel tax measure. The impact is particularly troublesome in the context of bond measures, since these financial variables are not fixed, and estimates may lead to voter confusion. Confusion often leads to opposition.

### AB 1194 - BOND MEASURE TAX RATE STATEMENT

Assembly Bill No. 1194 (AB 1194) amends the requirements for tax rate statements which are included with ballot information mailed to voters for local bond measures. AB 1194 deletes the requirement that a tax rate statement include best estimates of the tax rate that would be required to be levied to fund a bond issue during (i) the first fiscal year after the first sale of the bonds, and (ii) the first fiscal year after the last sale of the bonds if the bonds are proposed to be sold in series. Instead, a tax rate statement must (i) include the best estimate of the average annual tax rate that would be required to be levied to fund the bond issue over the entire duration of the bond debt service, and (ii) identify the final fiscal year in which the tax is anticipated to be collected. The tax rate statement is traditionally prepared by a district's municipal advisor.

## AB 1550 - SMALL SCHOOL DISTRICT BOND POOLING

Assembly Bill No. 1550 (AB 1550) authorizes two or more small school districts (each with an average daily attendance of less than 2,501) with voter-approved bond authority, to form a joint powers authority (JPA) for the purposes of sharing administrative costs associated with the issuance and sale of bonds. The JPAs may exercise the authority granted to a school district issuing such bonds. Each small school district remains responsible for its respective voter approved bonds, and the formation of the JPA does not otherwise affect the terms of the bonds. AB 1550 applies to Proposition 39 bonds and general obligation bonds approved by a two-thirds vote (including bonds within a school facilities improvement district).

## SB 450 - ADDITIONAL TRANSPARENCY REQUIREMENTS FOR BOND APPROVAL

Senate Bill No. 450 (SB 450) requires that a district governing body obtain and disclose certain information at an open meeting prior to authorizing the issuance of bonds with a term greater than 13 months. The following information should be obtained as a good faith estimate from an underwriter, financial advisor or private lender and incorporated into the record of the meeting at which the issuance of bonds is approved or the resolution approving the issuance of the bonds:

- the true interest cost of the bonds;
- the sum of all fees and charges paid to third parties for issuance of the bonds;
- the amount of proceeds received by the public body for sale of the bonds less the costs of issuance of the bonds and any reserves or capitalized interest paid with proceeds of the bonds; and
- the total payment amount, i.e. the total of all payments the public body will make to pay debt service on the bonds plus the costs of issuance of the bonds.



### Other Bond-Related Requirements



As a reminder, several bond-related laws became effective in 2017 that may affect districts for the first time in 2018:

- Assembly Bill No. 2116 (AB 2116), codified as Education Code §15100(c), mandates that prior to calling a bond election, a governing board obtain “reasonable and informed projections of assessed property valuations that take into consideration projections of assessed property valuations made by the county assessor.” Typically, a district’s municipal advisor gathers the information required by AB 2116 as a district develops a bonding capacity and issuance plan. We recommend that the bond election documents reflect that consideration of data from the county assessor has occurred in developing this bond issuance plan and the tax rate statement.
- Senate Bill No. 1029 (SB 1029), created a requirement that a district adopt a debt management policy before issuing bonds, and many districts adopted such policies in 2017. However, a lesser known aspect of SB 1029 was the creation of a new bond accountability reporting system implemented by the California Debt and Investment Advisory Commission (CDIAC). The first “Annual Debt Transparency Report” for any district that issued debt after January 21, 2017, will be due January 31, 2018. Please [see our advisory](#) on this subject for details.



If you have questions regarding your planned bond issue, bond election, parcel tax measure, or how the recent legislative changes affect your school district, please do not hesitate to contact a member of **DWK's Public Finance Group**. We have assisted California K-14 districts in issuing more than \$2.5 billion of bonds in recent years. Let us put our public finance knowledge and legal expertise to work for you!

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