

Use of School District Resources in Bond and Override  
Elections: An Overview and Emerging Issues  
&  
Compliance Requirements for Bond and Override Elections

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# Overview

## A.R.S. §15-511

- General rule:
  - Prohibits use of school district personnel, equipment, materials, buildings or “any other thing of value” to “influence the outcome of an election”
  - “influencing the outcome of an election” means, in part, “...supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election...in any manner that is not impartial or neutral.”

## A.R.S. §15-511

- Authorizes:
  - Use of voter information pamphlets for bond and override elections
  - Reports on official actions of the Board of Directors and routine district communication
  - A district to sponsor and participate in government-forums or debates “if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints.”

## A.R.S. §15-511

- Prohibits:
  - Attempts to influence the vote or political activities of any employee
  - Spending monies for membership in an association that attempts to influence the outcome of an election

## A.R.S. §15-511

- Prohibition on use of district resources shall not deny the civil and political liberties of any person as guaranteed by the U.S. and AZ Constitution
- AZ Attorney General shall publish guidelines regarding election activities
- Either the AZ Attorney General or the County Attorney may initiate a suit in Superior Court to force compliance
- Penalty for use of district resources is a civil penalty not to exceed \$5,000 plus any amount of misused funds

## A.R.S. §15-511

- District funds or insurance may not be used to pay any such penalty or return any misused funds.

## “Pro” Statement in Voter Information Pamphlet

- A.R.S. § 15-481 requires up to 200 word “Pro” Statement by Governing Board for override elections only.
- “Pro” Statement is not signed by individual board members.
- Best practice is to use formal resolution to approve “Pro” Statement; only a majority is required to approve.

- A.R.S. § 15-491 does not specifically authorize Governing Board “Pro” statements for bond elections.
- A Governing Board "Pro" statement in a bond election may constitute an illegal use of school district resources to influence an election
- No prohibition on individual Governing Board members or district staff from submitting "Pro" statements in bond elections.



# AZ Attorney General Guidelines (2004)

- Application:
  - Statute and Guidelines apply to all school elections – bonds, overrides, Governing Board, purchase/sale/lease of property, and boundary changes
- Definitions:
  - District “personnel” includes both salaried employees and non-salaried volunteers

# AZ Attorney General Guidelines (2004)

- Definitions: (cont'd)
  - District “equipment” includes copiers, fax machines, cell phones, but also e-mail, web sites, newsletters and student newspapers
  - District “buildings” include leased or owned buildings, but also parking lots, walls and fencing

# AZ Attorney General Guidelines (2004)

- Permitted Activities:
  - Advocacy in Private Capacity
  - Expression of Opinions
  - Signs/Stickers on Private Vehicles
  - Reporting on Official Actions of Governing Board
  - Polling Places within school district
  - Receipt of Election Information in school district  
Mailboxes, E-Mail and Telephones (Receipt cannot be prevented)

# AZ Attorney General Guidelines (2004)

- Permitted Activities: (cont'd)
  - Voter Registration
  - Publicity Pamphlets and other Official Election Publications
  - Public Forums
  - Responses to Questions About Ballot Measures
  - Use of Buildings and Facilities by Community Groups or Organizations
  - Investigation of Fiscal Impact of Ballot Measure

# AZ Attorney General Guidelines (2004)

- Prohibited Activities:
  - Campaign Signs at school facilities or on school vehicles
  - Political Buttons, T-Shirts, Etc. worn by faculty/staff
  - Use of Premises by Outside Groups, unless offered on same terms to all parties
  - Use of Authority or Positions to influence subordinates

# AZ Attorney General Guidelines (2004)

- Prohibited Activities: (cont'd)
  - Use of Mailboxes, E-Mail and Telephones to influence elections
  - Petition Circulations
  - Solicitation of Contributions
  - Governing Board Resolutions

# AZ Attorney General Guidelines (2004)

- Guidelines don't specifically mention:
  - Social Media (e.g. Facebook, Twitter, etc.)
  - Use of Frequently Asked Questions
  - Election Materials at “back to school” or “meet the teacher” nights
  - Use of student pictures (actual or stock photos) in election materials

# Emerging Issues

- Use of Social Media to provide election information by school districts, PTA, PAC, etc.
- Use of Frequently Asked Questions within and outside of Voter Information Pamphlet
- Additional postings/publications of election materials, in addition to statutory requirements



- Increased use of “all-mail” ballot elections in “off-year” elections years; not to be confused with mail ballots via PEVL (Permanent Early Voter List)
- Creative use of “pro/con” statements by some members of public; increased oversight by County Elections/Schools
- Increased scrutiny of election materials and activities by public and watchdog groups
- Participation by school districts in voter registration drives
- Request for family information by outside groups

## COMPLIANCE REQUIREMENTS FOR BOND AND OVERRIDE ELECTIONS

### *General Requirements and Preparation for the Election*

Item	Class B and Impact Aid Revenue Bonds	District Additional Assistance Overrides (for capital purposes)	M&O and SP Overrides
<b>Definition</b>	<p><u>Class B Bonds</u>: general obligation bonds authorized by an election after 12/31/98. (Bonds authorized before 12/31/98 are Class A bonds.) A general obligation bond is a debt security sold to investors and repaid by a secondary property tax.</p> <p><u>Impact Aid Revenue Bonds</u>: voter authorized bonds sold to investors and repaid with federal Impact Aid revenues.</p>	An increase in a school district's capital budget subject to voter authorization and funded by a secondary property tax. (Not available to CTEDs.)	An increase in a school district's M&O budget subject to voter authorization (except that Special Program (SP) overrides may be spent for M&O or capital) and funded by a secondary property tax. (Not available to CTEDs.)
<b>Limitations on Amount</b>	<p><u>Class B Bonds</u>: principal amount is limited to the greater of 20% of the net full cash assessed value in the District (10% for elementary and high school districts) or \$1,500 per student. Combined Class A and B debt may not exceed Constitutional debt limit.</p> <p>Exceptions: <u>Career Technical Education Districts</u>: 1% of net full cash assessed value.</p> <p><u>Impact Aid Revenue Bonds</u>: principal amount is limited to three times the average of the previous five years' Impact Aid receipts. Annual debt service is also limited by formula.</p>	Limited to 10% of the RCL but the maximum amount approved is constant over the life of the override.	<ul style="list-style-type: none"> <li>• M&amp;O overrides are limited to 15% of the RCL, but there is a special formula for very small districts.</li> <li>• SP overrides are limited to 5% of the RCL.</li> <li>• The total of M&amp;O and SP overrides cannot exceed 15% of the RCL.</li> </ul>
<b>Maximum Duration</b>	20 years from date of sale, except that bonds that fund equipment have a 5 year limit.	7 years.	7 years (level percent of RCL for 5 years; last two years phase out to 2/3 and 1/3 of original percentage).
<b>Timing Limitations</b>	Bonds must be issued within 10 years after the election and Class B Bonds cannot be issued if any Impact Aid Revenue Bonds are outstanding.	Not applicable.	Not applicable.
<b>Election Dates</b>	<p><u>Class B Bonds</u>: only allowed in November.</p> <p><u>Impact Aid Revenue Bonds</u>: may be held in March, May, September or November.</p>	Only allowed in November. DAA, M&O, or SP Overrides for the same budget year must be held at the same election.	If funded by secondary taxes, only allowed in November. If funded by the cash balance, may be held in March, May, September or November, but only once a fiscal year. All overrides for the same budget year must be held at the same election.
<b>Deadline for Calling Election</b>	Determined by the County School Superintendent; deadlines vary from 150 to 90 days before the election.	Determined by the County School Superintendent, plus statutory deadline of 90 days before the election.	

Primary Sources: Arizona Revised Statutes and Internal Revenue Service Regulations.

## Election / Voter Information Pamphlet Requirements

Item	Class B and Impact Aid Revenue Bonds	District Additional Assistance Overrides (for capital purposes)	M&O and SP Overrides
<b>Notification and Contracts</b>	Districts must notify the County School Superintendent that the election has been called, and enter into contracts or agreements with the County School Superintendent, County Recorder, County Elections Department, printer, etc., as necessary. (Details vary by county.)		
<b>Ballot Language Review</b>	Ballot language must be submitted to Legislative Council for review 85 days before the election.		Ballot language review not required.
<b>Notice</b>	Notice is given by mailing the voter pamphlet.	A notice of the election must be posted; procedures and deadlines vary by county, but statutes specify 25 days before the election.	
<b>Information Required for Voter Pamphlets</b>	Purpose statement for the bond or override. Statements are statutorily limited to factual information presented in a neutral manner.		
	Bond information, including maximum interest rate and estimated debt service schedule.  <u>Class B bonds:</u> average annual tax impact and total cost over the life of the bonds on a \$250,000 home, \$100,000 agriculture/vacant parcel and \$1,000,000 business.	<ul style="list-style-type: none"> <li>• Length of override and proposed first year expenditures.</li> <li>• Current, proposed and alternate budgets.</li> <li>• Statement that the alternate budget will be adopted if the override is not approved.</li> <li>• First year tax rate for the full override amount and estimated cost to average value homes and businesses. (Tax rate and estimated average taxpayer costs must be calculated based on current year assessed valuation received from the Department of Revenue.)</li> </ul>	
	<ul style="list-style-type: none"> <li>• Executive summary of district's capital plan (from SFB).</li> <li>• Complete list of improvements to be funded with the cost of each (administrative improvements listed separately).</li> <li>• Tax rate associated with each improvement and cost to the owner of a single family home valued at \$100,000 for Class B Bonds and \$80,000 for DAA Overrides (not required for Impact Aid Revenue Bonds).</li> </ul>	Not applicable.	
<b>Pro and Con Arguments</b>	<ul style="list-style-type: none"> <li>• Governing Boards must set a deadline for submitting pro and con arguments at a public meeting and publish the deadline in a newspaper of general circulation.</li> <li>• Districts must also advertise for pro and con arguments, which can be combined with the requirement to publish the deadline.</li> <li>• Governing Board statement not permitted.</li> </ul>	<ul style="list-style-type: none"> <li>• Governing Boards must declare the deadline for submitting pro and con arguments at the public meeting when an override election is called and immediately post the deadline on the District's website.</li> <li>• Districts must also advertise for pro and con arguments.</li> <li>• Requires Governing Board pro argument, which must be adopted at a public meeting, signed by Board members, and sent to the County School Superintendent by the deadline, usually 90 days before the election.</li> <li>• Pro and con arguments are limited to 200 words.</li> </ul>	
<b>Pamphlet Mailing Deadline</b>	35 days before the election.		

## Restrictions on Expenditures / Investment Earnings

Item	Class B and Impact Aid Revenue Bonds	District Additional Assistance Overrides (for capital purposes)	M&O and SP Overrides
Limitations on Type of Expenditure	<ul style="list-style-type: none"> <li>• May be used for purchase or lease of school sites, building or renovating school buildings, improving school grounds, supplying school buildings with furniture, equipment and technology, purchasing pupil transportation vehicles or liquidating debt.</li> <li>• According to some bond attorneys and the Auditor General's Office may not be used for books.</li> <li>• Some disagreement as to whether non-pupil transportation vehicles qualify as "equipment."</li> <li>• May be used to retrofit buses for air conditioning, with equipment amortization.</li> <li>• May only be used for purposes stated on the ballot.</li> <li>• If issued as a Qualified School Construction Bond (QSCB), must meet Davis-Bacon requirements and may not be used for buses, for land unless the QSCB proceeds are used for construction on the land, or for equipment unless the equipment is for a QSCB-constructed building.</li> <li>• For CTEDs, intergovernmental agreements required for facilities located on a school district campus (15-1021.H).</li> </ul>	May be used for any authorized capital outlay expenditure as provided in the USFR.	<p><u>M&amp;O overrides:</u> may be used for any M&amp;O purpose.</p> <p><u>SP overrides:</u> for a special program designed for pupils in grades K-12.</p>
	Proceeds may only be expended as listed in the voter pamphlet, except that 10% of the total may be used for general capital expenses and cost overruns.		No similar restriction.
Interest Earnings	Interest earnings on bond proceeds must be used for debt service unless voters authorize use for projects in a separate question at the bond election or unless the bonds are issued as QSCB or Build America Bonds (BAB). Interest earnings are added to the 10% leeway described above.	Prior year's interest is added to the unrestricted capital budget limit.	Interest earnings on M&O funds enhance cash balances.
Carry Forward	When bonds are issued, the District must have a plan to expend at least 85% of the monies within three years. For bonds issued as QSCB, all proceeds must be spent within 3 years.	Unspent proceeds may be carried forward.	
IRS and Arbitrage	Tax-exempt financings, including bonds and lease purchases, are subject to IRS rules on arbitrage. Under certain circumstances, districts must restrict the yield on investments of proceeds and debt service funds or make yield reduction payments or arbitrage rebate payments. Special arbitrage experts should be consulted within two years of issuing bonds.		Not applicable.

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### ***Election Communication / Advocacy***

Item	Class B and Impact Aid Revenue Bonds	District Additional Assistance Overrides (for capital purposes)	M&O and SP Overrides
<b>Written Information</b>	All written information provided by the school district pertaining to a Class B bond election must include the estimated average annual tax rate.	All written information provided by the school district pertaining to the election must include the estimated first year tax rate for the proposed override amount.	
<b>Translations</b>	Written materials must be translated into Spanish and interpreters must be available at informational meetings. In some cases, translations and interpreters for other languages are also required, including interpreters at the polls for non-written languages.		
<b>Use of District Resources</b>	School district resources may not be used to influence the outcome of any election. (Restriction does not include resources used for preparation of voter information pamphlets.) Prohibition applies to use of “non-routine” district focused promotional expenditures after election has been called through election day.		
<b>Advisory &amp; Advocacy Committees</b>	The District Governing Board may appoint an advisory committee of citizens to make recommendations regarding bond and override elections. If the Board calls the election, the committee should be disbanded. The committee may reorganize itself as a pro-bond or pro-override committee, but it must register as a Political Committee with the County elections department <u>before making any expenditures, accepting any contributions or distributing any campaign literature.</u>		

### ***Reporting Requirements***

Item	Class B and Impact Aid Revenue Bonds	District Additional Assistance Overrides (for capital purposes)	M&O and SP Overrides
<b>ADE Report</b>	Report of Special Election must be submitted to AZ Department of Education within 15 days after the election.		
<b>Annual Public Meeting</b>	Annual public meeting must be held between September 1 and October 31.		
	For bonds and DAA overrides the presentation is an update on the status of capital improvements. For bonds, the meeting is only required until the bond proceeds are spent. For DAA overrides, meeting is required each year the override is in effect. Included in the meeting shall be discussion of the school district’s use of state capital aid and voter approved bonding in funding capital improvements.		Presentation is the amounts expended and budgeted for each of the purposes identified in the information pamphlet.
<b>Reporting: ADOR, ADOA and IRS</b>	Voter information pamphlet must be sent to AZ Department of Revenue (ADOR) within 30 days after the election.	Not required for overrides.	
	Reports on bond issues and lease purchases must be sent to the State Department of Administration and the IRS after closing. In addition, a report on bonded indebtedness and lease purchases must be submitted to the State Department of Administration annually.		Not applicable.
<b>Continuing Disclosure</b>	Districts may be required to upload Comprehensive Annual Financial Reports (including specified data tables) and notices of material events to the EMMA (Electronic Municipal Market Access) website ( <a href="http://www.emma.msrb.org">www.emma.msrb.org</a> ) while bonds are outstanding.	Not applicable.	



# Questions?

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