OSBA
Capital Conference
2013

"Show Me The Money"
Passing Bond Issues
and Financing Capital Projects

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Discussion Outline

I. **What is the project?**

   A. **Flying solo?**
   B. **State co-funding?**
      - **With or without "LFIs"?**
   C. **What is being left out?**

II. **How much is it expected to cost?**
      - **Is there enough contingency?**

III. **How long is it expected to last?**

IV. **What are available financing options?**

   A. **Voted bonds?**
      1. **Debt limitations**
         a. **Assessed valuation**
         b. **Outstanding net indebtedness**
         c. **Exemptions**
      2. **Property tax vs. income tax**
      3. **Ballot**
         a. **Millage**
         b. **Purpose clause**
         c. **HB 118**
      4. **$ per $100,000 home (and HB 59)**
   B. **Unvoted bonds?**
      1. **Existing resources**
      2. **Debt limitations**
         a. **Direct and indirect**
         b. **Exemptions**
   C. **Tax anticipation notes?**
      1. **Property tax vs. income tax**
      2. **General PI vs. specific PI**
      3. **Statutory limitations**
         a. **Duration**
         b. **Amount**
   D. **Lease-purchase?**
      1. **Existing resources**
      2. **Statutory restrictions**
         a. **Duration**
         b. **Purpose**
      3. **Relative cost**
   E. **Combinations?**

Overview of Basic Financing/Funding Methods & Considerations

I. BORROWINGS

A. TIED TO VOTE

1. BOND ISSUE

a. **Non-OSFC/OFCC**

(1) **ORC § 133.18 – standard**

(2) **ORC § 5705.218 – property tax; combination**

(a) **PI levy**

(b) **Current expense levy**

(c) **Both**

(3) **ORC § 5748.08 – income tax; combination**

b. **OSFC/OFCC-Specific**

(1) **ORC § 3318.06**

(a) **CFAP local share (and maintenance levy, as necessary)**

(b) **Site acquisition (ORC § 3318.06(D))**

- **Bond issue**
- **Dedicated property tax levy**

(2) **ORC § 3318.056 – combination**

(a) **Bond issue under ORC § 133.18**

(b) **Tax levy under ORC § 5705.21**

(c) **Combination under ORC § 5705.218**

(d) **Income tax under ORC § 5748.08 (combination)**

(e) **Restriction on tax for operating revenue**

(3) **ORC § 3318.052 – CFAP local share**

2. **TAX LEVY (TAX ANTICIPATION NOTES – TANs)**

a. **PI – PROPERTY TAX**

(1) **LIMITED PURPOSE**

(2) **"GENERAL PERMANENT IMPROVEMENTS"**

b. **OPERATING – PROPERTY TAX**

(1) **CURRENT EXPENSES**

(2) **EMERGENCY REQUIREMENTS**

(3) **SUBSTITUTE LEVY**

c. **INCOME TAX (ORC §§ 5748.05, .08(G), 5748.09(F), 133.24)**

B. **NOT NECESSARILY TIED TO VOTE**

1. **PI**

a. **GENERAL – 1/10 OF 1% OF AV**

b. **HB 264 – 9/10 OF 1% OF AV**

c. **LEASE-PURCHASE OBLIGATIONS/COPs**

2. **OPERATING (CTRNs)**

3. **CASH ON HAND – USE OF TAX PROCEEDS**

II. **DEBT LIMITATIONS**

A. **DIRECT**

1. **9% of AV**

2. **9/10 of 1% of AV**

3. **1/10 of 1% of AV**

4. **Exempt Debt – Examples:**

   a. **Buses**
   b. **TANs**
   c. **CTRNs**
   d. **CFAP Local Share, Site Acquisition, Project Agreement LFIs, and LFIs (up to a certain amount)**

5. **Special Needs**

B. INDIRECT

III. FEDERAL TAX MATTERS

A. TAX EXEMPTION GENERALLY

B. "BANK QUALIFICATION" ("QTEOS")

C. ARBITRAGE/REBATE

Drilling Deeper…

I. DEBT LIMITS

A. DIRECT DEBT LIMITS

1. "Exempt" debt examples:

   a. Current tax revenue notes

   b. Tax anticipation notes

   c. School bus notes and bonds

2. Unvoted

   a. One-tenth of one percent (1/10%) of assessed value for general capital purposes

   b. Nine-tenths of one percent (9/10%) of assessed value for energy conservation purposes (Revised Code § 133.06)

3. Voted 9% Limit

   a. OSFC/OFCC program exceptions for school district portion of basic project cost (and required LFIs and site acquisition and non-required LFIs up to a certain amount) under Revised Code Chapter 3318

   b. Special needs exception

B. TEN-MILL "INDIRECT" DEBT LIMIT

1. Based on the following provisions of the Ohio Constitution:

   a. *Article XII, Section 11*

      "No bonded indebtedness of the state, or any political subdivision thereof, shall be incurred or renewed unless, in the legislation under which such indebtedness is incurred or renewed, provision is made for levying and collecting annually by taxation in amounts sufficient to pay the interest on said bonds, and to provide a sinking fund for their final redemption at maturity."

b. *Article XII, Section 2*

"No property, taxed according to value, shall be so taxed in excess of 1% of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation either when approved by at least a majority of the electors of the taxing district voting on that proposition, or when provided for by the charter of a municipal corporation."

c. *Article XII, Section 5*

"No tax shall be levied, except in pursuance of law; and every law imposing a tax shall state, distinctly, the object of the same, to which only, it shall be applied."

2. Supplemental Financial Statement Evidencing Compliance with Ten-Mill Limit (see following page)

SUPPLEMENTAL FINANCIAL STATEMENT
(UNVOTED GENERAL OBLIGATION BONDS AND NOTES)

I, County Auditor of ____________ County, Ohio, certify in connection with the following proposed issue of Bonds/Notes: Issuer: _____________ School District. Principal amount $______________, Dated __________, 20__, that:

The tax rates required to produce an amount to pay the highest annual aggregate debt charges for the proposed issue and all other general obligation securities of the Issuer and the subdivisions overlapping it, which are payable from taxes subject to the 10-mill limitation of Article XII, Section 2, Ohio Constitution and applicable Revised Code provisions, based on the facts set forth below *and assuming that all levies were to be made for those debt charges* on the general tax list and duplicate, are as follows:

Overlapping Subdivisions	**Tax Valuation**	**Bonds and Notes Outstanding Payable from Taxes Inside 10-Mill Limitation**	**Present Principal Amount**	**Debt charges for calendar year in which they will be the highest (20)**		**Required Tax Rate in Mills for Two Previous Columns**
				For Principal	**For Interest**	
County	$	(a)Special Assessment Bonds and Notes.	$	$	$	
		(b)All other Bonds and Notes.	$	$	$	
City Or Village	$	(a)Special Assessment Bonds and Notes.	$	$	$	
		(b)All other Bonds and Notes.	$	$	$	
School District	$	Bonds and Notes.	$	$	$	
Township (if any)	$	(a)Special Assessment Bonds and Notes.	$	$	$	
		(b)All other Bonds and Notes.	$	$	$	
(other)	$	Bonds and Notes.	$	$	$	
			Proposed Issue	$	$	
					Total	

INSTRUCTIONS:

1. When Notes constitute the proposed issue or are otherwise included above, use the estimated debt charges for the Bonds anticipated by the Notes as described in the note legislation.
2. If the Issuer is a county, the information should relate to the county, and the combination of overlapping city/village, school district, township and other political subdivisions requiring the highest millage for debt charges inside the 10-mill limitation.
3. Do not include voted bonds or notes.
4. Fill in all blanks, using the word "NONE" where applicable.
5. Include all required millage for debt charges even though no taxes are currently levied for those debt charges.

The date of this Statement is __________________, 20__.

____
County Auditor

II. GENERAL OBLIGATION BONDS AND NOTES

A. VOTED BONDS

1. May be submitted at any election.

   a. Three election dates in presidential primary year; four election dates in other years (but be mindful of restriction in Revised Code § 5705.214, which might impact combination bond issues pursued under Revised Code § 5705.218, for example).

   b. Bond issue may be combined with a tax levy (see, e.g., Revised Code §§ 5705.218, 5748.08).

2. Maximum maturity cannot exceed estimated or statutory life of items being acquired or constructed.

   a. Basic concept: Don't pay for something over a longer period of time than its useful life.

3. Proceeds must be used for stated purpose and for items having a usefulness of five years or more.

4. Non-exempt principal amount of all permanent improvement debt outstanding cannot exceed direct debt limits.

5. Voter approval means:

   a. Bonds may be issued (money may be borrowed) up to amount approved; and

   b. Taxes may be levied at whatever rate is necessary to pay debt service (principal and interest) on the bonds and any notes issued in anticipation of the bonds.

6. Advantage is that a new source of revenue is available to retire debt (including interest) – no effect on other funds.

7. Requires two board of education resolutions, intervening certification by County Auditor and delivery to board of elections <u>at least</u> 90 days prior to election.

8. Notice of election must be published at least ten days prior to date of election (under Revised Code §133.18).

9. If amount proposed would make total non-exempt debt of District exceed 4% of total assessed valuation, then (generally) consents of the State Superintendent of Public Instruction and State Tax Commissioner must be obtained prior to election.

    a. Exception for certain OSFC/OFCC-related bond issues (Revised Code §133.06(I)).

    b. Deadlines for submittal = 120 and 98 (the latter not statutory) days before election.

        - 120-day deadline submittals

            - Letter requesting consents
            - DTE 131 (statement of net bonded indebtedness) – at least draft
            - General certificate

10. If amount proposed would make total (non-exempt) debt of District exceed the 9% direct debt limitation, then (generally) special needs status approval must also be obtained.

    a. Exception for certain OSFC/OFCC-related bond issues (Revised Code §133.06(I)).

    b. Deadlines for submittal (to State Superintendent of Public Instruction) = 120 and 98 (the latter not statutory) days before election.

        - 120-day deadline submittals

            - Cover letter
            - Special needs resolution
            - DTE 131 – at least draft
            - General certificate
            - Assessed valuation history/projection (certified)
            - Enrollment history/projection (per ODE Policy SF-A, as of July 2010)
            - Statement of project needs and associated cost report

BOND ISSUE ELECTION DECISIONS AND PROCEDURES

In connection with the submission of a bond issue to the electors, there are a number of decisions that a board of education will need to make within certain prescribed time periods.

When a bond issue is submitted, the electors are asked to authorize: (1) that the District may borrow up to the principal amount proposed on the ballot; and (2) that the Board may levy an additional tax at whatever rate is necessary to pay the principal of and interest on that borrowing.

The relevant election procedures and requirements, which are set forth in the Ohio Revised Code, generally authorize the Board of Education to submit the question of a bond issue in any amount which does not exceed the Board's borrowing "leeway", which is generally 9% of the School District's assessed valuation less the amount of any outstanding debt.

The first formal step in the required bond issue election procedure is the adoption of a resolution (commonly referred to as the "*resolution of necessity*") which declares that it is necessary to submit the bond issue and fixes five important pieces of information with regard to that issue. Those five pieces of information are:

- The election at which the bond issue is to be submitted
- The principal amount of the bond issue
- The number of years over which the bonds will be retired
- The estimated interest rate which the bonds will bear
- The "purpose" for which the bonds will be issued

Upon adoption of this resolution by the affirmative vote of at least three members of the Board of Education, a copy must be filed with the County Auditor's office.

Using certain information contained in that resolution (bullet nos. 2, 3 and 4 above), the County Auditor will calculate the "average annual millage" estimated to be required to retire the bond issue. This millage rate is an <u>estimate</u> of the <u>average</u> tax rate which would be levied to retire the principal of and interest on the proposed bonds and is based upon certain legally required assumptions which probably will not be correct when the bonds are issued. The calculation assumes, among other things, that the debt will be retired in equal annual principal installments.

The estimate of average annual millage that appears on the ballot is a function of the principal amount of the bond issue, the number of years over which the bonds will be retired, the estimated interest rate on the bonds and the School District's assessed valuation (as calculated for this particular purpose under Revised Code Section 133.18(C)). As indicated above, the principal amount of the bond issue, the number of years over which the bonds will be retired, and the estimated interest rate are all within the control of and set by the School District in the resolution of necessity.

The estimated interest rate can be set as low as possible in light of current and foreseeable interest rate conditions in the bond market, and the maximum maturity of the bond issue can be set as long as possible based on information obtained from the project architect. While there is some risk in being overly aggressive in this area (if one is too aggressive one may have difficulty keeping one's actual annual bond issue millage at or under the estimate that appears on the ballot), that risk is moderated if a school district has experienced consistent assessed valuation growth and expects that growth to continue, among other things.

The actual tax that will be levied in any year the bonds are outstanding will be that rate which is required to raise the number of dollars which a board of education is committed to pay during the associated collection year. It may be higher or lower than the average millage, which appears on the ballot. The actual retirement schedule for the bonds can also be adjusted to try to minimize significant swings in the tax rate.

Following receipt of the County Auditor's calculations, the Board must then consider and adopt a second resolution (called the "*resolution to proceed*") and file it, together with the resolution of necessity and the County Auditor's calculations, with the County Board of Elections on or before the 90th day prior to the election. Because two resolutions must be adopted and an intervening certification received from the County Auditor prior to filing with the Board of Elections, sufficient lead time must be scheduled to complete all of these actions within the time prescribed by law. If statutory consents are required (as discussed above in this outline), even more lead time is needed to meet those deadlines.

To assist the Board in determining the information to be included in the resolution of necessity, the following is a formula providing an estimate of the millage rate, which the County Auditor will calculate. Some County Auditors use a slightly different formula than this one so it is possible the result may differ slightly from that which will be obtained from using this formula, but this formula should provide a reasonable estimate.

The formula is as follows:

$$\mathbf{M} = \frac{[(N+1)(P)(I) + (2)(P)] \times 1000}{(2)(N)(A)}$$

Where:

M = **Average annual millage;**
P = **Principal amount of bond issue;**
I = **Estimated interest rate (expressed as a decimal, i.e. 4 ¾% = .0475);**
N = **Number of years over which the bonds will be retired; and**
A = **Assessed valuation of the District (which should be obtained from the County Auditor for this particular purpose).**

In considering the "purpose" for which the bonds will be submitted, care should be taken to make certain that two criteria are satisfied. First, the purpose clause cannot be misleading, although it may be possible to "fit" the purpose to particular circumstances by either specifically naming or describing the project which is to be constructed or by phrasing that project description in general terms. The Board may be the best judge of exactly how the purpose clause should be worded to obtain a maximum number of votes. Second, the purpose clause must include all of the items for which the Board intends to spend the proceeds of the bonds, since expenditure of the bond proceeds will be limited to those items and areas described.

B. OSFC/OFCC-RELATED BOND ISSUES – Chapter 3318

1. Classroom Facilities Assistance Program (CFAP – Revised Code §§ 3318.01-.20)

    a. Equity list

    b. ½-mill maintenance levy, or permitted equivalent, generally required (unless proration permitted)

    c. "LFIs" – can be required or not required

    d. Immediate co-funding

    e. Fund 010/Fund 034

    f. Investment income (Revised Code § 3318.12)

        i. Revised Code § 3318.12 provides a variety of options for deposit of investment earnings on the portion of the project fund attributable to the school district's local share – contact your legal advisor

    g. Unvoted general obligation securities options (Revised Code § 3318.052(E)).

    h. Segmenting permitted

2. Expedited Local Partnership Program (ELPP – Revised Code § 3318.36)

    a. At least two fiscal years away from CFAP

    b. District-wide master facilities plan developed; discrete portion pursued; qualifying expenditures deducted from local share

    c. Required maintenance levy may be delayed

    d. Delayed co-funding

3. Exceptional Needs Program (ENP – Revised Code § 3318.37)

    a. To protect health and safety of students

b. Building-by-building orientation (as opposed to district-wide)

c. Immediate co-funding

d. Later participation in CFAP

C. UNVOTED BONDS – Revised Code § 133.06

1. Principal amount generally cannot exceed direct debt limits.

2. No new tax authorized - must be retired from existing resources.

3. Requires at least one Board resolution (majority vote).

D. BOND ANTICIPATION NOTES – Revised Code § 133.22

1. Maximum maturity - 20 years from date of original issuance (if permanent improvements to be constructed or acquired will last at least 15 years).

2. If notes are outstanding longer than five years from date of original issue, then must subtract each year over five years from maximum maturity of bonds and must pay down principal:

    a. No later than if bonds had been issued at end of five years; and

    b. No less in amount than if bonds had been issued at end of five years.

3. If anticipating voted bonds, then Board can use voter-approved tax levy to support and retire.

4. If anticipating unvoted bonds, then must use existing sources to retire.

5. Requires at least one Board resolution (majority vote).

E. ENERGY CONSERVATION ("HB 264") BORROWING – Revised Code §§ 133.06(G) and 3313.372

1. Board must contract with an "architect, professional engineer, or other person experienced in the design and implementation of energy conservation measures".

2. That person/entity reports to the Board recommending those measures which the person/entity believes will significantly reduce energy consumption in buildings owned by the Board, with estimates of the costs of the proposed project and energy savings.

3. If the Board determines savings are likely to exceed the cost of pursuing energy conservation measures over next *fifteen* years, the Board can submit its findings to OSFC/OFCC for approval.

4. If OSFC/OFCC gives approval, the School District can issue unvoted general obligation debt not to exceed 9/10 of 1% of total assessed valuation (see "Unvoted Bonds" above) or obligations subject to the 1% debt limit.

5. Board must annually monitor energy savings and annually submit energy savings report to the OSFC/OFCC.

F. PERMANENT IMPROVEMENT TAX ANTICIPATION NOTES – e.g., Revised Code §§ 133.24 & 5705.21, § 5705.216, § 5748.05

1. Anticipates a voted tax.

2. Maturity: generally up to number of years tax to be levied or five, whichever is less, except can be for up to 10 years for "general permanent improvements"; level principal or level debt service; can be across fiscal year-end.

3. Maximum Amount:

    - Specific Permanent Improvements – ½ estimated collections over 5 years

    - General Permanent Improvements – ½ estimated collections over 10 years

    - Income Tax – ½ first year's estimated collection

4. Debt service paid from portion of the anticipated levy annually diverted to the Bond Retirement Fund.

5. Prerequisites to borrowing: voter-approved tax levy and proceedings relating thereto, together with at least one additional Board resolution (majority vote required).

III. LEASE-PURCHASE FINANCING OF EQUIPMENT AND SCHOOL BUILDINGS (Revised Code §§ 3313.37, .371 & .375)

A. SUBJECT-TO-APPROPRIATION FINANCING

1. Essentiality

2. Less secure

3. Higher cost

B. NO NEW TAX LEVY AS SOURCE OF PAYMENT

C. ELIGIBLE IMPROVEMENTS

1. Office Equipment & Hardware and Software for Instructional Purposes

    a. Five-year limit

2. Land

    a. Five-year limit

3. Lease-Purchase Financing of School Buildings and Building Improvements

    Lease-purchasing is a financing tool that has been available to public sector borrowers for many years. Properly structured, lease-purchase agreements permit governmental bodies to pay for capital improvements over time, at tax-exempt interest rates, without being subject to statutory and constitutional debt restrictions. Ohio school districts are accustomed to using lease-purchasing as a means for financing computer systems, office and maintenance equipment and motor vehicles. Ohio school districts and educational service centers have increasingly used lease-purchasing to finance building improvements. As used in this section of the outline, the term "school" includes Ohio school districts and educational service centers, and the term "board" includes boards of education of school districts and governing boards of educational service centers.

    A lease-purchase arrangement is in substance an installment sale agreement. The school makes installment payments that have a principal and interest component, and, at the end of the lease term, title to the leased property transfers to the school. In order to satisfy certain statutory requirements and avoid characterization as a debt, a lease-purchase for school buildings or building improvements must be structured as a series of one-year obligations, renewable for up to 30 years. The annual renewal must be conditioned upon the appropriation of funds by the board for that fiscal year's lease payments.

The primary advantage to an Ohio school district of lease-purchasing over a traditional note or bond issue is that lease financing does not require voter approval and is not subject to the very restrictive 1/10th of 1% limit on unvoted school district general obligation debt. The other side of this coin, however, is that the school district may not levy additional taxes to cover the lease installments. Thus, the first consideration in lease-purchasing is to identify a predictable and secure source of funds that will not be needed for other purposes during the lease term. This task is particularly difficult in light of the uncertainties regarding school funding in Ohio. However, some school districts do have resources and opportunities for generating revenue for this purpose.

School districts should be aware that lease-purchasing may result in higher interest and transactional costs than bond financing. The interest rate is likely to be somewhat higher because of the greater credit risk involved in a lease-purchase. Unlike general obligation bonds, payment of a lease-purchase is subject to the school district's right not to appropriate funds and not to renew the agreement. Transactional costs may be higher because the structure of a lease-purchase arrangement is typically more complex and involves more parties than a general obligation bond issue. The extent to which interest rate and transactional costs exceed those for bonds may vary depending on factors such as the essentiality of the facility to the school district's operations and the school district's financial condition. A financial advisor or investment banker can assist the board in analyzing the cost differential for a particular project.

Lease-purchase arrangements are marketable securities that may be directly purchased by financial institutions, privately placed with a limited number of investors, or sold in a public offering. Short-term leases (up to approximately 10 years) are sometimes purchased by one institution, sometimes with provision for an interest rate adjustment after three to five years. However, for larger financings, and where the principal component is to be amortized over approximately ten years or more, the lease may be marketed in the form of "certificates of participation" (or "COPs") to multiple investors. The "lessor" (often a shell corporation established solely for this purpose (Squire Sanders has created one)) assigns its right to the rent to a corporate trustee and directs the trustee to issue the participation certificates. The school district pays rent to the trustee, and the trustee distributes the rent to the certificate holders. The sale of the certificates provides the funds for construction of the building.

Revised Code Section 3313.375 authorizes schools to enter into lease-purchase agreements "for the construction, enlarging or other improvement, furnishing and equipping, lease, and eventual acquisition of a building or improvements to a building for any school district, educational service center or community school purpose."

In spite of its limitations, costs and complexities, lease-purchasing has been done successfully by many Ohio school districts. The leased facilities have included new school buildings, community centers and administration buildings for educational service centers, major renovations or additions to existing buildings, telecommunications systems, media centers, athletic facilities, and bus garages. Each of these transactions has involved unique circumstances relating to the facilities or revenue sources of the schools, and for those schools lease-purchasing has provided a flexible, efficient means for financing building construction over a period of years without asking the voters to raise taxes.

IV. FEDERAL TAX MATTERS

A. TAX EXEMPTION MATTERS

1. Exclusion of Interest from Gross Income for Federal Income Tax Purposes

2. Qualified Tax-Exempt Obligations (QTEOs)

    a. Attractiveness to Financial Institutions

        i. Deductibility of Interest Carrying Cost (in addition to exclusion of interest from gross income)

    b. $10,000,000 per year and per issue limitation (currently)

        i. Compare rebate exception below

3. State Income Tax Exemption

4. Municipal and School District Income Tax Exemptions

B. ARBITRAGE AND REBATE MATTERS

1. Arbitrage is basically investing the proceeds of tax-exempt securities at a taxable yield in excess of the yield on those securities

    a. School districts are not taxpayers

    b. Requirement is to "rebate" positive arbitrage to federal treasury, subject to exceptions below

    c. Negative arbitrage environment

2. Reasonable Expectations Test at Time of Issuance

a. Within 6 months of the issuance date, the school district will incur substantial binding obligations to third parties to expend at least 5% of the net sale proceeds on the project costs;

b. At least 85% of the net sale proceeds will be allocated to expenditures on the project by the end of three years; and

c. Completion of the project and allocation of the Net Sale Proceeds to expenditures on the project will proceed with due diligence to completion.

3. Exceptions to Requirement to Pay Rebate

a. Aggregate $15,000,000 "Small Issuer Exception" for capital expenditures for the construction of public school facilities

b. 24-Month Spend-Down Exception:

From Issuance Date to the Close of the Following	Cumulative Available Construction Proceeds Required to be Spent
6 months	10%
12 months	45%
18 months	75%
24 months	100%

C. REFUNDINGS UNDER FEDERAL TAX LAW

1. Current refundings

a. Pay off "refunded securities" within 90 days of issuance of "refunding securities"

i. Examples: BANs to BANs, BANs to Bonds and Bonds subject to current redemption

b. Unlimited as to number

2. Advance refundings

a. Refunding securities issued more than 90 days in advance of payment of refunded securities

i. Favorable market conditions but outstanding bonds not subject to current redemption

ii. Customary escrow arrangements

b. Limit of one tax-exempt advance refunding

D. QUALIFIED ZONE ACADEMY BONDS (QZABS) – GENERALLY DESIGNED FOR RENOVATING SCHOOLS WITH LARGE CONCENTRATIONS OF LOW-INCOME STUDENTS

1. Need underlying authority to issue obligations

   - Bonds, leases

2. Apply to ODE for QZAB allocation

3. Use of proceeds

   - Renovating, providing equipment to, developing course materials for use at, or providing training in "academies", namely:

     - Public schools providing education and training below college level;

     - Operating an academic program designed in cooperation with business to enhance curriculum and increase graduation/ employment rates/prepare students for college and workforce; and

     - Either:

       - Are located in empowerment zone or enterprise community; or

       - Have reasonable expectation that at least 35% of the students attending the academy that will be improved with the QZAB proceeds will be eligible for free/reduced-cost lunches under National School Lunch Act; and

     - Have a partnership with one or more private entities that agree to make contributions (cash or in-kind property or services) to the academy with present value equal to at least 10% of the QZAB proceeds.

4. Certain terms set by federal government

   - Maximum maturity (set monthly)
   - Tax credit rate (set each business day)

5. Recent federal laws

- For Ohio, 2011 volume cap, expiring 2013, is $15 million; 2012 volume cap, expiring 2014, is $16.4 million; and 2013 volume cap, expiring 2015, is $16.4 million.

- American Reinvestment and Recovery Act of 2009 provided temporary increase in allocations and temporary authorization for those allocations to be issued as specified (direct payment) tax credit bonds; those allocations have expired, and 2011 et seq. allocations may only be issued as qualified tax credit bonds.

- Emergency Economic Stabilization Act of 2008: Brought QZABs into general rules for qualified tax credit bonds:

  - 3 year expenditure requirement

  - 100% on qualified purposes

  - 2% cost of issuance limit

  - federal prevailing wage

  - any taxpayer can claim the tax credit (credit was previously limited to financial institutions)

6. The bondholder/lessor will receive an income tax credit based on the tax credit rate as applied to principal. The goal of the QZAB program is that the bondholder/lessor will charge no interest or nominal interest because of the value of the tax credit. However, it is up to the school district to negotiate the financing terms with a bond purchaser/lessor.

SQUIRE
SANDERS

Dates and Deadlines for 2014
Ohio School District Issue Elections

Election Dates and Deadlines for 2014

Set forth below are the deadlines for the submission of most ballot issues, including property tax levies, school district income taxes and bond issues, for the four election dates in 2014: February 4, May 6, August 5 and November 4. For many proceedings for such elections, excluding, for example, those for emergency tax levies, school district income taxes and certain bond issues discussed below, the only specific deadline will be a requirement that all the proper materials be completed and filed with the Board of Elections at least 90 days before the date of the election.

Emergency Levies

In the case of emergency tax levies, as a practical matter, the first resolution must be adopted sufficiently in advance (we recommend at least 95 days prior to the election) to permit (i) delivery of the first resolution to the County Auditor (or County Fiscal Officer, as appropriate; this report uses the generic term "County Auditor") and obtaining the County Auditor's millage certification, (ii) adoption of the second resolution and (iii) the requisite filing to be made with the Board of Elections, all no later than the 90th day prior to the election.

School District Income Taxes

In the case of school district income taxes, the first resolution must be adopted and filed with the State Tax Commissioner no later than the 100th day prior to the election. The remaining proceedings must be taken and filings made with the Board of Elections no later than the 90th day prior to the election.

Certain Bond Issues

In the case of school districts intending to submit a bond issue requiring the consents of the State Superintendent of Public Instruction and the State Tax Commissioner because, after the issuance of those bonds, the school district's net indebtedness would exceed 4% of its tax valuation (unless certain exceptions apply), the following must be filed with the Department of Education and the Department of Taxation no later than the 120th day prior to the election: (i) a letter requesting the 4% consents, (ii) a statement of net bonded indebtedness on DTE Form 131 (if the board of education has not yet adopted its resolution of necessity for the bond issue as of that date, a draft DTE Form 131 may be submitted) and (iii) a "general certificate" setting forth certain specific information about the school district. Additional materials necessary to apply for 4% consents must be filed with both Departments no later than the 98th day before the election. The resolution of necessity, County Auditor's millage certifications and resolution to proceed must be filed with the Board of Elections no later than the 90th day prior to the election.

Further filings may be required if, after the issuance of the bonds, the school district's net indebtedness would exceed 9% of its tax valuation.

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Dates and Deadlines for 2014
Ohio School District Issue Elections

Special Election – February 4, 2014

120th day prior to election is October 7, 2013 (Monday)

100th day prior to election is October 27, 2013 (Sunday)

98th day prior to election is October 29, 2013 (Tuesday)

95th day prior to election is November 1, 2013 (Friday)

90th day prior to election is November 6, 2013 (Wednesday)

Special Election – August 5, 2014

120th day prior to election is April 7, 2014 (Monday)

100th day prior to election is April 27, 2014 (Sunday)

98th day prior to election is April 29, 2014 (Tuesday)

95th day prior to election is May 2, 2014 (Friday)

90th day prior to election is May 7, 2014 (Wednesday)

Primary Election – May 6, 2014

120th day prior to election is January 6, 2014 (Monday)

100th day prior to election is January 26, 2014 (Sunday)

98th day prior to election is January 28, 2014 (Tuesday)

95th day prior to election is January 31, 2014 (Friday)

90th day prior to election is February 5, 2014 (Wednesday)

General Election – November 4, 2014

120th day prior to election is July 7, 2014 (Monday)

100th day prior to election is July 27, 2014 (Sunday)

98th day prior to election is July 29, 2014 (Tuesday)

95th day prior to election is August 1, 2014 (Friday)

90th day prior to election is August 6, 2014 (Wednesday)

The purpose of this report is to provide general information. Certain levies, such as the conversion levy, have additional deadlines not discussed in this brief report. Also, please note that certain County Auditors may have additional requirements as to timing and documentation that applicable school districts need to be aware of. Please call us prior to undertaking any election proceedings so that we can assist in making certain that all of the proper steps are taken and deadlines are met.