Proposition 39

✦✦✦

Best Practices Handbook

California's Coalition *for* Adequate School Housing

Proposition 39

✦✦✦

Best Practices Handbook

TABLE OF CONTENTS

INTRODUCTION

On November 7, 2000, California voters reduced the voter approval threshold for school district and community college district general obligation bonds from two-thirds (2/3) voter approval to 55% voter approval. Proposition 39 amends article XVIII A of the California Constitution to allow for the levy of *ad valorem* taxes on real property in excess of the one percent (1%) limit to pay debt service on bonds issued for school construction with the approval of 55% of the votes cast.

The Legislature enacted Assembly Bill 1908 (Lempert), which establishes the issuance procedure for bonds authorized at an election requiring only 55% voter approval, rather than two-thirds. (Stats. 2000, ch. 44.) The statute became operative upon the passage of Proposition 39. AB 1908 sets forth some important restrictions on the issuance of bonds that have been approved pursuant to Proposition 39. More recently, AB 2659 (Lempert) was passed by the legislature and signed by the Governor on September 22, 2000. AB 2659 amends certain provisions of AB 1908, as discussed below.

Analysis of the Initiative and Legislation

Proposition 39. Proposition 39 amends portions of the California Constitution to provide for the issuance of general obligation bonds by school districts, community college districts, or county offices of education "for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities" upon approval by 55% of the electorate. The local ballot measure must: 1) list the specific school facilities projects to be funded, and must certify that the governing board has evaluated safety, class size reduction and information technology needs in developing the list; 2) require that the governing board conduct an annual independent performance audit to ensure that the funds have been expended only on the specific projects listed; and 3) require that the governing board conduct an annual independent financial audit of the bond proceeds until all of the proceeds have been expended.[1] A copy of Proposition 39 is included in Appendix 1.

Assembly Bill 1908. AB 1908, as amended by AB 2659, provides the issuance procedure for bonds approved by a 55% vote. The legislation does not replace existing law that provides for the issuance of general obligation bonds approved by a two-thirds vote, but it allows the governing board to make a choice between the existing and new procedures at the time it calls the election. A school board may only proceed under the 55% election process upon a two-thirds vote of the Board members. Once a board decides to utilize the 55% bond option, it may not subsequently opt out of that procedure, even if the proposition ultimately obtains two-thirds voter approval. A copy of AB 1908 is included in Appendix 1.

1 Proposition 39 also requires every school district to make facilities available to charter schools. This requirement is discussed in more detail later in this handbook.

Assembly Bill 2659. AB 2659 amends the tax rate limitation contained in AB 1908 by transforming what had been an absolute cap on the tax rate that may be levied to pay debt service on the bonds approved at a particular election to the following: a district may only issue bonds using Proposition 39's 55% voter approval procedure if the district projects, at the time of issuance of the bonds, that the tax rate needed to pay debt service on the bonds will not, taking into account any increases in the tax base allowed under Prop. 13, exceed the applicable limit ($60 per $100,000 for unified school districts, $30 per $100,000 for elementary and high school districts).[2] A copy of AB 2659 is included in Appendix 1.

Opportunities and Limitations

There are both opportunities and limitations associated with the new 55% bond approval process contained in Proposition 39 and the associated legislation. Members of the Legal Advisory Committee for the Coalition for Adequate School Housing (C.A.S.H.) have prepared this handbook to guide school district personnel through the decisions of whether and how to hold a Proposition 39 bond election.

2 AB 2659 amends Section 15268 of the Education Code (added by AB 1908), for example, to read, in pertinent part, as follows: "The bonds may only be issued if the tax rate levied ... [to pay debt service on the bonds approved] ... at a single election, would not exceed ... [$30 per $100,000] ... of taxable property when assessed valuation is projected by the district to increase in accordance with ... [Prop. 13].

A Special Thanks to Our Contributors

The two co-chairs of the C.A.S.H. Legal Advisory Committee provided substantial time and intellectual commitment to this project. The C.A.S.H. Board of Directors appreciates the efforts of:

Alex Bowie, Bowie, Arneson, Wiles & Giannone
Stephen L. Hartsell, Schools Legal Service

Among the attorneys who assisted in the preparation and review of the materials used in this report were:

Jerome Behrens, Lozano Smith
Marian Cantor, Marion L. Cantor - Attorney at Law
Cathy Christian, Nielsen Mersamer Parrinello Mueller & Naylor
Warren Diven, Best, Best & Kreiger
John Hartenstein, Orrick Herrington & Sutcliffe
Bill Kadi, Jones Hall
Amanda Susskind, Weston, Benshoof, Rochefort, Rubalcava, Maccuish

In addition, the following school facility professionals also provided important material or input for the handbook.

Roderick Carter, Sutro & Co.
Ariane C. Lehew, School Advisors
Patrick McCallum, Patrick McCallum Group

This project was staffed by Ernest Silva and Karen Blackwell of Murdoch, Walrath and Holmes with good humor and professionalism.

The information and materials in this handbook represent the Committee members' current understanding and analysis of Proposition 39. Because this initiative is so recent and complex, the committee members' understanding of the initiative's provisions is still evolving. Future legislation or court decisions may also affect future interpretation of Proposition 39's provisions. In addition, the information in this handbook is necessarily general, and its application to a particular set of facts and circumstances may vary. **For each of these reasons, the information and materials in this handbook do not constitute legal advice and it is recommended that school districts consult with their own legal counsel prior to acting on any of the information in this handbook.**

DETERMINING THE BOND AMOUNT NEEDED

SCOPE OF BOND

Bonds issued with 55% voter approval pursuant to Proposition 39 may be used for "the construction, reconstruction, rehabilitation or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities." Section 1(b)(3) of Article XIIIA of the California Constitution.[3] Proposition 39 requires the bond proposition to include "a list of the specific school facilities projects to be funded." Section 1(b)(3)(B) of Article XIIIA. Proposition 39 does not define "furnishing and equipping" and does not specify a level of detail required for the project list.

Under the pre-existing law, school districts could already use proceeds of bonds issued with 2/3 voter approval for the "acquisition or improvement of real property." Section 1(b)(2) of Article XIIIA.

School districts are now faced with the practical dilemma of deciding whether to issue bonds pursuant to the 2/3 or 55% voter approval requirements. Districts seeking 55% voter approval will have to go through the up-front effort and expense of enumerating the projects to be funded by the bonds (and the additional burden of complying with the new "accountability" standards). We assume the list will need to include any furnishings and equipment to be covered. In addition, the requirement to list projects on the bond measure may open the door to controversy. On the other hand, the proceeds of bonds issued with 55% voter approval ("55% bonds") may be used for a much broader array of things than the proceeds of bonds issued with 2/3 voter approval ("2/3 bonds").

Proposition 39 also requires school districts to provide public school facilities to charger schools by November 8, 2003, or sooner, if a bond measure is approved before that date. In determining the size of a bond, these new requirements must also be considered. The Charter school provisions are described later in this handbook.

In determining whether to utilize a 55% bond, the District must calculate its financial need as well as all costs and limitations of the 55% bond. The total costs of facilities, furnishings, equipment and finance costs must then be compared with the caps created by Proposition 39.

DETERMINING THE BOND FINANCE COSTS

Tax Exemption

Two basic types of bonds exist. One is a taxable bond and the other is a tax-exempt bond. The individual or institution that buys a taxable bond must pay taxes on the interest received. In contrast, the interest received by the holder of a tax-exempt bond is not subject

---

[3] All citations herein are to the California Constitution unless specified otherwise.

to either state or federal income taxes. Only public agencies, i.e., cities, counties, school and community college districts are permitted to issue tax-exempt bonds. Historically, the annual interest rates on tax-exempt bonds are two percentage points lower than taxable bonds. This spread changes from time to time. Current high quality municipal bonds are in the 5.5% range.

School District Finance

A district generally has two types of financing options available to it: a financing backed by the general fund, i.e., a lease transaction; or a financing whose repayment source is some form of property taxes.

The General Fund of the District is the primary operating fund of the District. The primary source of income for the general fund is the state. The state funding is a formula determined by the state to equalize funding, on a per student basis, for each district throughout the state. Some districts are fortunate enough to have enough flexibility in the general fund to be able to make ongoing debt service payments out of the general fund. Many districts do not have this luxury.

The second primary source of funding for district financing is property taxes. To access this source a district needs to gain approval. Although this is a difficult task, more and more districts will find it necessary if they wish to access state monies for construction or modernization of their sites. Once approved by the voters the district can then issue general obligation bonds backed by *ad valorem* property taxes.

With Proposition 39 passing, the vote requirement can be reduced from 2/3 to 55% with certain restrictions. One of the primary restrictions is the limit to the amount of the dollar tax. The amount is limited per election to $25 per $100,000 of assessed valuation for community colleges, $30 per $100,000 for elementary as well as high school districts and $60 for a unified school district.

Tax Rate & Assessed Values

The tax rate associated with the debt service on the bonds is a function of the assessed valuation of the District and the required debt repayment due in any given year. Each August the Auditor-Controller of the County will view the assessed value of all taxable property in the District, then look at the required debt service payment for the next year and construct a tax rate. The tax rate for each year may vary depending on what happens to the value of taxable property in the District and the nature of the debt service.

Several assumptions go into the forecast of future tax rates. These factors include: 1) assumptions concerning future growth in assessed values, 2) interest rates, 3) the timing of when each series of bonds is issued, 4) the structure of each bond series, and 5) tax reserves and delinquencies.

The two most important factors are 1) the timing of when each series of bonds are issued and 2) assumptions concerning future growth in assessed values. The timing of the series or issuances is important because the bonds do not appear on the tax rolls until the bonds are sold. The greater the amount and frequency of the bonds sold the greater the tax rate.

The other important issue is assumptions concerning future growth in assessed valuation. The key here is first determining historical rates of growth over the past 5,10 or 20 years. Then you must come up with conservative and defensible assumptions for future growth. Foreknowledge of future construction projects either residential or commercial can be helpful in this regard.

Cost of Issuance

Cost of Issuance (COI) for a general obligation bond is the lowest for any long-term security that can be issued by a public agency. There is at present (February, 2001) no perceived difference in the cost of a Proposition 39 Bond (55% vote) versus a Proposition 46 Bond (2/3 vote), although no bonds have yet been brought to market under a Proposition 39 approval. The COI for a General Obligation Bond is the lowest because it is considered the most senior form of debt a public agency can issue. It is considered the most senior because it is backed by an unlimited tax on property owners.

The typical COI for a General Obligation Bond includes the following:

- **Bond Counsel**: Oversees all legal aspects of the election and the bond sale, including preparation of all the legal documents.

- **Manager/Underwriter**: Structures and sells the bonds to the investors. Guides the District though the issuance process, including the rating of the bonds.

- **Rating Fees**: The cost associated with obtaining a rating from the rating agencies. Moody's Investor Service, Standard & Poor's Corporation and Fitch IBCA.

- **Paying Agent**: collects funds from the County and disburses funds to the investors in order to pay debt service. The paying agent can also serve as a Dissemination Agent. The Dissemination Agent assists the district with their obligation under continuing disclosure.

- **Printing**: The costs associated with the printing of the preliminary and final official statements.

- **Data Collection and miscellaneous.**

- **Financial Advisor**: A District may choose to have a Financial Advisor in lieu of, or in addition to, a manager/underwriter. If selected, a financial advisor will either oversee the manager/underwriter or prepare the bonds for a competitive sale.

Bond Counsel, Financial Advisor and Manager/ Underwriter all are employed prior to the election and work on a contingency basis. The other fees are only incurred once the election is successful and the bonds are being prepared for sale. These are third party costs and must be paid once incurred.

LIMITS ON BONDED INDEBTEDNESS

Pursuant to Proposition 39 and implementing legislation, Proposition 39's dollar limits and percentage limits are as follows:

1. $60 per $100,000 of assessed valuation in unified school district at a single election. All outstanding district-wide general obligation bonds subject to a ceiling not to exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.

2. $30 per $100,000 of assessed valuation in elementary or high school district at a single election. All outstanding district-wide general obligation bonds subject to a ceiling not to exceed 1.25 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.

3. At the time bonds are issued, they must not require an annual tax projected to exceed $25 per $100,000 of assessed valuation in community college district at a single election. All outstanding district-wide general obligation bonds subject to a ceiling not to exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.

General obligation bonds approved by a 2/3rds vote may be issued without regard to the tax rate that will result, however the debt ceilings described above do apply.

FURNISHING AND EQUIPPING SCHOOL FACILITIES

It is clear from Sections 1(b)(2) and 1(b)(3) that proceeds of bonds, whether issued with 55% or 2/3 voter approval, may be used to pay for acquisition or improvement of real property. Now that 55% bonds allow expenditures on furnishings and equipment, we'll need to learn what this can include, both in a practical and literal sense.

Whether or not a particular item is "furnishings", "furniture" or "equipment" that may be financed from bonds approved under Proposition 39 depends on a number of factors, including useful life, cost, relationship to the facilities or relationship to the educational program. The California School Accounting Manual requires a distinction to be made between "equipment" and "supplies", "determined on the basis of the length of time the item is serviceable and on its contribution to the value of the Local Educational Agency... .

Equipment has a relatively permanent value, and its purchase increases the value of the physical properties of the LEA." A series of five questions is offered in Procedure No. 801 for determining whether an item should be characterized as "supplies" or "equipment", and guidance is given that anything with a useful life of less than 2 years is not equipment. Other potentially useful sources of authority may be found in the Education Code sections that follow. However, it should be noted that none of the following code sections are specifically applicable to Proposition 39 bonds, and should *not* be considered definitive as to the permitted use of Proposition 39 bond funds.

Proposition 39 only mentions, as permitted uses of bond funds, "construction... of school facilities, including the furnishing and equipping of school facilities" and does not expressly say "furniture and equipment". Most legal advisors believe the language is intended to allow the financing of at least furniture and equipment for the classrooms, and probably extends to what are more properly characterized as "furnishings" such as draperies and blinds, but probably excludes instructional materials and sports equipment.

Although Proposition 39 does not provide guidance on the definitions of "furnishing" or "equipment," we can find some guidance in the Education Code. What follows is a list of related definitions found in the Education Code.

Education Code Section 19962 requires that furnishings purchased with grant proceeds shall have an estimated useful life of not less than ten years.[4]

Education Code Section 17072.35 allows grant money to be spent on "equipment including telecommunication equipment to increase school security, furnishings, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology."

Education Code Section 19989 allows remodeling and rehabilitation projects funded with grants to include "any necessary upgrading of electrical and telecommunications systems to accommodate Internet and similar computer technology [and] procurement or installation, or both, of furnishings and equipment required to make a facility fully operable, if the procurement or installation is part of a construction or remodeling project funded pursuant to this section."

Education Code Section 17173 defines "Educational facility" to include "any property, facility, structure, equipment, or furnishings used or operated in conjunction with one or more public schools or community colleges, including, but not limited to, all of the following: (1) Classrooms. (2) Auditoriums. (3) Student centers. (4) Administrative offices. (5) Sports facilities. (6) Maintenance, storage, or utility facilities. (7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility."

---

[4] Likewise, Mello-Roos bonds may be used to finance the "purchase, construction, expansion, improvement or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer. . . ." Government Code Section 53313.5.

Education Code Sections 94852 and 94316.2 define "Educational service" to mean "any education, training, or instruction offered by an institution, including any equipment." The same sections define "Equipment" to include "all textbooks, supplies, materials, implements, tools, machinery, computers, electronic devices, or any other goods related to any education, training, or instruction, or an agreement for educational services or a course of instruction."

Education Code Sections 17596 and 81644, which deal with contracts, make a semantic distinction between apparatus and equipment. This distinction could limit the use of 55% bond proceeds for playground apparatus.

Education Code Section 38100 refers to "cafeteria equipment," which can include vending machines.

Education Code Section 16014(b) allows State Special School Building Aid funds to be used for "necessary desks, tables, chairs and other movable furniture and equipment, as approved by the State Department of Education."

Proposition 39 gives no definition of furnishings or equipment which may be financed with 55% bond proceeds. Consequently, none of the foregoing references should be considered definitely authoritative or limiting as to the permitted use of bonds following a Proposition 39 55% vote approval; however, any of the foregoing references may be used as guidance. However, we will not have any definitive parameters unless and until the Legislature enacts clarifying legislation. The courts and the State Department of Education may also weight in with authoritative guidance.

There will also be political parameters to consider. For instance, to what degree will the public tolerate long-term taxation on their homes to pay for furnishing and equipment with a short-term useful life? In addition, if bonds will be issued as federally tax-exempt, the shorter useful life of furnishings and equipment will limit the permitted maturity of such bonds.

Administrative Costs

Prior to Proposition 39, the constitution limited the use of bonds to the "acquisition or improvement of real property." Most advisors believe this permits administrative expenses directly related to the bond program or the facilities construction program. Proposition 39 specifically prohibits the expenditure of bond funds or administrator or teacher salaries. Therefore, for a Proposition 39 bond issue, all such costs must be funded from another source.

ELECTION DATES, CONCURRENT LOCAL ELECTION AND AREA REQUIREMENTS

INTRODUCTION

Proposition 39 provides a new alternative procedure for the authorization of the issuance of general obligation bonds to finance school facilities. This procedure authorizes school districts to submit a proposition to the voters of the school district to authorize the issuance of general obligation bonds by an affirmative vote of 55% of the voters voting on such proposition as opposed to the 2/3rds affirmative vote required under existing law ("2/3 Vote Procedures"). This lower voter approval authorization comes with additional requirements as to election dates and a necessity for a presently unspecified concurrent local election occurring within all of or an unspecified area of the school district. One of the principal questions which C.A.S.H. Legal Advisory Committee has been discussing is when may a Proposition 39 - 55% Local Voter Election be held?

WHEN MAY AN ELECTION BE HELD PURSUANT TO THE 55% VOTE PROCEDURES?

As contrasted with the prior and continuing ability of school districts to hold a two-thirds voter school bond election, generally on any Tuesday, Proposition 39 - 55% Local Voter Elections may be presented to voters only at a primary [March of even numbered years] or general election [November of even numbered years], a regularly scheduled local election or a statewide special election.[5] The determination of primary, general and statewide special elections is straightforward and non-controversial. However, the same cannot be said about the statutory wording "regularly scheduled local election" set forth in AB 1906/AB 2659. There exists a range of opinions among attorneys that advise school districts regarding the meaning of this phrase. Some have expressed a broad, less restrictive interpretation of "regularly scheduled local election". It should be noted this relates to the purposes of Education Code Section 15266 as opposed to election determinations of a general nature by a county registrar of voters.

The Legislative Counsel in its Opinion #610 on this subject dated January 16, 2001 on Page 8 stated:

> "In general, we think that any regularly scheduled local election for which all of the electors entitled to vote on the general obligation bond issue are also otherwise entitled to vote at the regularly scheduled local election would avoid creating an election that is in essence a special election and would be an election held 'at a . . . regularly scheduled local election' for the purposes of Section 15266."

5 Ed. Code § 15266(a)

However, other legal advisors take the position that the term "regularly scheduled local election" should be a restricted interpretation limited to regular local elections.

In this regard, AB 1908/AB 2596 created a requirement not defined in the Elections Code or other applicable law, and did not define what is a "regularly scheduled local election" for the purposes of Education Code Section 15266, as opposed to other elections governed by the Elections Code. As noted, the Legislative Counsel appears to suggest that a special local election held in an area with the same voters voting in a local election and concurrently on a Proposition 39 - 55% Local Voter Election may be a regularly scheduled local election for the purpose of Education Code Section 15266. On a more conservative basis even with coterminous elections with identical voters, others suggest that existing definitions in the Elections Code relating to other election matters and not to Education Code Section 15266 require a contrary conclusion. This position holds that even if the same voters are involved, the Proposition 39 - 55% Local Voter Election must be held concurrent with a local election which is required by statute to be held on a specific day as opposed to being called and held on an election date specified by Elections Code Section 1000. A "local election" is defined as "a municipal, county, or district election."[6] A "regular election" is defined as "an election, the specific time for holding of which is prescribed by law."[7] Since no definition of "regularly scheduled local election" is set forth in the Elections Code, the question is not what the Elections Code does or doesn't specify, but what facts suffice as to a particular school district to meet the requirements of Education Code Section 15266.

There are certain elections which we can with reasonable certainty conclude are "regularly scheduled local elections" applicable to Proposition 39 - 55% Local Vote Elections. They would include an election of the school district itself at which members of the governing board are standing for election or an election of a county, city, special district or other school district (a) at which one or more members of the legislative body of such agency are standing for election and (b) where the jurisdictional boundaries of the school district in question are either coterminous with or fully encompassed by the jurisdictional boundaries of the such agency.

IS THERE AN IMPLIED COTERMINOUS BOUNDARY REQUIREMENT?

The language of Education Code Section 15266(a) itself does not expressly require that the boundaries of the school district desiring to submit a ballot proposition pursuant to the 55% Vote procedure be coterminous with or entirely contained within the boundaries of the other agency conducting the regularly scheduled local election. Is such a coterminous boundary requirement implied by the language of Education Code Section 15266(a)? As a practical matter, very few school districts are exactly coterminous with another public entity and not always completely contained within a single county. School districts considering an election where boundaries are not coterminous or include voters who would not otherwise be entitled to vote at the regularly scheduled local election should consider factors such as whether the same registrar of voters is conducting both elections on the same date, the percentage of the school district within the other agency boundaries,

6 El. Code § 328
7 El. Code § 348

whether the other election is itself a special election and any other facts considered relevant by the district's legal counsel.

THE IMPORTANCE OF JUDICIAL VALIDATION

A school district may bring an action in the superior court to validate bonds of the school district.[8] Therefore, a school district may bring an action to validate its general obligation bonds authorized to be issued pursuant to the 55% Vote Procedures. A final judgment validating the bonds of a school district is forever binding and conclusive as to all matters adjudicated in such action against all other parties.[9] However, as to the validity of any authorized bond, such an action must be brought as to the authorization of the bonds, i.e., as of the date of adoption by the governing board of a resolution authorizing their issuance.[10] This means that the school district will have to wait until after the election to ask a reviewing court if the bonds of the school district were validly authorized at such election. Thus, while a judgment in a validation action may resolve questions regarding whether a specific election is a "regularly scheduled local election," a school district may have expended both monetary resources and time in pursuing an election which might be later invalidated if a reviewing court fails to determine that such election was a "regularly scheduled local election." Furthermore a validation as to any given election will have no value as judicial precedent for any other election.

CONCLUSION

In conclusion, a school district which wants to submit a ballot proposition for a Proposition 39 - 55% Local Voter Election *with certainty* that such election will satisfy the requirements of Ed. Code § 15266(a) may do so at one of the following elections:

- a primary election, i.e., March of even-numbered years;
- a general election, i.e., November of even-numbered years;
- a statewide special election;
- an election of the school district itself at which members of the governing board are standing for election, provided that board members are not elected from trustee areas smaller than the entire district;
- an election of a county, city, special district or other school district (a) at which one or more members of the legislative body of such agency are standing for election and (b) where the jurisdictional boundaries of the school district in question are fully encompassed by the jurisdictional boundaries of such agency, provided that the elected representatives are not elected from districts areas smaller than the entire jurisdiction.

Ultimately, until there is clearer guidance from the legislature or the courts on this question, any other election dates are a matter for determination by each school district after consulting with its general counsel and bond counsel.

---

8 Code Civ. Proc. § 860 and following
9 Code Civ. Proc. § 870(a)
10 Code Civ. Proc. § 864

CITIZENS' OVERSIGHT COMMITTEE

The governing board is required to establish and appoint an independent citizen's oversight committee (the "Committee") within 60 days of the date that the governing board enters on its minutes the election results, pursuant to §15274. [Education Code §15278(a)]

ROLE OF COMMITTEE

Composition of the Committee

The Committee shall consist of at least seven (7) members to serve for a term of two (2) years without compensation and for no more than two (2) consecutive terms. The legislation is silent on how and under what conditions a committee member may be removed prior to expiration of his or her term.

The Committee must include:

- One member who is active in a business organization representing the business community located within the school district;
- One member active in a senior citizens' organization;
- One member who is the parent or guardian of a child enrolled in the school district;
- One member who is both a parent or guardian of a child enrolled in the school district and active in a parent-teacher organization; and
- One member who is active in a bona fide taxpayers' organization.
  [Education Code §15282(a)]

The Committee may not include any employee or official of the school district or any vendor, contractor or consultant of the school district.
[Education Code §15282(b)]

Purpose and Activities of the Committee

The purpose of the Committee shall be to inform the public concerning the expenditure of the bond proceeds. The Committee shall engage in the following activities to carry out this purpose:

- Actively review and report on the proper expenditure of taxpayers' money for school construction;
- Advise the public as to whether the school district is in compliance with the requirements of Article XIIIA, Section 1(b)(3) of the California Constitution; and
- Convene to provide oversight for, but not limited to:

- Ensuring that bond revenues are expended only for the construction, reconstruction, rehabilitation or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities;

- Ensuring that no funds are used for any teacher or administrative salaries or other school operating expenses. [Education Code §15278(b)]

It is the express intent of the Legislature that the members of the Committee "promptly alert the public to any waste or improper expenditure of school construction bond money." [Education Code §15264]

The Committee is authorized to engage in any of the following activities in furtherance of its purpose:

- Receive and review copies of the annual independent performance audit required by Article XIIIA, Section 1(b)(3)(C) of the California Constitution;

- Receive and review copies of the annual independent financial audit required by Article XIIIA, Section 1(b)(3)(C) of the California Constitution;

- Inspect school facilities and grounds to ensure bond revenues are expended in compliance with Article XIIIA, Section 1(b)(3) of the California Constitution;

- Receive and review copies of any deferred maintenance proposals or plans developed by the school district; and

- Review efforts by the school district to maximize bond revenues by implementing cost saving measures, including, but not limited to:

  - Mechanisms designed to reduced the cost of professional fees;
  - Mechanisms designed to reduce the costs of site preparation;
  - Recommendations regarding the joint use of core facilities;
  - Mechanisms designed to reduce costs by incorporating efficiencies in school site design; and
  - Recommendations regarding the use of cost-effective and efficient reusable plans. [Education Code §15278(c)]

The Committee shall at least annually issue regular annual reports of the results of its activities. [Education Code §15280(b)]

Governing Board Support of the Committee

The governing board shall provide the Committee with (a) any necessary technical assistance and administrative assistance in furtherance of the Committee's purpose and (b) sufficient resources to publicize the conclusions of the Committee. No bond funds may be used to pay any of these expenses. [Education Code §15280(a)]

Meetings of and Documents Provided to the Committee

All Committee proceedings shall be open to the public and shall be subject to the provisions of the Ralph M. Brown Act. All documents received by the Committee and reports issued by the Committee shall be a matter of public record and be made available on an Internet website maintained by the governing body of the school district. [Education Code §15280(b)]

LIMITS ON COMMITTEE MEMBERS

Members Subject to Prohibitions Regarding Conflict of Financial Interests in Contracts

Under the provisions of Education Code §35233, members of the Committee must abide by the prohibitions contained in Article 4, commencing with §1090, and Article 4.7, commencing with §1125, of Division 4 of Title 1 of the Government Code, which prohibit public officials from having a financial interest in any contracts made in their official capacity. [Education Code §15282(b)]

Committee Members May Be Subject to The Political Reform Act of 1974 and Its Conflict of Interest Provisions

The legislation is silent as to whether members of the Committee are subject to the provisions of The Political Reform Act of 1974 (The "PRA") and the conflict of financial interest rules and regulations promulgated by the Fair Political Practices Commission ("FPPC"). The FPPC has not issued an opinion on this question as yet.

If the Committee is solely advisory, its members are not likely to be subject to The PRA. On the other hand, if the Committee makes or participates in the making of final decisions, it may be deemed by the FPPC to have decision making authority, and its members would be subject to the provisions of The PRA. At this time, we can only speculate. For information purposes, the FPPC has determined that a board or commission possesses decision-making authority whenever the following occur:

(1) It may make a final governmental decision. (C.C.R., Title 2, §18700(a)(1)(A); see also *In Re Maloney,* No. 76-082, 3 FPPC Ops. 69);

(2) It exerts such influence that its advice is routinely and regularly followed by its recipient board. (C.C.R., title 2, §18700(a)(1)(C); see also *In re Rotman*, No. 86-001, 10 FPPC Ops. 3); see also *Commission on Cal. State Gov. Org. & Econ. v. Fair Political Practices Com.* (1977) 75 Cal.App.3d 716)).

(3) It may compel or prevent the making of a board decision by its action or inaction. (C.C.R., title 2, §18700(a)(1)(B)).

Public officials who make *or participate in the making of final decisions* are covered by the conflict of interest codes adopted pursuant to Government Code sections 87300-87313 of The PRA. Local governmental agencies like school districts are required to include in their

conflict of interest codes the positions within the agency which involve the making or participation in the making of final decisions which may foreseeably have a material effect on any private financial interest.

NEW LEGAL ACTIONS TO PREVENT OR RESTRAIN THE EXPENDITURE OF BOND FUNDS

The legislation creates a form of legal action called a "School Bond Waste Prevention Action" which may be brought by a citizen who is assessed and required to pay an *ad valorem* tax to repay bonds issued pursuant to the 55% bond approval option. In order to prevail, the citizen must show that the challenged expenditure of bond funds is not in compliance with the law, that the expenditure will produce waste or great or irreparable injury, or that he governing board has willfully failed to appoint an Oversight Committee. This legal remedy supplements existing remedies to challenge school bond elections and expenditures.

CHARTER SCHOOL PROVISIONS
Education Code Section 47614

As an integral but less highly publicized part of Proposition 39, the initiative amended Education Code Section 47614 regarding the obligations of a school district to provide facilities to charter schools. The intent of this amendment to Section 47614 is provide that public school facilities are shared fairly among all public school pupils, including those in charter schools. The effective application date of this amendment is either three (3) years after the effective date of Proposition 39, (November 8, 2003), or if a school district passes a school bond, prior to that time, the next July 1 after the measure passes. In determining the amount of a bond, school districts should also be aware of the new obligations of Section 47614.

Prior to the passage of Proposition 39, Section 47614 required that a school district in which a charter school operates merely permit such a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes or that have not been historically used for rental purposes provided the charter school is responsible for maintenance of such facilities. A school district did not otherwise have a responsibility to provide or make facilities available for charter schools. As amended by Proposition 39, Section 47614 now requires each school district to make available, to each charter school operating in the school district, facilities sufficient to accommodate all of the charter school's in-district students. A charter school is deemed to be "operating" within a school district if such charter school is currently providing public education to in-district students or has identified at least 80 in-district students who are meaningfully interested in enrolling in the charter school for the following year. If the projected average daily attendance is less than eighty (80) for an operating charter school or the projected attendance for a charter school, the school district may deny the facilities request.

The facilities to be provided to charter schools must be reasonably equivalent to those provided for other students attending other public schools of the school district. Such facilities must be contiguous, furnished, and equipped and will remain the property of the school district. The school district must make reasonable efforts to provide the charter school with facilities near to where the charter wishes to locate and shall not move the charter school unnecessarily.

A school district may charge the charter school a pro rata share, based on the ratio of space allocated by the school district to the charter school divided by the total space of the school district, of those school facilities costs which the school district pays from unrestricted general fund revenues. No charter school shall be otherwise charged for its use of such facilities. What remedy or recourse does the school district have if the charter school cannot or does not pay its pro rata share of such school facilities costs? May the school district deny the charter school access to and use of such facilities for nonpayment? At least for district-funded charter schools, the district may be able to deduct rent first from the charter school's monthly apportionment.

A school district shall not be required to use unrestricted general fund revenues to rent, buy, or lease facilities for the charter schools. Each year the charter school must provide the school district with a reasonable projection of the charter school's average daily classroom attendance by in-district students for the following year. The school district must then allocate facilities to the charter school for the following school year based on this projection. If the charter school generates less average daily attendance than predicted, the charter school shall reimburse the school district for the over-allocated space as determined by regulation.

The State Department of Education is required to propose, and the State Board of Education may adopt, regulations implementing this new requirement to provide facilities to charter schools, including but not limited to, defining the terms "average daily classroom attendance," "conditions reasonably equivalent," "in-district students," "facilities costs," as well as defining the procedures for establishing timelines for the request, reimbursement for and provision of the facilities.

CONDUCTING AN ELECTION

ASSEMBLING A TEAM

Successful passage of school bond elections and the subsequent issuance of bonds authorized by the voters requires legal, financial and political effort and expertise. The process is a melding of these areas of expertise. The legal and financial expertise is essential and the political expertise is usually highly recommended.

Bond Counsel

The election, campaign and bond issuance process is controlled by various constitutional provisions, statues and case law. In addition, the interest paid on school general obligation bonds is exempt from state and federal income taxation. The federal government has burdened such bonds with a substantial amount of law and regulation in order to limit the amount and purposes of bond issuance. Additionally, the Internal Revenue Service has recently embarked on what The Bond Buyer (December 28, 2000) describes as "virtual fishing expeditions" into areas that may or may not have any problems or concerns.

Bond Counsel is the designation given lawyers who specialize in the legal aspects of the authorization and issuance of tax exempt debt issued by public agencies. The function of the bond counsel is to assist the District in understanding the alternatives available for debt financing, make sure that all procedures and actions are properly taken and documented so that the bonds are legally issued and are tax exempt, and to render an approving opinion to that fact. Additionally bond counsel will frequently assist the District in regard to understanding what it can and cannot do during the election process.

Districts may additionally seek legal advise from their general counsels regarding campaign legalities and such matters as providing for the citizens oversight committee required in order to use Proposition 39.

Financial Expertise —Financial Advisor and/or Underwriter

Bond transactions are as much financial transactions as legal, and financial expertise is mandatory, both in the planning needed to put the bond proposition on the ballot and for the eventual sale of the bonds in the bond market. The District has a choice to make as to whether it will hire an independent financial advisor or an underwriting firm to provide financial assistance. Financial advisors do not buy the bonds, but underwriters do.

If the District determines to hire a financial advisor the bonds will often be sold by competitive sale conducted to receive interest rate bids from underwriters. The lowest interest rate wins. Alternatively the financial advisor may advise that a negotiated sale pursuant to a Bond Purchase Agreement to a particular underwriter is preferable in the particular circumstances.

The District may determine to hire an underwriting firm directly and negotiate the sale of the bonds directly with that firm. In such case the chosen underwriter should provide the financial assistance needed to determine the size of the requested bond authorization, estimated tax rates, and the estimated sequence of bond sales.

Appendix 2 entitled Overview of Debt Financing was produced by the California Debt and Investment Advisory Commission as a part of its California Debt Issuance Primer (April, 1998) and provides helpful information regarding the overall process and the roles of the team, including financial advisors, underwriters and bond counsel.

Political Expertise

In recent years the presence of political consultants in the bond authorization process has become increasingly common. The exact function of such consultants can vary considerably from District to District. Many Districts contract with public opinion survey consultants to conduct telephone polling to assist in the determination to call a bond election. It is generally permissible for the District to pay for such services rendered prior to the adoption of the resolution calling the election.

Frequently, the citizens campaign committee will hire and pay for assistance with the advocacy campaign, which it can, but the District cannot, run. As discussed in the next section Districts may legally and arguably, should, provide information regarding the bond measure to citizens and voters. Informational, as opposed to advocacy, activities may be supported by District resources and this may include engaging the services of experts.

LEGALITIES OF SCHOOL BOND ELECTION CAMPAIGNING/USE OF DISTRICT RESOURCES

Permissible Campaign Activities of District Trustees and Employees

California law prohibits the use of District funds, services, supplies or equipment for the purpose of urging the passage or defeat of any school measure of the District, including school bond measures ("Bond Measure"). However, the law does permit board members, officers, and employees to take certain actions within prescribed limitations during the campaign period associated with school bond elections. The California law setting forth permissible campaign activities of school districts, governing boards and employees is found in sections of the Education Code and in California case law developed over time. (All section references below are to the Education Code unless otherwise noted.)

The Legislature passed Senate Bill 82 in 1995 to clarify school district responsibilities and liability during campaigns. This measure made it a misdemeanor or felony for a school district to use its funds, services, supplies or equipment for the purpose of supporting or defeating any ballot measure or candidate. Punishment for violations of these restrictions may include jail time and fines. This law demonstrates the degree of scrutiny being placed by the Legislature on campaign activities associated with local school bond elections. It is therefore more important than ever that school districts considering embarking on a bond campaign are thoroughly familiar with all applicable rules and regulations.

Prohibition Against Use of District Funds

Section 35160 of the Education Code, which is part of the general provisions in the Education Code regarding powers and duties of a school district's governing board, provides the governing board of a school district with the authority to initiate and carry out a program that is not otherwise inconsistent with, or preempted by, another law and not in conflict with school district purposes. Section 7054, contained in the general provisions regarding public school personnel, is such another law and specifically prohibits the use of school district funds, services, supplies or equipment "for the purpose of urging the passage or defeat of any ballot measure." Section 7054 specifically provides that public resources may only be used to provide information to the public about a ballot measure if:

a. The informational activities are otherwise authorized by the Constitution or laws of California; and

b. The information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the ballot measure.

Thus, under no circumstances may the District use District money or property to advocate the passage or defeat of the Bond Measure in the election. This prohibition includes indirect uses of funds or property, such as use of an administrator's or other employee's time, or the use of District vehicles or drivers to transport District Board Members to meetings, rallies, etc., to present partisan views. Case law also mandates this rule. The decision in Mines v. Del Valle (1927) 201 Cal. 273, 257 P. 530, held that it was illegal for the City Council of Los Angeles to provide City funds to advocate the passage of a public utility bond issue. In Stanson v. Mott (1976) 17 Cal.3d. 206, 130 Cal.Rptr. 697, the California Supreme Court determined that the Director of the California Department of Parks and Recreation could not use Department funds to advocate electorate approval of a State park bond issue.

Although the District may not spend District funds to hire campaign consultants, pursuant to the Political Reform Act, independent recipient committees may be organized to campaign on behalf of the Bond Measure. However, these committees may not have free use of District equipment or services, including the services of District staff during business hours. However, in some situations, further discussed below, an independent recipient committee may utilize District facilities.

Permitted Use of District Funds

As long as the expenditure of District funds is not made for the purpose of advocating the passage or defeat of a Bond Measure there are a number of items that the District can spend its money on which are closely related to the need for facilities. For instance, the District may pay for a voter survey prior to making the determination whether an election should be called. The money is being spent to assist the District in making a decision which it is authorized to make. Surveys conducted after the calling of the election would generally not be a permissible use of District funds.

As always, the District has the authority to expend funds in order to determine the current state of its facilities and to better understand the current and predicted needs and demands which will be placed upon District facilities.

Additionally, as discussed herein, the District is authorized to provide written communications to citizens on a wide variety of subject matters involving facilities, facility needs, the existence of a pending ballot measure, and the use to which the revenues from a ballot measure would be put. Such communications must be factual, neutral and should include, at a minimum, the tax impact of any proposed bond measure.

In making determinations regarding permissible expenditures it is advisable to consult with the District's legal counsel before committing to a plan of expenditure.

Activities of District Trustees and Employees

School district trustees have typically enjoyed more freedom than other school personnel to engage in activities which may be construed as urging the passage of a bond measure, and the passage of SB 82 did not affect that freedom. SB 82 specifically provides that it is not the intent of the Legislature to prohibit the ability of a governing board of a school district or a member thereof from "preparing or disseminating information or making private or public appearances or statements for the purpose of urging the support or defeat of any ballot measure by means of, or in circumstances that do not involve the use of public funds." Therefore, any information prepared and disseminated by a board member, and any other campaign-related activities engaged in by such board member must not advocate the passage of the Bond Measure if District funds, services, supplies, etc., are involved, but must in this situation be factual and unbiased.

District employees may also not engage in activities for the purpose of urging the passage of the Bond Measure, if the activity involves District funds, services or supplies as well. For example, the District may include an unbiased, informational item explaining the Bond Measure in the school newspaper or parent newsletter. A message contained in regular District publications reminding constituents to vote on the Bond Measure would also be permissible, as long as the message was simply a reminder to "vote" and not to "vote yes."

In preparing and providing unbiased and neutral information materials, the District should be cautious not to cross the line into unauthorized campaign expenditures. The court acknowledged in Stanson that "frequently. . . the line between unauthorized campaign expenditures and authorized informational activities is not so clear." (Id. at 708.) The court further discussed that "while past cases indicate that public agencies may generally publish a 'fair presentation of facts relevant to an election matter, in a number of instances publicly financed brochures or newspaper advertisements which have purported to contain only relevant factual information, and which have refrained from exhorting voters to "Vote Yes," have nevertheless been found to constitute improper campaign literature." The court in Stanson concluded that "the determination of the propriety or impropriety of the expenditure depends upon a careful consideration of such factors as the style, tenor and timing of the publication; no hard and fast rule governs every case." (See Id.)

Under Section 7054.1 and case law, District trustees may also give speeches, or attend events, for the purpose of urging the passage or defeat of the Bond Measure. This type of campaign activity is permitted because of the guarantee of freedom of speech and assembly under the First Amendment of the United States Constitution and Article I, Section 2, of the California Constitution. However, the right is limited by the prohibition that the trustees cannot expend public funds to advocate a partisan viewpoint. If a trustee travels in a District-owned vehicle or is driven by a District employee to speak at a gathering or organization regarding the Bond Measure the trustee may not advocate approval of the Bond Measure, but must restrict his or her role to that of disseminating information, e.g. a discussion of the terms of the Bond Measure, why the election was called and the cost to the electorate.

Section 7054.1 also recognizes that school district administrators and board members may appear before citizens groups which request an appearance, to discuss and explain an election proposition and to answer questions about the fiscal impact of the election proposition. During business hours, however, District administrators are restricted to making requested appearances only, and may not advocate, but only explain the Bond Measure. However, First Amendment rights also guarantee District administrators and employees the right to undertake campaign appearances and activities during non-business hours to advocate as long as no District funds are directly or indirectly used for the appearance or activity.

Fund Raising and Campaign Committee Activities

Although the District may not use public funds to advocate approval of the Bond Measure, Board Members and employees are not prohibited from raising money to pay for campaign expenses. However, they must raise money on behalf of an independent recipient committee and not on behalf of the District. Fund raising activities should be strictly confined to after-business hours and no District funds may be used in the course of such fund raising.

However, District facilities may be utilized after school hours by an independent recipient committee if used in conformity with the Civic Center Act. (Education Code Sections 40040-40048). The Civic Center Act allows the citizens of a school district to use school facilities to meet and discuss "educational, political, economic, artistic, and moral" subjects of interest to the community. Under that authority, a district may allow a forum for discussion of any measure or candidate on the ballot. Care should be given, however, to make equal time available to opposing views. That does not mean that every use of school facilities must be a balanced presentation; it simply means that the facilities should be equally available to both sides of a ballot issue. (See Stanson v. Mott, supra, at p. 219.)

District Board Members and employees are free to contribute their own personal time and funds to any independent recipient committees that are formed to aid the passage or defeat of the Bond Measure. Board Members and employees should not be required by the District to make contributions of their own time or money to independent recipient committees.

School Bond Election Requirements

In 1995, the California Legislature enacted Senate Bill 82 (Kopp). Senate Bill did not alter existing restrictions on campaigning as much as it clarified guidelines that have been gleaned from California case law over time do specifically apply to school bond elections. The major effect of SB 82 is to set forth the penalties for violating campaign laws. In summary, the relevant campaigning portions of SB 82 are as follows:

- Explicitly prohibits members of a school board from preparing and disseminating information or making appearances or statements for the purpose of urging the passage or defeat of a school measure unless no public funds or resources are used.

- Makes clear that public resources may only be used to provide information to the public about the possible effects of any ballot measure as long as (a) the information activities are otherwise authorized by the Constitution or laws of this state; and (b) the information provided "constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the ballot measure."

- Makes clear that a forum under the control of the governing board of a school district may be used if the forum is made available to all sides on an equitable basis.

- Makes violations of said provisions a misdemeanor or felony punishable by imprisonment in the county jail, not exceeding one year or by a fine not exceeding $1,000, or by both, or imprisonment in a state prison for 16 months, two, or three years.

General Recommendations

We recommend that District Board Members, officers, and employees do not use District funds for any purpose that might be interpreted as advocating the passage or defeat of the Bond Measure. This should be given a broad interpretation to include use of District money, use of District equipment (i.e., automobiles, copy machines), use of District supplies (i.e., postage), and use of District property (posting signs on the lawn advocating for the measure). If employees are invited to speak at local organizations during business hours, they should be careful not to advocate a particular position on the Bond Measure, but merely give information on the Bond Measure and election information.

Should the District decide to provide unbiased and neutral informational material regarding the Bond Measure, it should be closely scrutinized to ensure that the presentation of the material is fair. The material must not urge recipients to take a position concerning the election since this would constitute improper campaigning. In order to ensure that the District acts within the confines of the law, we recommend that the District provide any informational material pertaining to the election to its Counsel for review prior to its distribution. Public and legislative scrutiny will likely continue, and school districts are well advised to be cautious in the campaigning arena.

CAMPAIGN COMMITTEE DISCLOSURE REQUIREMENTS

If a Campaign Committee is to be formed to advocate for the Bond Measure, the Committee will have to become familiar with the regulations of the California Fair Political Practices Commission ("FPPC"). The FPPC requires that certain forms be filed with the state when an independent recipient committee is formed in relation to a school measure. The requirements, forms, and related instructions can be found in the FPPC's "Information Manual D."

The basic forms required are the Statement of Organization (Form 410), and the Recipient Committee Campaign Disclosure Statement (Form 460). The following is an overview of the requirements for each of these forms in regards to a committee formed to support the District's Bond Measure (the "Committee").

Statement of Organization (Form 410)

Filing Date: No later than ten days after the Committee has received contributions totaling $1,000.

Any person who receives contributions totaling $1,000 within any calendar year "qualifies" as a recipient committee and within ten days of qualifying must file Form 410 with the Secretary of State. This suggests that the ten-day filing period begins once the committee has accumulated $l,000 in contributions. However, the Committee may file this form before it has received $1,000. The Committee need only note on the form that it is "not yet qualified" where the form requests the date of qualification. When $1,000 has been received, the committee must file an amended Form 410 indicating the date qualified. Once this form has been filed, the Secretary of State will assign the committee a number, which must be included on all subsequent forms.

If the Committee never raises $1,000 or more, the Committee does not need to file anything with the FPPC and is not required to file any more paperwork.

The original plus one copy of Form 410 must be filed with the Secretary of State and a copy must also be filed with the City Clerk of the City if the District boundaries are contained within the City, or the County Clerk if they are not. The address for the Secretary of State is:

Secretary of State, Political Reform Division
P. O. Box 1467,
1500 11th Street
Sacramento, California 95812-1467

Recipient Committee Campaign Disclosure Statement (Form 460)

Filing Dates:

a) Pre-election statements due forty days prior to election and twelve days prior to election.

b) semi-annual statements due every six months for the life of the Committee (but see discussion below).
c) Quarterly statements due every three months, but most likely not necessary for the usual school bond election (see discussion below).

The Political Reform Act requires committees that support or oppose passage of state or local ballot measures to file periodic campaign statements that disclose contributions received, expenditures made, unpaid bills and any miscellaneous increases to C.A.S.H., such as bank interest. Form 460 must be filed by ballot measure committees if they have:

a) received an itemizable contribution (a cumulative amount of $100 or more from a single source);
b) received any other itemizable receipt; or
c) have outstanding loans (made or received) or outstanding unpaid bills.

Form 460 serves multiple purposes; it acts as a "pre-election statement," a "semi-annual statement," and a "quarterly statement," and the Committee must file these on several occasions.

Pre-Election Statements. The schedule specifies that Form 460 be filed twice before the election in the form of a pre-election statement, once forty days preceding the election and once twelve days preceding the election. The second pre-election statement must be sent by guaranteed overnight mail or delivered in person on the day the form is due.

Semi-Annual Statements. The "semi-annual statement," due on July 31 and January 31 of each year, represents a six-month period of expenditure, and there are two reporting periods for any given year: January 1 through June 30, and July I through December 31.

Quarterly Statements. In addition, the FPPC requires a local ballot committee to file a "quarterly statement" on or before April 30 and October 31 of each year. The quarterly statement represents a three-month period of expenditure, but there are only two relevant periods to be reported on in any given year: January 1 through March 31, and July 1 through September 30. This statement need not be filed during any semi-annual period in which the ballot measure is being voted upon.

The Committee must file the original plus one copy of each form discussed above with the City Clerk of the City if the District boundaries are entirely within city limits, or the County Clerk if they are not. **Detailed record keeping on contributions is required, including non-monetary contributions.**

Additional Information

There are some helpful resources available to the District with regard to campaign reporting including the FPPC's Information Manual "D". We recommend that at the appropriate time copies of the manual be distributed to everyone on the Committee and that the Treasurer of the Committee review it thoroughly before attempting to complete any forms.

Information and copies of forms can be obtained at the FPPC's website: www.fppc.ca.gov.