

School District Bond and Levy Propositions

Introduction. With voter approval, Washington school districts may levy taxes to (i) pay bonded indebtedness issued for capital purposes (other than the replacement of equipment), or (ii) pay costs of enriching the program of basic education, purchasing or making major repairs to transportation vehicles, or funding technology or capital projects. To get a bond or levy proposition on the ballot, Washington school districts must comply with State and local election laws and deadlines. This paper outlines the required steps and identifies the responsible party for each step.

Pre-Ballot Approval of Enrichment Levies. Enrichment levies (formerly known as M&O levies) are subject to a pre-ballot approval requirement. Before a district may submit to the voters a proposition authorizing an enrichment levy, the Office of the Superintendent of Public Instruction (“OSPI”) must approve the district’s expenditure plan for levy proceeds and other local revenues. OSPI may take up to 30 days to review an expenditure plan, plus an additional 30 days if revisions to the plan are required. In order to qualify for their desired election dates, districts should initiate this process well in advance.

Election Resolution. A district’s board must adopt an election resolution that requests the county auditor to call a special election on an upcoming election date, proposes a bond or levy measure and describes how proceeds will be used. Districts may engage bond counsel or another attorney for the district to draft or review an election resolution.

For bond propositions, the election resolution must describe the bond measure’s purposes, including the specific buildings to be constructed or remodeled and any other uses of bond proceeds. If State matching funds are expected, the election resolution must also describe their anticipated purpose.

Ballot Title. In the election resolution, the district also proposes a “ballot title”—the words that will appear on the ballot. The prosecuting attorney of the county (or the county where the majority of the district is located) may revise the ballot title to ensure it is clear, true and impartial.

Elements. All ballot titles for school district bond and levy propositions must contain three elements:

1. An identification of the enacting legislative body (that is, the school district’s board) and, in 10 words or less, a statement of the proposition’s subject matter;
2. A concise description of the proposition in 75 words or less; and
3. A question—essentially, whether the proposition should be approved.

Bond Propositions. Ballot titles for bond propositions must also state, as part of the concise description subject to the 75 word limit noted above:

- a. The maximum principal amount of the bonded indebtedness to be authorized;
- b. The maximum term of the bonds;
- c. A description of the purpose or purposes of the bond issue; and
- d. A statement that the proposition will authorize the district to impose excess property taxes to pay and retire the bonds.

Levy Propositions. In contrast, ballot titles for school district levy propositions must set forth the dollar amount and a corresponding estimate of the dollar rate of the tax levy for each year during the period when the levy will be imposed. The dollar amount of each annual levy in the period may be constant, or the annual levies may be in different amounts. The estimated levy rate can be obtained from the county assessor, based on the levy amount sought by the district.

Filing the Election Resolution and Ballot Title with the County Auditor. A district must file the election resolution and the ballot title (as approved by the prosecuting attorney) with the county auditor by a certain deadline, which varies depending on when the special election will be held. Upcoming filing deadlines are as follows (as of July 1, 2022, but dates can be changed legislatively):

<u>Election Date</u>	<u>Filing Deadline</u>
November 8, 2022	August 2, 2022
February 14, 2023	December 16, 2022
April 25, 2023	February 24, 2023
August 1, 2023	May 12, 2023
November 7, 2023	August 1, 2023
February 13, 2024	December 15, 2023

County auditors establish the process for how filings must be made. Filing triggers a period of 10 business days during which any person may challenge the ballot title in superior court. The court must render its decision in the ballot-title challenge “as soon as possible.”

Voters’ Pamphlet. If the district is located within a county or city that publishes a local voters’ pamphlet, the pamphlet will include the text of the election resolution, along with (i) an explanatory statement and (ii) “pro/con arguments” for and against the measure.

The explanatory statement neutrally states the effect of the proposed bond or levy measure. It is drafted or reviewed by bond counsel or another attorney for the district. It must also be reviewed and approved by the county prosecuting attorney or city attorney before inclusion in the pamphlet. The county auditor (or other publisher) may impose requirements such as word limits and formatting, and may also require an explanatory statement to be submitted by the filing deadline.

The pro/con arguments advocate for the measure’s approval and rejection, respectively. No later than the election resolution filing deadline, the district’s board must appoint the two committees responsible for writing the arguments. Each argument is written by a committee of up to three members who are known to favor or oppose the measure. Members must be appointed by the district no later than the election resolution filing deadline. The county auditor (or other publisher) may adopt administrative rules relevant to pro/con committees, such as requirements for advertising positions on the committees and procedures for appointing members if the district is unable to do so.

Voter Approval. To pass in an election, a bond proposition must receive at least a 60% supermajority of the votes cast on the proposition, *and* the total number of persons voting in the election must be at least 40% of the number who voted in the district in the last preceding State general election. In contrast, a levy proposition can pass with the support of a simple majority of the voters voting on the proposition, regardless of the number of persons voting.

Public Disclosure Commission Rules. As always, the district must abide by Public Disclosure Commission statutes and regulations in connection with communications regarding the ballot measure and the use of public resources and facilities.

Conclusion. Qualifying a bond or levy proposition for the ballot requires effective collaboration among a school district, its bond counsel, and elections officials such as the county auditor and prosecuting attorney. If you have questions regarding election requirements for school district ballot propositions, please contact any of our public finance attorneys.

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