



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 12, 1991

To All Bond Counsel:

Re: School District Bonds, Part II

The purpose of this letter is to provide additional detail and refinement as to the application of the tests set out in section 20.09, Texas Education Code, added and amended by S.B. 351 and H.B. 2885, respectively, as discussed in the All Bond Counsel Letter of October 7, 1991.

Basic Test - Local District Taxes

As you know, the "total tax rate test" limits the local district tax rate for enrichment and facilities for the 1991 tax year to a nominal rate of \$0.78. To determine the actual allowable rate, the adjusted taxable value, determined pursuant to section 11.86 of the Education Code, must be used. Thus, to determine if the test is met, we will require that the general or other certificate of the district include 1) the most recent adjusted taxable value (which will be the 1990 State Property Tax Board values until values as computed by the Comptroller are available in June), (2) the district's locally determined assessed valuation (more technically defined below as "TV"), and (3) the most recent maintenance tax rate of the district. We also will require the submission of a calculation, using this data, showing that the dollar amount required for non-exempt (under section 20.09(c)) maximum annual bond debt service, plus the dollar amount calculated by applying the district's maintenance tax rate to the district's assessed valuation, is equal to or less than the amount raised by a tax rate of \$0.78 applied to the most recent adjusted taxable value. Stated another way, if the dollar amount which would result from applying a \$0.78 rate to the adjusted taxable value is greater than the dollar amount required for maximum annual debt service plus the dollar amount resulting from applying the district's maintenance tax rate to the district's assessed valuation, the test has been met. This can be calculated by the following formula, which includes an adjustment for the collection rate:

$$(\$0.78 \times \text{ATV} \times \text{CF}) \geq \text{MDS} + (\text{OMR} \times \text{TV} \times \text{CF})$$

where,

ATV = the district's most recent taxable value of property as adjusted by the State Property Tax Board or Comptroller of

Public Accounts under section 11.86, Texas Education Code,
divided by 100.

MDS = maximum annual debt service, determined on either a
school year, calendar year or bond year basis, at the
district's option

CF = collection factor or collection rate described further
below

OMR = the most recent district maintenance tax rate levied
pursuant to section 20.02, Texas Education Code

TV = the assessed value of taxable property against which the
most recent tax levy was assessed, as established by the
county appraisal district, divided by 100.

We will use a nominal rate of \$0.78 for a district until that
district has set its rate for 1992, which should be in September or
October of 1992. At that time we will apply the \$0.68 nominal
rate. Subsequent changes will be similarly made.

For the \$0.50 "bond tax test" we will use the district's
assessed valuation, not the Comptroller's adjusted taxable value,
applied as described in the October 7 letter. The formula for this
test is:

$$\$0.50 \times TV \times CF \geq MDS$$

where CF, TV and MDS have the same meanings as above.

Guaranteed Yield

Those districts which receive state funds pursuant to section
16.302(a) of the Texas Education Code may supply additional
information and apply expanded formulas for both the total tax test
and the bond tax test, if they wish to have projected guaranteed
yield amounts of state funds included in applying the tests of
section 20.09.

The total tax rate test can generally be applied as described
above, by adding in the anticipated guaranteed yield amount under
section 16.302(a). The formula for the total tax test becomes as
follows:

$$(\$0.78 \times ATV \times CF) + (GL \times WADA \times \$0.45 \times 100) - LT \geq$$

$$MDS + (OMR \times TV \times CF)$$

where

$$LT = \$0.45 \times ATV$$

GL and WADA have the meanings given them in section 16.302(a) other terms are as defined above.

In order to apply the bond tax test, it is necessary to determine how the guaranteed yield would be distributed among the maintenance tax and exempt and non-exempt bonds. We have decided to apply all of the guaranteed yield amount to the non-exempt outstanding and proposed bonds in order to determine the projected ability to pay the bonds from a tax rate not exceeding \$0.50. Thus, the formula for a guaranteed yield bond test is:

$$(\$0.50 \times TV \times CF) + (GL \times WADA \times \$0.45 \times 100) - LTB \geq MDS$$

where $LTB = \$0.45 \times ATV$ or $\$0.50 \times TV \times CF$, whichever is less (if $\$0.50 \times TV \times CF$ is the lesser amount, that amount, divided by ATV , would be substituted for $\$0.45$ in the formula) other terms are as previously defined.

The dollar amount of the guaranteed level per weighted student per cent of tax effort (GL) to be used will be that corresponding to the school year, as set out in section 16.302(a), of maximum annual debt service. Thus, for a maximum annual debt service in the 1994-1995 school year or thereafter, GL will be \$28. (If a basis other than the school year is used to determine maximum annual debt service, the determination of the appropriate GL is slightly more complicated if maximum annual debt service is prior to the 1994-1995 school year, probably an unlikely occurrence.)

Our application of the guaranteed yield amounts to meeting the bond tax test is, of course, for purposes of that test only. It has no relation to how such amounts are actually allocated by a district.

CF = the district's collection factor (or rate), being the percentage derived by dividing total taxes (including taxes due from prior years, but not interest and penalties) collected in the prior school year, by the tax levy for the corresponding year. A CF of 90% is to be used in the formulas unless the average collection rate for the most recent three years is greater than 90%, in which case that average may be used. (CF cannot exceed 100%.)

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Your comments regarding any of the above are welcome.

Sincerely,



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JT:jh