Proposed TASB Resolution on 50 Cent Test Issue

June 23, 2009

SUMMARY:

This item requests approval of a proposed resolution to the Texas Association of School Boards for modification to the 50 cent requirements currently mandated for the issuance of tax-support, school district bonds.

PREVIOUS BOARD ACTION:

The Board routinely has been briefed on this issue throughout the school year at many different Board meetings. The Board identified this issue as one of its primary legislative concerns that needed to be addressed. The Board also visited with our locally elected State Representatives and Senators regarding this issue.

BACKGROUND INFORMATION:

The recommended resolution is modeled after proposed HB 3697 which was authored by Representative Aycock during the last legislative session. A brief summary of the issue and the proposed bill follows:

- History of the "50-Cent Debt Test"
    - In 1991, the Texas Legislature enacted Senate Bill 351, which included the introduction of the "50-Cent Debt Test" (the "Test") for Texas school districts.
        - The "50-Cent Debt Test" is found in Section 45.0031 of the Texas Education Code. The purpose of this legislation was to place a limitation on the issuance of tax-supported, school district bonds. Prior to completing a bond sale, a school district is required to demonstrate to the Attorney General that it has the projected ability to pay the principal and interest on its existing and the proposed bonds from a maximum Interest & Sinking ("I&S") fund tax rate of 50-cents or less.
        - Most school district bonds are sold with an "unlimited" tax, meaning a school district is able to raise its I&S tax rate to any amount necessary to repay the principal and interest on its bonds.
        - Currently, a school district has the option to demonstrate compliance with the Test by pledging:
            - Chapter 42 – Subchapter B portion of Tier I State funding assistance; and Chapter 46 – Existing Debt Allotment (EDA) and Instructional Facilities Allotment (IFA) State funding assistance.
            - To the extent a school district pledges the funds above, the school district can only exceed a 50-cent I&S tax rate after using such funds to repay its bonds.
    - In 2001, House Bill 2888 was enacted.
        - HB 2888 allowed school districts to use a future projection of taxable assessed valuation in order to comply with the Test.
            - If a school district elects to use a projection of future taxable assessed valuation and later must exceed a 50-cent I&S tax rate to repay its bonds, the Test requires a subsequent bond sale be limited to a threshold of 45-cents.

- House Bill 3697 – As Proposed
    - A school district is required to demonstrate, on a pro forma basis, that it has the projected ability to pay the principal and interest on its existing and new bonds with an I&S tax rate of 50-cents or less.
    - Once a school district passes the Test stated above, HB 3697 provides a school district with the local option to issue new bonds with a shorter repayment period if an actual interest cost savings of at least 10% can be demonstrated.

- Benefits of the Proposed 50-Cent Debt Test Amendment – Many school districts are being required to defer the repayment period on bonds in order to comply with the "50 Cent Debt Test". Under current law, a school district has the ability to repay its bonds over a 40-year period.
    - The local option would enable a school district to reduce the repayment period on new bond sales, which could reduce the interest costs of school districts and local taxpayers by millions.

- By reducing a school districts interest cost, a lower I&S tax rate is required for bond sales needed in the future;
- Over time, shorter bond repayment periods increase the capacity of the Permanent School Fund Guarantee Program.

A shorter bond repayment period will enable school districts to comply with the recommended "bond repayment guidelines" of bond rating agencies, thereby potentially improving a school district's bond ratings

SIGNIFICANT ISSUES:

Currently there are 67 school districts in the state with Interest and Sinking tax rates at 40 cents or more. Many more districts are expected to reach this same threshold in following years. Rising construction and labor costs associated with the need to build and renovate more facilities for a growing student population are the primary factors attributed to increases in Interest and Sinking tax rates. Districts will soon reach the 50 cent construction cap unless modifications are made to the current law.

FISCAL IMPLICATIONS:

The proposed resolution will have no financial impact on the state. Increases to the local tax rates would have to be approved by the voters in a general election.

BENEFIT OF ACTION:

This action has the potential to provide relief and capacity to school districts needing to continue building and remodeling programs. Even more important, this action has the potential to save tax payers millions of dollars in future interest costs.

PROCEDURAL AND REPORTING IMPLICATIONS:

The proposed resolution will be submitted to TASB in the requested format**.**

PUBLIC COMMENT RECEIVED:

This issue was testified on by many members of the public before the House Education Committee.

ALTERNATIVES:

Without relief to the current requirements, districts will have to resort to issuing bonds out to 40 years which costs the taxpayers millions in additional interest costs.

OTHER COMMENTS:

None

SUPERINTENDENT'S RECOMMENDATION:

The Superintendent recommends approval of the proposed resolution.

STAFF PERSONS RESPONSIBLE:

Ray Braswell, Superintendent

ATTACHMENT:

Proposed Resolution
TASB Requirements for Submittal

APPROVAL:

Signature of Staff Member Proposing Recommendation: ______________________________
Comments:______________________________
Signature of Divisional Leader: ______________________________
Comments:______________________________
Signature of Superintendent: ______________________________
Comments:______________________________