



**GOVERNING BOARD AGENDA ITEM
AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10**

DATE OF MEETING: **May 3, 2016**

TITLE: **Consideration and Discussion of Special Bond Election**

BACKGROUND:

The continuing deep cuts to the District’s capital budget (ostensibly disguised by its renaming as “District Additional Assistance”) show no signs of reversing any time soon, and the District’s most basic capital needs continue to grow. This item is presented to permit the Board to study and discuss the consideration of a bond election to be held in November of 2016 which would provide the local district community with the ability to provide a solution to this ongoing dilemma.

The following information is offered to provide some historical context for the Board’s discussion and for public input.

Arizona: A Legally Proven History of Inequity of School Facilities

The construction of new school facilities or the improvement of school facilities in Arizona school districts, as in many states throughout the country, was previously funded for decades through the localized funding source of bonds, approved by local voters. That long-utilized funding system was then challenged by litigation in the 1990’s, in Roosevelt Elementary School District v. the State of Arizona, a case in which the Amphitheater School District was a co-plaintiff.

The basic premise of the plaintiffs’ case was that school districts lacking sufficient assessed property valuation within their jurisdiction (upon which bonding capacity is based) were disadvantaged in meeting their needs for school facilities. The plaintiffs, represented by the Arizona Center for Law in the Public Interest, argued that the school finance system relating to facilities and capital projects financing was unconstitutional in nature.

The essence of the constitutional claim in Roosevelt was that, in general, residents of districts with much higher valuations enjoyed much better school facilities than their counterparts in districts with lower valuations, violating the clause of the Arizona Constitution requiring a “general and uniform” system of public schools throughout the state. The result, the plaintiffs argued, was that the quality and quantity of facilities within school districts could vary wildly depending upon their local communities’ resources.

The veracity of the allegations of disparity between districts could not be disputed. The evidence in the case established that assessed property values varied from about \$5.8 million per-pupil in the Ruth Fisher Elementary School District, where a nuclear power plant is located, to \$749 per-pupil in the San Carlos Unified District in Gila County, where there was almost no commercial property and 96% of the land in that county was federal, state, or tribal land, none of which are subject to property tax.¹

¹ Roosevelt Elementary Sch. Dist. No. 66, et al. v. Bishop, et al., 877 P.2d 806, at 810 (Ariz.1994).

The Roosevelt plaintiffs prevailed, and the courts found the former school capital finance system to be unconstitutional. The State of Arizona was consequently ordered by the court to establish a different, equitable way of financing school construction.

Students FIRST

In 1998, the approved Students FIRST legislation established a centralized school capital finance system by placing primary responsibility for school capital funding with the State. This legislation created the School Facilities Board (SFB), and the SFB was given the responsibility to:

- Develop guidelines and standards for building adequacy
- Conduct a statewide assessment of all then existing school buildings
- Coordinate the correction of identified school deficiencies (after comparing assessment data with adequacy standards) using correction funding
- Administer a building renewal fund and preventative maintenance program to maintain a level of building adequacy over time
- Approve and coordinate new school construction statewide

Significantly, this corrective legislation also eliminated the ability of school districts to seek Class A bonds, the traditional means of school construction and refurbishment, foreclosing that practice from that time forward and continuing to the present. In their place, a more limited system for “Class B” bonds was established. (More info on Class B bonding is provided below).

SFB Deficiency Corrections

According to the State of Arizona, the statewide assessment of all school facilities was completed in May of 2001, creating a list of deficiencies to be corrected. Thereafter, the SFB coordinated the correction funding and efforts with individual districts throughout the state. The law creating the SFB mandated completion of the correction phase of its activities by June 30, 2004.

Notably, the deficiencies corrected through the SFB process were identified and determined by the SFB, using its adequacy standards. District facilities were compared to these *minimum* standards to establish the equitability of facilities to those of a standardized formula.

Deficiency correction, contrary to common perception however, did not bring all schools statewide to a level of *equality*. Even after Students FIRST, school districts could and do have differing quantities of and quality in school facilities. The Students FIRST system was merely designed to ensure that every district met minimum standards deemed acceptable by the SFB adequacy guidelines – this arguably representing *equitability*, which is all that is actually required by Roosevelt.

Building Renewal

The Students FIRST legislation also established the Building Renewal Fund for the purpose of maintaining the continuing adequacy (and equitability) of existing school facilities. Monies from this fund, allocated directly to schools, can be used for renovations and repairs of a building, upgrades to building systems (heating, cooling, plumbing, etc.) that will extend the useful life of a building, and for infrastructure costs. Monies from this fund may not, however, be used for new construction, remodeling interior space for aesthetic purposes, exterior beautification, demolition, soft capital items or routine maintenance.

Under the building renewal program, the SFB was supposed to allocate funds to schools based upon the square footage, age, and student capacity of each building within a district, using a common statewide formula. The legislature's funding of the SFB building renewal formula was therefore, by definition, intended to ensure schools *continue* to meet adequacy standards on an equitable, statewide basis. The legislature's funding of the system, however, was inconsistent for many years of its existence.

In fiscal year 2001-2002, for example, the Amphitheater School District only received approximately 51% of the building renewal allocation it should have received. Since that same fiscal year, the District never received complete funding of the building renewal formula (nor has any other Arizona district). Indeed and rather remarkably, after all that Roosevelt established, school districts have received absolutely no building renewal funding for years now, because the Arizona Legislature has now simply suspended the system altogether.

Meeting Local Needs After Students FIRST

While the majority of school capital funding should come from the state system, the background presented above certainly illustrates that the system intended to ensure that schools meet building adequacy standards does not do so. Moreover, even if statewide adequacy standards were to have been supported since Students FIRST came to be, these *minimal* standards often fail to truly meet district and community needs.

The Students FIRST law, while eliminating the former Class A bond system, does provide districts with some limited ability to augment the formula based funding of school facilities that is provided (or is supposed to be provided, more accurately) by the SFB and the state legislature.

First, the law does provide for limited bonds referred to as "Class B" Bonds. Under Students FIRST, Class B Bonds are limited to 5% of a district's net assessed value. Students FIRST also continues to allow districts to obtain voter approval for Capital Overrides, which is voter authorization to exceed the normal state limits on capital budgets. The maximum life of a capital override is 7 years, and they provide for specific amounts of funding within given fiscal years.

The intent of both mechanisms (Class B bonds and Capital Overrides) is to allow some local control of decisions to exceed the state's minimum standards.

Bond Elections – In General

Arizona school district finance laws and budget restrictions do not permit school districts to "save up" or accumulate a large amount of cash to complete major capital improvement programs within their District on a cash or "pay as you go" basis. Instead, after careful and deliberate consideration by their governing boards, administrations and community members, Districts can request their local voters' approval to issue Class B general obligation bonds ("G.O. Bonds") which operate to finance locally approved school improvements or construction over time.

Bonds represent a promissory note between the school district and the investors who purchase them. The interest received by investors is exempt from state and federal taxation, enabling the districts to pay lower interest rates than other borrowers.

Principal and interest on the bonds are repaid from a secondary property tax levied on the taxable property within the District. This tie to assessed valuation leads to their status as the safest form of bonds next to U.S. Treasury Bonds resulting in very attractive tax-exempt interest rates.

School districts can only hold bond elections in November of each year, and governing boards authorizing such elections are required to formally call for the November election by the preceding June. Naturally, the District electorate must approve a bond question by a majority.

If approved, bond funds must be spent on the specific projects outlined in the Voter Information Pamphlet which is mailed to all registered voters.

Previously, bonds could not be spent on capital items such as computer equipment or pupil transportation vehicles (school buses). Apparently recognizing their failures to fund capital over the years, however, the Arizona Legislature did amend law (A.R.S. §15-491) a few years ago to expressly permit the use of short term school bonds to purchase furniture, fixtures and equipment, including technology.

Capital Override Elections – In General

The Arizona Revised Statutes also allow for a voter-authorized increase to a school district's capital budget for a period of seven years. The increase is for an annual amount each fiscal year for which the override is approved. The increase is also obtained through a levy of a secondary property tax on the district's assessed valuation.

The expenditures for which funds authorized by a capital override may be allocated and spent are not as limited as those authorized by a Class B bond election. Capital override funds may be used for any authorized capital outlay purpose. Capital Outlay expenditures include building improvements, furniture and equipment (including computer technology and software), textbooks and transportation equipment.

Capital override elections may also only be held at the November general election. Overrides require the approval of a majority of voters.

It is important to understand that, while school bond elections are commonly successful in Arizona, override elections (particularly those for capital expenditures) frequently fail. In fact, the District's last capital override election failed.

RECOMMENDATION:

This is presented for the Board's information, study and discussion. No action is required at this time.

INITIATED BY:



Todd A. Jaeger, Associate to the Superintendent

Date: April 26, 2016



Patrick Nelson, Superintendent