



**BOND ELECTION
INFORMATION**

Presentation to:

Brackett I.S.D.

July 2, 2009

Lewis A. Wilks
Coastal Securities, Inc.
5555 San Felipe, #2200
Houston, Texas 77056
713-435-4336

LAW@CoastalSecurities.com

COASTAL SECURITIES, INC.



TABLE OF CONTENTS



	<u>TAB</u>
Introduction to Municipal Bonds.....	I
Financing Alternatives for Texas School Districts	II
State and Federal Programs of Assistance.....	III
Bond Election Information.....	IV
Timetable of Events	VI

COASTAL SECURITIES, INC.



INTRODUCTION TO MUNICIPAL BONDS



- Municipal Bonds, or municipal securities, represent a promise by state or local governmental units (called the issuers) or other qualified issuers to repay to lenders (investors) an amount of money borrowed, called principal, along with interest according to a fixed schedule. Municipal bonds generally are repaid, or mature, anywhere from one to 40 years from the date they are issued.
- Municipal bonds are also commonly called tax-exempts, because the interest paid to the investor is subject neither to federal incomes taxes nor to state or local taxation.
- The process begins when an issuer sees a need for money to pay capital improvements or to fill gaps in its cash flow.



INTRODUCTION TO MUNICIPAL BONDS

Steps Required to Issue Tax-Exempt Bonds

- Identify projects to be financed.
- Work with Financial Advisor to choose a financing team.
 - Underwriter
 - Bond Counsel
 - Underwriter's Counsel
 - Credit Enhancement Provider
- Obtain voter approval.
- Gather documents for due diligence.
- Develop credit and rating materials.
- Draft bond and disclosure documents and secure necessary approval.
- Evaluate financing and legal structure.
- Market and sell bonds.





INTRODUCTION TO MUNICIPAL BONDS

General Obligation Bonds



- Requires voter approval.
- “Pledge”: Full faith and credit of the taxing entity.
- “Source of Payment”: debt service paid by property tax.
- Highest rated type of bond.
- Lower interest rates.
- Used to finance any type of public projects.
- Subject to debt limitations.



INTRODUCTION TO MUNICIPAL BONDS

Role of Coastal Securities, Your Financial Advisor



- Devise and monitor a plan of finance that will insure that the district's bonds are (i) issued at the lowest possible interest cost in a given market, (ii) are structured commensurate with the district's I&S tax rate capabilities and (iii) provide flexibility that will allow the district to meet future issuance needs.
- Work with the district's staff and/or underwriter's counsel to compile preliminary and final offering documents (POS/OS).
- Compile a notice of sale document if the bonds are to be issued via the competitive bid process.
- Assist in the selection of investment banking firms (underwriters) if the bonds are to be issued via the negotiated sale process.
- Assist the district in compiling information for rating agency presentations and in making such presentations.

COASTAL SECURITIES, INC.



INTRODUCTION TO MUNICIPAL BONDS

Role of Coastal Securities, Your Financial Advisor



- Assist in the evaluation of whether credit enhancement is recommended and if so, assist in obtaining such enhancement.
- If a negotiated sale process is utilized – be involved in setting the interest rates at which the bonds will be offered to the public (coupons and yields), and monitoring the progress of the sale during the order period.
- If a competitive sale process is used – evaluate the bids submitted and recommend that they be accepted (or not accepted).
- Review draft closing documents and monitor the closing process.
- Provide assistance and advice on investment of bond proceeds.

Key Financial Advisor specialists involved in the issuance process:

- ✓ The “banker” – this specialist is part of the Financial Advisory firm's Public Finance Department. “Bankers” generally have broad knowledge of the capital markets, debt instruments, debt structuring, document preparation, and marketing/distribution procedures.

COASTAL SECURITIES, INC.



INTRODUCTION TO MUNICIPAL BONDS

Role of Bond Counsel



- Certifies that the issuer has legal authority to issue the bonds.
- Drafts ordinances, resolutions, indentures, notices of sale, tax certificates and any other legal documents that may be required (excluding preliminary and final official statements which are compiled by Coastal).
- Review all legal documents prepared by other counsel and any documents compiled by other parties to the transactions.
- Coordinates information with the Texas Attorney General and obtains the AG's approval of the issue.
- Provides a legal opinion as to the tax status of the bonds.
- Coordinates the closing of the transaction.



INTRODUCTION TO MUNICIPAL BONDS

Role of Rating Agencies



- Assigns a credit rating to the bonds based on an assessment of the district's ability and willingness to make full and timely payments of interest and principal over the life of the bonds.
- Once a school district is rated, the agencies periodically review the district's financial and operational information. Rating agencies have developed a review process for municipalities and school districts seeking an upgrade in their ratings.
- There are currently three nationally recognized rating agencies commonly used by municipal issuers in the United States: Moody's Investors Service, Standard & Poors, and Fitch. These firms are headquartered in New York and have branch offices across the county.



INTRODUCTION TO MUNICIPAL BONDS

Role of Rating Agencies



Following are the credit quality rating categories for each of the three primary rating agencies:

<u>Investment Grade</u>	<u>Moody's</u>	<u>S&P</u>	<u>Fitch</u>
Prime	Aaa	AAA	AAA
Excellent	Aa	AA	AA
Upper Medium	A	A	A
Lower Medium	Baa	BBB	BBB
 <u>Non-Investment Grade</u>			
Speculative	Ba	BB	BB
Very Speculative	B, Caa	B, CCC, CC	B, CCC, CC, C
Default	Ca, C	D	DDD, DD, D



FINANCING ALTERNATIVES FOR TEXAS SCHOOL DISTRICTS

TAX BONDS

- Legal authority, Section 45.001, Texas Education Code, as amended.
- Available for construction, acquisition and equipment of school buildings.
- Payable from and secured by ad valorem taxes (I&S tax rate).
- Maximum maturity of the bonds is typically thirty years or less.
- Guaranteed by Permanent School Fund (PSF) (if available) thus receiving “AAA” rating.
- If rejected by PSF, eligible for “Intercept Credit Enhancement Program” with funds appropriated for the Foundation School Program.
- Must demonstrate ability to pay debt service on all tax bonds at a debt service tax rate of no more than \$.50 per \$100 valuation.





FINANCING ALTERNATIVES FOR TEXAS SCHOOL DISTRICTS

TAX BONDS

- Voter authorization is required.
- Attorney General approval is required.
- Eligible for Instructional Facilities Allotment (IFA) and Existing Debt Allotment (EDA) funding from the State.
- Unlimited tax bonds are QZAB, QSCB and Build America Bond (BABs) eligible.





FINANCING ALTERNATIVES FOR TEXAS SCHOOL DISTRICTS

LEASE REVENUE BONDS

In 1993, the Texas Legislature passed Senate Bill (SB 826), which amended the Public Property Finance Act to allow school districts to enter into contracts for the purchase of real property or improvements to real property.

Subsequently, the Attorney General's office began to approve such contracts as long as the contracts are not paid for or secured by maintenance taxes but rather Tier One funds and unintended "surplus" maintenance tax receipts. The following circumstances must be met to obtain Attorney General approval for the issuance of Lease Revenue Bonds.

- Legal authority for a district to enter into a lease-purchase contract and acquire real property is Section 271.004 of the Public Property Finance Act.
- Payable from available funds of the District which include Tier One state funds and unintended "surplus" maintenance taxes.





FINANCING ALTERNATIVES FOR TEXAS SCHOOL DISTRICTS

LEASE REVENUE BONDS



- May not make a multi-year pledge of available funds but must be subject to annual appropriation by the district and biannual appropriation by the Texas Legislature.
- Issued through a public facility corporation (PFC) sponsored by the district in order to provide investors with a security interest in the property. The PFC issues bonds and uses the proceeds to pay of the acquisition and improvements. The PFC's bonds are paid from the district's payments under the lease/purchase agreement.
- The Attorney General has taken the position that school districts do not have the authority to grant a security interest in district property. If the district wishes to finance improvements to land it already owns, the district must sell the land to the PFC so that the corporation can grant a security interest in the real property plus the improvements to bondholders. The PFC would transfer the property and improvements back to the district at the end of the lease term.
- The district must certify that the historical annual receipts of Tier One funds would be sufficient to make the district's maximum annual lease payment and that the Board has not previously obligated the district to use such Tier One funds to pay other obligations.

COASTAL SECURITIES, INC.



FINANCING ALTERNATIVES FOR TEXAS SCHOOL DISTRICTS

LEASE REVENUE BONDS

- Voter approval is not required to issue Lease Revenue Bonds, however the Board must publish a notice of intent to enter into a contract not less than 60 days before the date set to execute the contract.
- Attorney General approval is required.
- Eligible for Instructional Facilities Allotment (IFA) funding from the State.
- Lease revenue bonds are not QZAB eligible.





FINANCING ALTERNATIVES FOR TEXAS SCHOOL DISTRICTS

MAINTENANCE TAX NOTES

- Legal authority is Section 45.108, Texas Education Code, as amended.
- Available for “legal maintenance expenditures” including: environmental cleanup and asbestos removal costs and costs incurred in connection with the maintenance, repair, rehabilitation or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric or other building systems of existing school properties.
- Payable from and secured by maintenance taxes. Maximum maturity of the notes is twenty years.
- Subject to the underlying rating of the District. Not guaranteed by the Permanent School Fund.





FINANCING ALTERNATIVES FOR TEXAS SCHOOL DISTRICTS

MAINTENANCE TAX NOTES

- Must demonstrate ability to pay maximum annual debt service within the District's maximum maintenance tax as approved by the voters of the District. Statutory limit is \$1.50 per \$100 valuation. However, due to HB1, the Texas Attorney General is allowing annual limited tax debt service of up to 20% of the of the previous years M&O tax levy.
- Voter authorization is not required.
- Attorney General approval is required.
- Not eligible for Instructional Facilities Allotment (IFA) funding from the State.
- Maintenance tax notes are QZAB eligible.



FINANCING ALTERNATIVES FOR TEXAS SCHOOL DISTRICTS

TIME WARRANTS

- Legal authority for the issuance of Time Warrants is Section 45.103, Texas Education Code.
- Available for maintenance, renovation and the construction or purchase of school facilities and school equipment.
- Payable out of any available funds of the district, including the Basic Allotment Portion of Tier One state funds, surplus maintenance tax dollars and delinquent maintenance taxes and the penalties and interest thereon.
- Final maturity may not exceed 5 years.
- No more than \$500,000 outstanding at any time.
- Voter approval is not required.
- Attorney General approval may be required under some circumstances.





STATE AND FEDERAL PROGRAMS OF ASSISTANCE

INSTRUCTIONAL FACILITIES ALLOTMENT (IFA)



- Legal authority, Chapter 46, Texas Education Code, as amended. The Instructional Facilities Allotment Program (IFA) is available to assist school districts that are not property-rich districts in the payment of debt service on eligible bonds.
- All public school districts in Texas authorized to enter into bonded debt or lease purchases are eligible to apply for state assistance under the IFA program. The election authorizing bonded debt or the end of the 60-day waiting period for lease purchase agreements must be held prior to submission of an application. Bond or lease-purchase proceeds must be used for the construction or renovation of an instructional facility.
- State support is limited to debt service for qualified purposes (instructional facilities) as defined by the rule concerning the allotment. Examples of qualified projects include site acquisitions, new schools, major additions, site development, and major repair and remodeling. Non-qualified projects include: stadium/track facilities, support space for competitive athletics, school administration and support facilities, transportation/maintenance facilities, and furniture and other equipment that is not a permanent fixture of the building.



STATE AND FEDERAL PROGRAMS OF ASSISTANCE



INSTRUCTIONAL FACILITIES ALLOTMENT (IFA)

- Funding is subject to the availability of appropriations. Districts are encouraged to make an application for the IFA program regardless of the availability of state funds at the time of the application. By making an application before bonds are sold, the district preserves its eligibility for funds, should they become available in future biennia.
- A maximum allotment amount, according to formulas in the Education Code from both **state and local sources**, of up to \$250 per student ($\$250 \times \text{RADA}$). Districts are required to levy sufficient taxes to cover the local share of the allotment. Funding continues through the term of the debt without additional applications. In the event the legislature does not appropriate adequate funds for the IFA program, the statute directs a transfer from the Foundation School Program in an amount sufficient to cover the required payments of the state.



STATE AND FEDERAL PROGRAMS OF ASSISTANCE

INSTRUCTIONAL FACILITIES ALLOTMENT (IFA)



- Districts will be prioritized to receive funding based upon their wealth per student, whether the district has outstanding debt, and percentage increase in enrollment over the last five years. Districts that do not receive assistance upon application due to a lack of state funds will have their property wealth reduced by 10 percent (for purposes of prioritization for the IFA program) for each state fiscal biennium in which the district does not receive state assistance.
- For the biennium beginning September 1, 2009, \$50 million is authorized for new IFA funding in the second year of the biennium, 2010-11 fiscal year.
- The next available application deadline will be June 15, 2010. (Round 10)



STATE AND FEDERAL PROGRAMS OF ASSISTANCE

TIER THREE FUNDING (EXISTING DEBT ALLOTMENT)

- The 1999 Legislative session created a new allotment, Tier Three, which provides State financial assistance for certain outstanding debt issued by school districts to produce a guaranteed yield of \$35 in revenue per student per penny of **debt service tax** levy.
- Limited to \$0.29 per \$100 of valuation of equalized debt service tax rate.
- District's bonds are eligible for the allotment if during the 2008-2009 fiscal year, the district either (1) made payments on the bonds, or (2) levied and collected debt service taxes for the payment of principal and interest on the bonds. Some limitations to the \$35 in revenue per student per penny of debt service tax levy may exist for bonds that became eligible for Tier Three funding after August 31, 2007 and prior to August 31, 2009. But as a general rule, Tier Three assistance will be available for bonds that became eligible for Tier Three funding before August 31, 2009, if taxes were levied and collected for such bonds prior to August 31, 2009.





STATE AND FEDERAL PROGRAMS OF ASSISTANCE

TIER THREE FUNDING (EXISTING DEBT ALLOTMENT)

- A district may not receive Tier Three funding for the principal and interest on a series of otherwise eligible bonds for which the district receives overlapping IFA funding.
- For the biennium beginning September 1, 2009, the Legislature has appropriated New Tier Three funding and has made the Existing Debt Allotment a permanent program in statute rather than requiring renewal every biennium.





STATE AND FEDERAL PROGRAMS OF ASSISTANCE

QUALIFIED ZONE ACADEMY BONDS (QZAB)



- Legal authority for participation in the Federal Qualified Zone Academy Bond program is found at 26 CFR part 1, 1397E. The program, intended to be an interest free loan program, was created by the Taxpayer Relief Act of 1997.
- \$400 million was allocated through various agencies nationally and Texas was been allocated approximately \$37 million in bond authorization for calendar years 2008 and 2009.
- The Texas Education Agency (TEA) determined the application process for this program in November of 1998. Applications are being accepted on a first come, first served basis. Limited to one application per district per calendar year with a maximum of \$8 million per application.
- The campus or campuses benefiting from the QZAB designated bonds must have at least 35% of its student body eligible for the federal free and reduced lunch program.
- Districts must enter into a partnership with a private business or businesses that agree to contribute money, goods, or expertise equivalent to 10% of the awarded funds.



STATE AND FEDERAL PROGRAMS OF ASSISTANCE



- **QUALIFIED SCHOOL CONSTRUCTION BONDS (QSCB)**
- **BUILD AMERICA BONDS (BABs)**



STATE AND FEDERAL PROGRAMS OF ASSISTANCE QUALIFIED ZONE ACADEMY BONDS (QZAB)



- Proceeds may be used to finance the renovation or repair of classroom facilities and equipment that is designed to enhance an academic program, course materials and teacher training. Construction of new facilities is not allowed.
- Applications may be made for: bonds issued under the authority of Texas Education Code Chapter 45 subchapter A, obligations under Local Government Code 271.005 pertaining to personal property, and time warrants under Texas Education Code 45.103.
- Upon receipt of QZAB designation, the District will have 180 days to issue the bonds, notes, obligations, or warrants or the QZAB designation will lapse.
- Texas Education Agency Application requirements:
 1. provide proof that the campus benefiting from the QZAB bond proceeds had at least 35% of its student body designated as economically disadvantaged by the TEA in the fall PEIMS submission,
 2. provide written assurance of commitment from private entities for contributions totaling a present value equal to not less than 10% of the proceeds of the bond issue,
 3. provide the planned use of the bond proceeds.

COASTAL SECURITIES, INC.



BOND ELECTION INFORMATION



I. LEGAL AUTHORITY

- A. Election to obtain voter approval for the issuance of bonds is required by Section 45.003 of the Texas Education Code.
- B. Bonds approved under Section 45.003 may be issued for the construction, acquisition and equipment of school buildings in the district and the purchase of the necessary sites therefore (i.e. capital projects), and the purchase of school buses (Section 45.001, Texas Education Code).
- C. Attorney General approval is required under Section 45.005 of the Texas Education Code, as well as Chapter 1202, Texas Government Code, as amended; bond issue must pass the \$0.50 tax rate test under Section 45.003.



BOND ELECTION INFORMATION



II. PRE-ELECTION CONSIDERATIONS

- A. Evaluate district needs
 - 1. Establish a list of specific capital projects
 - 2. Consider whether other financing alternatives are available
 - a. Contractual obligations (personal property)
 - b. Maintenance Tax Notes (Section 45.108)
 - c. TANs (cash flow needs)
 - d. Lease-purchase financing (S.B. 826)

- B. Select Bond Counsel and Financial Advisor
 - 1. Select qualified, experienced Texas Bond Counsel and Financial Advisor
 - 2. Work with Bond Counsel and Financial Advisor to develop election strategy



BOND ELECTION INFORMATION



II. PRE-ELECTION CONSIDERATIONS (con't)

- C. Tax rate considerations – Work with Bond Counsel and Financial Advisor to determine if the district can issue the proposed bonds under the current statutory tax rate limitations.
 - 1. Districts must satisfy \$0.50 bond tax rate test prior to issuance of new debt
 - 2. Is a tax rate election required?
- D. Consider hiring an election consultant (e.g., pollster, others)
- E. Determine community view of proposed election and work to build a consensus to pass the election



BOND ELECTION INFORMATION



II. PRE-ELECTION CONSIDERATIONS (con't)

F. Promotion of the election

1. District funds may not be used to promote the election (may be used for informational purposes only)
2. Consider establishing a political committee to promote the election
 - (a) Authorized by the Election Code
 - (b) File treasurer designation with Secretary of Board of Trustees
 - (c) All contributions must be reported
 - (d) Cash contributions discouraged; none in excess of \$100
 - (e) Corporate contributions are acceptable for issue elections (e.g. bond election)



BOND ELECTION INFORMATION



II. PRE-ELECTION CONSIDERATIONS (con't)

3. Build support with other community groups
 - (a) PTA
 - (b) Teacher groups; other employee groups
 - (c) Service Organizations (Rotary Club; Lions Club; Kiwanis Club)
 - (d) Other community groups
4. Coordinate with overlapping local governments that issue bonds
5. Strong Board support is essential (divided Board makes passing election difficult)
6. Consider election propositions tailored to community support
 - (a) One general proposition
 - (b) Split propositions in other instances?



BOND ELECTION INFORMATION



II. PRE-ELECTION CONSIDERATIONS (con't)

7. Provided bilingual election materials to the community

- (a) District informational and election materials must be in English and Spanish
- (b) Political committee promotional materials may need to be in English and Spanish
- (c) Election is subject to Department of Justice scrutiny



BOND ELECTION INFORMATION



III. CALLING THE ELECTION

- A. During the 2005 legislative session, several changes were made to the Texas Education Code regarding the dates on which elections may be held and certain procedures involving the uniform election held in May. These changes took effect October 1, 2005. A school district is no longer authorized to hold a bond election on any other date other than a uniform election date, regardless of whether the district's board finds by resolution or order that holding the bond election on another date is in the public interest. The uniform election dates for the upcoming two years are as follows:

<u>2009</u>	<u>2010</u>
May 9	May 8
November 3	November 2



BOND ELECTION INFORMATION



III. CALLING THE ELECTION (con't)

1. As a general rule, the Board of Trustees must adopt an order calling a bond election no later than 62 days prior to the election. However, all elections held on the November uniform election date in even numbered years must be ordered on or before the 70th day before the proposed election date.

Not earlier than the 30th day or later than the 10th day prior to the date set for the election, a substantial copy of the election order must be published in English and Spanish (Vietnamese – Harris County schools), one time, in a newspaper of general circulation in the District.

At least 21 days prior to the date set for the election, a substantial copy of the election order must be posted in English and Spanish (Vietnamese – Harris County schools) on the bulletin board in the District used for posting notices of Board meetings.



BOND ELECTION INFORMATION



III. CALLING THE ELECTION (Con't)

For **May** elections, early voting begins 12 days prior to the date set for the election and ends 4 days prior to the date set for the election. The local canvass must occur not later than the 11th day after the election and not earlier than the later of:

- (a) the third day after the election;
- (b) the date on which the early voting ballot board has verified and counted all provisions ballots; or
- (c) the date on which all timely receive ballots cast from addresses outside of the United States are counted.

For **November** elections, early voting begins 17 days prior to the date set for the election and ends 4 days prior to the date set for the election. The local canvass must occur not later than the 11th day after the election and not earlier than the 8th day after the elections.



BOND ELECTION INFORMATION



III. CALLING THE ELECTION (Con't)

2. Consider carefully the language/wording of the proposition(s)
 - (a) Work closely with Bond Counsel to ensure propositions satisfy district needs and comply with legal requirements
 - (b) May want to pre-clear proposition language with the Attorney General's Office
3. Consider **temporary branch voting** (Section 85.062 Election Code)
4. Order calling the election establishes the date of the election, precincts and polling places (including temporary branch polling places), election judges, etc.



BOND ELECTION INFORMATION

B. Department of Justice Pre-clearance

1. File for pre-clearance 60 days prior to the Election
2. May be obtained after the election in some cases

IV. ELECTION SCHEDULE

- A. Work closely with Bond Counsel and Financial Advisor to ensure that the notice of the election is properly published and posted.
- B. Helpful information (regarding the election schedule and other matters) is available from the Election Division of the Secretary of State's office (512) 463-5650.

V. POST-ELECTION CONSIDERATIONS

- A. Canvass election not earlier than the 8th day nor later than the eleventh day following election day; adopt Order Canvassing Election. See above for more details related to the canvass of the election.
- B. Bonds may be issued and delivered after election contest period (thirty days after canvass of the election).

COASTAL SECURITIES, INC.

