



SCHOOL DISTRICT BALLOT ISSUE ELECTIONS

This memorandum provides an overview of the process for school district ballot issue elections. It highlights major points to consider in preparing for the election, but does not extensively discuss all the legal issues and questions that may arise. School districts should consult legal counsel regarding specific questions. Visit CASB's elections webpage for an election timeline concerning school district ballot issues.

Jump to a Topic

- [Background](#)
- [Budget Elections](#)
- [Facilities & Capital Construction](#)
- [Property Tax Increases](#)
- [BEST](#)
- [Bonds](#)
- [Charter School Considerations](#)
- [Other Ballot Issue Elections](#)
 - [Transportation](#)
 - [Technology](#)
 - [Kindergarten](#)
- [Election Requirements](#)
 - [Ballot Wording](#)
 - [Mailed Notice Requirements](#)
 - [Providing Fiscal Information](#)
 - [Summarizing Comments For and Against the Ballot Issue](#)
 - [Mailing Procedures](#)
 - [Additional Notice Requirements](#)
 - [After the Election](#)

Background

The state constitution limits the dates on which school districts can submit tax and revenue measures to the voters to the first Tuesday in November in odd-numbered years (which is the district's biennial election date) and the state general election, which is the first Tuesday after the first Monday in November in even-numbered years.¹

The district must follow the election requirements of the Taxpayer's Bill of Rights (TABOR) in the state constitution when conducting a "ballot issue" election.² Ballot issues are financial matters, specifically:

- new tax
- tax rate increase
- mill levy above that for the prior year
- extension of an expiring tax

¹ Colo. Const. art. X, § 20; C.R.S. § 1-1-104(17).

² Colo. Const. art. X, § 20.



- tax policy change directly causing a net tax revenue gain
- the creation of any multiple-fiscal year direct or indirect debt or other financial obligation without adequate present cash reserves pledged irrevocably and held for payments in all future fiscal years
- emergency taxes
- revenue changes
- a delay in voting on ballot issues
- the weakening of a local limit on revenue, spending and debt

School district ballot issues often take the following forms:

- a budget election
- a bond issue
- a mill levy increase for capital construction and/or technology
- a request for matching funds necessary to participate in the Build Excellent Schools Today Act (BEST) program, which provides funding for school capital construction projects
- a transportation mill levy
- a ballot issue to raise additional local property tax revenues to provide funding for excess full-day kindergarten program costs and to meet the initial capital construction needs associated with establishing a full-day kindergarten program

Budget Elections

Budget elections under the Colorado School Finance Act enable Colorado school districts to raise and expend local property tax revenues in excess of the district’s total program funding.³ The revenues supplement the district’s general fund for the current budget year and each budget year thereafter. In addition, all revenues are the sole responsibility of the school district and are not considered when establishing the equalization program funding under the School Finance Act.⁴

The law caps the amount of funds a district can raise in this way.⁵ Once a district reaches its limitation, it may not hold another budget election until its revenues are again lower than its revenue limit.⁶

When the board of education determines that it is in the best interest of the district to seek voter authorization for additional local revenues through a budget election, the board will typically adopt a resolution calling for an election for this purpose.⁷ See CASB’s sample resolution, “Authorization for Additional Local Revenues” on CASB’s election webpage. The district’s electorate may also initiate a budget election by submitting a valid petition signed by at least five percent of the eligible electors in the district.⁸

³ C.R.S. § 22-54-108.

⁴ C.R.S. §§ 22-54-101 *et seq.*

⁵ See C.R.S. 22-54-108(3)(b)(V)-(VI), 22-54-108(3)(d)(II.5) (Total override revenue is limited to 25% (30% for small rural districts) of a district’s total funding, an amount determined by CDE, or \$200,000, whichever is greater, plus the FY 2001-02 supplemental cost-of-living adjustments)

⁶ C.R.S. § 22-54-108(3)(d)(III).

⁷ C.R.S. § 22-54-108(1).

⁸ C.R.S. § 22-54-108(2). This memorandum does not include the procedures or timelines for local initiatives. The procedures for determining whether the signatures on a petition are sufficient are found in the municipal



Facilities & Capital Construction

Districts planning to acquire or purchase buildings or grounds; enlarge, improve, remodel, repair, or make additions to any school building; construct school buildings; equip or furnish any school building in conjunction with a construction project; or improve school grounds have several options for raising funds through ballot issue elections.

Property Tax Increases

The board of education of any growth district—a district whose student population increases by more than one percent or by 50 students, whichever is less—may submit a question to voters for additional property tax revenues.⁹ No more than five mills (or the number of mills allowed when using the computation in statute) may be authorized by the voters under this provision.¹⁰

Districts may seek a mill levy for the purpose of funding the capital construction, new technology, existing technology upgrade, and maintenance needs of the district.¹¹ There is no cap or time limitation on this mill levy increase, but districts “may not pledge any money in [such] fund for the repayment of any existing or new borrowing.”¹²

Likewise, all interest and income derived from the deposit and investment of money in the supplemental capital construction, technology, and maintenance fund must be credited to the fund.¹³

BEST

Any school district may raise matching funds as part of its participation in the BEST grant program for capital construction projects by seeking voter-approved multiple-fiscal year debt, including but not limited to a sub-financed purchase of an asset or certificate of participation agreement constituting an indebtedness of the district.¹⁴

Bonds

All school districts may submit to the eligible electors the question of contracting a bonded indebtedness.¹⁵ Bonded indebtedness may be incurred for multiple reasons outlined in statute, including acquiring or purchasing buildings or grounds, constructing or improving school buildings, and acquiring, constructing, or improving any capital asset that the district is authorized to own.¹⁶

School districts submitting a bond question to their voters will be working closely with bond counsel to assure that the district complies with all applicable election procedures. School districts should be aware that the federal Dodd-Frank Wall Street Reform and

election code. The district is to follow the municipal procedures as nearly as practicable. *See*, C.R.S. §§ 1-40-103(4); 22-30-104(4); 31-11-101 *et seq.*

⁹ C.R.S. § 22-40-110(1).

¹⁰ C.R.S. § 22-40-110(2).

¹¹ C.R.S. §§ 22-45-103(1)(j); 22-54-108.7.

¹² C.R.S. § 22-45-103(1)(j).

¹³ C.R.S. § 22-45-103(1)(j).

¹⁴ C.R.S. § 22-43.7-109(4).

¹⁵ C.R.S. §§ 22-42-101 *et seq.*

¹⁶ C.R.S. § 22-42-102(2)(a).



Consumer Protection Act imposes restrictions on individuals or companies that provide financial advisor services to public entities, including a prohibition on also underwriting related securities, such as bonds. We encourage school districts to contact the school district's legal counsel for specific legal advice regarding the district's interactions with financial advisors and underwriters.

Charter School Considerations

The Charter Schools Act and the Charter School Capital Facilities Financing Act provide that a charter school that has operational revenues needs or capital construction needs may seek to obtain money to fund those needs by asking the school district to be included in its ballot issue or to submit a ballot issue on its own for voter approval.¹⁷ Additionally, House Bill 24-1154 clarified that a school district is permitted to voluntarily support institute charter school facilities through use of a ballot issue, and provided guidance on the process to districts who wish to do so.¹⁸

While the remaining details of these laws are beyond the scope of this memorandum, it is important to note that a school district must invite district charter schools authorized by the district to participate in the discussions regarding the possible submission of a ballot issue at the earliest possible date, but no later than June 1.¹⁹ In addition, district charter schools must be represented on the school district's long-range planning committee and any committee established by the school district to assess and prioritize the district's needs for operating revenues or capital construction needs.²⁰

Other Ballot Issue Elections

Transportation

State law authorizes school districts to submit a transportation mill levy question to the voters for the purpose of paying excess transportation costs.²¹

Because state law does not require that school districts receive voter approval before imposing a transportation fee to cover the excess costs of transportation, the board of education may impose a transportation fee by resolution in accordance with the procedures set out in statute.²²

Technology

School districts may ask voters to approve up to 10 mills for up to three years to finance the special building and technology fund.²³ Revenues in this fund may only be used for acquiring, maintaining, or constructing schools or for the purchase and installation of instructional and informational technology, including expenditures for software and staff training related to the new technology.²⁴

¹⁷ C.R.S. §§ 22-30.5-118; 22-30.5-119; 22-30.5-404; 22-30.5-405.

¹⁸ C.R.S. § 22-30.5-404.5.

¹⁹ C.R.S. §§ 22-30.5-118(4); 22-30.5-404(1)(c).

²⁰ C.R.S. §§ 22-30.5-118(3); 22-30.5-404(1)(b).

²¹ C.R.S. § 22-40-102(1.7)(a).

²² C.R.S. § 22-32-113(5).

²³ C.R.S. §§ 22-40-102(1.5); 22-45-103(1)(d).

²⁴ C.R.S. § 22-45-103(1)(d).



As mentioned above, districts may also seek a mill levy increase for the purpose of funding its capital construction, new technology, existing technology upgrade, and maintenance needs of the district.²⁵ There is no cap or time limitation on this mill levy increase.

Kindergarten

A school district may submit a question to voters to raise and expend local property tax revenues to provide funding for excess full-day kindergarten program costs for the current budget year and each budget year thereafter.²⁶ Such revenues are in addition to any property tax revenues authorized after a budget election. The ballot issue may also include a question of whether to impose an additional mill levy of a stated amount and limited duration to meet the initial capital construction needs of the district associated with establishing full-day kindergarten.²⁷

The term “excess full-day kindergarten program costs” means the costs that exceed 50 percent of the district’s per-pupil revenues for the budget year, multiplied by the number of pupils enrolled or expected to enroll in the district’s full-day kindergarten program.²⁸

State law allows a district to charge tuition to a non-resident student for the excess full-day kindergarten program costs. Tuition may not exceed the actual cost of providing the program.²⁹

Election Requirements

Ballot Wording

TABOR³⁰ requires that ballot titles for tax or bonded debt increases begin with either:

- “SHALL (DISTRICT) TAXES BE INCREASED (first, or if phased in, final, full fiscal year dollar increase) ANNUALLY... ?” or
- “SHALL (DISTRICT) DEBT BE INCREASED (principal amount), WITH A REPAYMENT COST OF (maximum total district cost),.....?”

The wording of the remainder of the ballot and for other types of ballot issues is not specified in state law. Districts are advised to consult legal counsel when preparing a question for the ballot because of the complexities of TABOR and the potential for litigation if the question is not worded properly.

²⁵ C.R.S. §§ 22-45-103(1)(j); 22-54-108.7.

²⁶ C.R.S. § 22-54-108.5(1).

²⁷ A district that obtains voter approval to fund full-day kindergarten must establish the program using evidence-based research demonstrating the types of programs and methods appropriate for a full-day kindergarten program. C.R.S. § 22-54-108.5(2)(a).

²⁸ C.R.S. § 22-54-108.5(1)(d). The district cannot require parents to enroll their child in a full-day kindergarten program. C.R.S. § 22-54-108.5(2)(b).

²⁹ C.R.S. § 22-54-108.5(3).

³⁰ Colo. Const. art. X, § 20(3)(c).



It is extremely important that the estimates of the amount to be raised by the tax increase stated in the ballot title be calculated carefully because if the tax increase exceeds the estimate for the fiscal year, the tax increase will have to be reduced proportionately and the excess revenue refunded in the next fiscal year.³¹

Once the wording of the ballot is finalized and approved by the board of education, it must be certified to the county clerk no later than 60 days before the election.³²

Mailed Notice Requirements

TABOR requires districts to mail notice to electors concerning ballot issue elections. The law imposes strict requirements as to the contents and procedures for these mailings, so it is important to work with legal counsel to ensure compliance with TABOR's technicalities.

Ballot issue notices must include the following³³:

- The election date, hours, ballot title, text, and local election office address and telephone number;
- For proposed district tax or bonded debt increases, the estimated or actual total of district fiscal year spending for the current year and each of the past four years and the overall percentage and dollar change;
- For the first full fiscal year of each proposed district tax increase, district estimates of the maximum dollar amount of each increase and of district fiscal year without the increase;
- For proposed district bonded debt, its principal amount and maximum annual and total district repayment cost, and the principal balance of total current district bonded debt and its maximum annual and remaining total district repayment cost; and
- Two summaries up to 500 words each, one for and one against the proposal, of written comments filed with the school district's designated election officer at least 45 days before the election. No summary shall mention names of persons or private groups, nor any endorsements of or resolutions against the proposal.

Petition representatives following these rules shall write this summary for their petition. The designated election officer shall maintain and accurately summarize all other relevant written comments.

Providing Fiscal Information

The board of education or its designee is responsible for providing the fiscal information that must be included in the ballot issue notice to its designated election official.³⁴

Summarizing Comments For and Against the Ballot Issue

As discussed above, the ballot issue notice required by TABOR must contain two summaries, one for and one against the ballot issue, of written comments filed with the

³¹ Colo. Const. art. X, § 20(3)(c).

³² C.R.S. § 1-5-203(3).

³³ C.R.S. § 1-7-905, 905.5; Colo. Const. art. X, § 20(3)(b)(i)-(v).

³⁴ C.R.S. § 1-7-902.



school district’s designated election official by the end of the business day on the Friday before the 45th day before the election.³⁵ In most cases, a ballot issue will be referred to the voters by the board of education and not initiated by petition. As a result, it is unlikely that there will be “petition representatives” who will summarize their petition. Thus, it will usually be the designated election official’s responsibility to summarize, in 500 words each, both the “pro” and “con” written comments submitted by the required deadline.³⁶

State law delineates which comments the designated election official will consider when preparing the spending pro/con statement.³⁷ These requirements are as follows:

- All written comments received will be kept on file with the school district’s designated election official. However, only those comments that are filed by persons eligible to vote in the school district’s election must be summarized in the ballot issue notice. The filed comments shall be retained as election records³⁸;
- To be summarized in the notice, the comments shall address a specific ballot issue and shall include a signature and an address where the signer is registered to vote and shall be filed with the school district’s designated election official, not the county clerk, unless the issue is a county issue³⁹;
- All comments shall be filed by the end of the business day on the Friday before the 45th day before the election⁴⁰;
- If the school ballot issue is the result of an initiative petition, rather than board resolution, the petition representatives are solely responsible for summarizing all comments filed in favor of the ballot issue. The designated election official will summarize all comments filed in opposition⁴¹;
- The petition representatives must submit the summary in typewritten form no later than 44 days before the election; if they fail to meet the statutory deadline, the summary on the ballot issue notice will state: “No summary was filed by the statutory deadline”⁴²; and
- If no comments are filed in opposition to or in support of a ballot issue initiated by petition, the designated election official shall not prepare any summaries. A statement will be prepared for the ballot issue notice that reads: “No comments were filed by the constitutional deadline.”⁴³

There is no requirement that the district take any special steps to solicit written comments for the preparation of the summary on either side. However, alerting the public to the fact that they may comment may be prudent from a public relations standpoint.

³⁵ C.R.S. § 1-7-901(4).

³⁶ Colo. Const. art. X § 20(3)(b)(v); C.R.S. § 1-7-903.

³⁷ C.R.S. §§ 1-7-901 *et seq.*

³⁸ C.R.S. § 1-7-901(2).

³⁹ C.R.S. § 1-7-901(3).

⁴⁰ C.R.S. § 1-7-901(4).

⁴¹ C.R.S. § 1-7-903(2).

⁴² C.R.S. § 1-7-903(3).

⁴³ C.R.S. § 1-7-903(4).



Mailing Procedures

TABOR requires that at least 30 days before a ballot issue election, districts shall mail at the least cost, and as a package where districts with ballot issues overlap, a titled notice or set of notices addressed to “All Registered Voters” at each address of one or more active registered electors.⁴⁴ Districts may coordinate this mailing with the distribution of the ballot information booklet in order to save mailing costs.⁴⁵

It is the district’s responsibility to prepare the full text for the ballot issue notice and to deliver it to the county clerk for mailing no later than 43 days before to the election.⁴⁶ It is the county clerk’s responsibility to mail the required election notice package on behalf of all political subdivisions within the clerk’s jurisdiction that are conducting ballot issue elections.⁴⁷ Districts are advised to work with the county clerk to determine the specific format for this notice.

Additional Notice Requirements

The district must include notice of the ballot issue when it publishes any other election notice. In many jurisdictions, the election notice provided by the county clerk in a local newspaper is sufficient to cover the school district’s election notice responsibilities.⁴⁸

In addition, any district submitting a ballot issue that will create a debt or financial obligation of the district must post notice of specific financial information on the district’s website no later than 20 days before the election.⁴⁹ If the district does not have a website, it must post the information in the district’s administrative office.⁵⁰

The posted information must include the following:

- The district’s ending general fund balance for the last four fiscal years and projected ending general fund balance for the current fiscal year;
- A statement of the total revenues in and expenditures from the district’s general fund for the last four fiscal years and the projected total revenues in and expenditures from the general fund for the current fiscal year;
- The amount of any debt or other financial obligation incurred by the district for each of the last four fiscal years for cash flow purposes that has a term of not more than one year and the amount of any such financial obligation projected for the current fiscal year;
- A statement as to whether the district’s emergency reserve required by TABOR has been fully funded by cash or investments for the current fiscal year and each of the last four fiscal years and an identification of the funds or accounts in which the reserve is currently held, and if the reserve has not been fully funded, a statement of the reasons the reserve has not been fully funded; and
- The location or locations at which any person may review the district’s audited financial statements for the last four fiscal years, any management letters that have

⁴⁴ Colo. Const. art. X, § 20(3)(b).

⁴⁵ Colo. Const. art. X, § 20(3)(b).

⁴⁶ C.R.S. § 1-7-904.

⁴⁷ C.R.S. § 1-7-906(1).

⁴⁸ C.R.S. § 1-5-205(1.4).

⁴⁹ C.R.S. § 1-7-908(1)(a).

⁵⁰ C.R.S. § 1-7-908(1)(a).



been made public and have been provided to the district by its auditors in connection with the preparation of its audits for the last four fiscal years, and the district’s budget for the current fiscal year.

An election may be contested if the district fails to provide this notice or if the information provided contains any material misstatements.⁵¹ Anyone wishing to contest the election on this basis will have to file a written statement of intent to contest the election results with the district court within 10 days after the official survey of returns has been filed with the designated election official.⁵²

After the Election

Within 10 business days after the election, the board of education or its designee must provide to the Public School Finance Unit of the Colorado Department of Education (CDE) the following:

1. A copy of the official ballot question language as certified to the county clerk or a copy of the official ballot marked with the word “sample;” and
2. The number of votes cast for the question and the number of votes cast against the question.⁵³

The reporting form will be generated by CDE approximately a week before the election and will be available on the CDE website.

COLORADO ASSOCIATION OF SCHOOL BOARDS
2253 S. Oneida Street, Ste. 300, Denver, CO 80224
(303) 832-1000 | www.casb.org

This document is a resource for informational purposes only and does not constitute legal advice. Specific questions should be referred to the school district’s legal counsel.

February 2025
© Colorado Association of School Boards

⁵¹ C.R.S. § 1-11-201(4).

⁵² C.R.S. § 1-11-213(4).

⁵³ 1 CCR 301-39, Rule 12.01.