

School Bond Guide

The purpose of this booklet is to serve as a guide to the statutes relating to the issuance of school bonds and the construction of school buildings.

ALL PREVIOUS ISSUES OF THIS BOOKLET MAY BE DISCARDED.



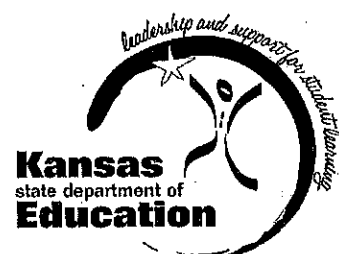
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SCHOOL BONDS

Provisions and Procedures for Issuance of Bonds by Unified School Districts

School district bond laws must be understood and followed explicitly for a legal bond issuance. Because of this fact and since school district general obligation bonds pledge the full faith and credit of the district, it is recommended that each board of education obtain and follow the advice of an attorney on the steps involved in conducting a bond election, and of a financial advisor in regard to the selling of bonds.

I. GENERAL PROVISIONS FOR THE ISSUANCE OF BONDS (K.S.A. 72-6761)

- A. General obligation bonds may be issued to:
 - 1. purchase or improve any site or sites necessary for school district purposes including housing and boarding pupils enrolled in an area vocational school;
 - 2. acquire, construct, equip, furnish, repair, remodel or make additions to buildings including housing and boarding pupils enrolled in an area vocational school operated under the board of education of a school district; and
 - 3. purchase school buses.
- B. General limitation on bond indebtedness

Generally, the aggregate amount of bonds outstanding at any time (exclusive of bonds specifically exempted from statutory limitations) cannot exceed 14% of the assessed valuation of taxable tangible property within the school district. However, the State Board of Education may issue an order authorizing a school district to vote and issue bonds in an amount exceeding the general limitation fixed under K.S.A. 75-2315 et seq.

II. PROCEDURE FOR CALLING AND HOLDING A BOND ELECTION

- A. The board must adopt a resolution stating the purpose and the estimated amount for which bonds are to be issued.
- B. The Board must give notice of each bond election in the manner prescribed in K.S.A. 25-2018(f).
- C. Elections must be held in accordance with the provisions of the General Bond Law.
 - 1. A notice of election must be published once each week for two consecutive weeks in a newspaper having general circulation in the school district, with the first publication to be not less than twenty-one (21) days prior to the election. (K.S.A. 10-120)
 - 2. The notice must state:
 - (1) the name of the unified district;
 - (2) the date of the bond election;
 - (3) the amount of bonds to be issued;
 - (4) the proposition to be voted upon;
 - (5) the hours of opening and closing the polls;
 - (6) the voting place or places and the territory each voting place is to serve; and
 - (7) any other information specifically required by law. (See K.S.A. 25-2018(f))

D. The election.

1. The county election officer, who is the county clerk in most school districts but the election commissioner in others, is in charge of the election. (K.S.A. 25-2010)
 - a. Ballots and poll books are to be provided by the county election officer.
 - b. Direct election expenses must be reimbursed to the county by the school district, except for any election held on a day when every registered voter in the county is authorized to vote at one election or another. (K.S.A. 25-2201(b))
2. All qualified electors of the district are entitled to vote.
3. The vote must be by official ballot.
4. The election board must report the results of the balloting to the election officer.
5. A majority vote of those electors voting determines the results of the election.

E. The **mail ballot election act**, K.S.A. 25-431 to 25-440.
(See Form No. 7-212-117 on page 20.)

The "**Mail Ballot Election Act**" concerns voting by mail in certain elections and designation of county election officers and deputies.

A section-by-section summary of the act follows:

K.S.A. 25-431 to 25-440 may be cited as the "**Mail Ballot Election Act**."

K.S.A. 25-432. An election shall not be held under the act unless:

- (a) Conducted on a date, mutually agreed upon by the governing body of the political or taxing subdivision and the county election officer, not later than 120 days following the date the request is submitted by the political or taxing subdivision;
- (b) the Secretary of State approves a written plan for conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the county election officer;
- (c) the election is nonpartisan;
- (d) the election is not one at which any candidate is elected, retained or recalled;
- (e) the election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots; and
- (f) the election is a question submitted election at which all of the qualified electors of one or any of the following subdivisions of government are the only electors eligible to vote:

(3) school districts, except in an election held pursuant to K.S.A. 72-7302 *et seq.*, and amendments thereto; and ...

(8) community college districts organized under K.S.A. 71-1101 *et seq.*, and amendments thereto.

K.S.A. 25-433. This section outlines the procedure for mailing ballots, marking ballots and returning ballots. The section provides that the county election officer shall mail all official ballots with a return identification postage paid envelope. In addition, the section provides for a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter.

The section outlines the conditions under which the mail ballot is to be counted. Undeliverable ballot envelopes result in the removal of the voters' names from the registration book and party affiliation list.

K.S.A. 25-434. This section provides for the challenge of ballots.

K.S.A. 25-435. This section provides for absentee ballots.

K.S.A. 25-436. The county election officer may not mail a ballot to those electors not registered 30 days prior to the date of the election. Electors registered after 30 days prior to the date of the election, but prior to the closing of the registration books, may apply for a ballot under subsection (d) of Section 3.

K.S.A. 25-437. This section provides for the county election officer to appoint a special election board to make the original canvass of all ballots cast in the county.

K.S.A. 25-438. All laws which apply to elections apply to elections under this act to the extent applicable.

K.S.A. 25-439. No mere informality in the manner of carrying out or executing the provisions of this act shall invalidate any election held under it or authorize the rejection of the returns. The provisions of the act shall be construed liberally for the purpose of effectuating its purposes.

K.S.A. 25-440. This section provides for the Secretary of State to adopt rules and regulations governing the procedures and forms necessary to implement the act.

F. Extraordinary Declining Enrollment

K.S.A. 75-2321. If enrollment in a district has declined during the preceding three school years at a rate of at least 5% per year or by at least 50 pupils per year, whichever is greater, the board of education shall not authorize the issuance of any bonds for the construction of a new building without having first advised and consulted with the joint committee on state building construction. If the joint committee recommends against the issuance of any bonds and if the district proceeds to issue bonds, the district shall not be entitled to state aid for such bonds.

III. REGISTRATION AND SELLING OF BONDS

A. Bonds must meet the following requirements:

1. The printing of bonds must comply with uniform standards prescribed by law; and
2. The bonds must be signed by the president of the board of education, attested by the clerk and countersigned by the treasurer of the board.

B. Procedure for Selling Bonds (K.S.A. 10-106) (If the issue is \$2,000,000 or less, see paragraph 7 on page 4.)

1. It is the duty of the board of education to send a certified copy of the transcript of the proceedings preliminary to a bond issue to the state treasurer for registration of the bonds.
2. Except as indicated in paragraph 7 below, under K.S.A. 10-106, bonds must be sold at public sale as follows:

The board of education shall publish a notice of the sale one time in a newspaper having general circulation in the county where the bonds are issued and in the Kansas Register. Such notices shall be published not less than six days nor more than 30 days before the sale and shall contain the following information:

- (a)
 1. Except as provided by subsection (b) the date, time and place at which a public notice auction will be held on such terms and conditions as shall be provided by the municipality or at which bids will be received and considered for the sale of the bonds for cash at such price as the municipality may accept;
 2. The date of issue, total par value and denomination of the bonds being sold;
 3. The dates and amounts of maturities of the bond issues;
 4. The dates on which interest on the bonds shall become due and payable;
 5. The place or places where and the approximate date on which the bonds being sold will be delivered to the purchaser;
 6. A statement that a good faith deposit in the form of cash, including cash deposited into an account of the municipality or its agent by electronic fund transfer, a certified or cashier's check or surety bond in the amount of 2% of the total par value of the bonds being sold shall be furnished at or prior to the time of sale by each bidder except that if a bidder agrees to submit the good faith deposit through the federal reserve system into an account of the municipality or its agent, the good faith deposit may be furnished any time prior to the time the governing body of the municipality accepts the bid;
 7. A statement disclosing whether or not the purchaser of the bonds will be required to pay for the printing thereof and whether or not and to what extent the purchaser of the bonds will be required to pay the expense of legal services rendered to the municipality in connection with the issuance of the bonds including the fees of recognized bond counsel for an opinion as to legality of issuance;
 8. The assessed valuation of the municipality;
 9. That bidders may be required to be qualified in a manner established by the municipality before submitting a bid; and
 10. The total bonded indebtedness of the municipality as of the date on which the bonds being sold are dated including the bonds submitted for bid. The rate of interest may be omitted in advertising and the bidders requested to specify the lowest interest rate or rates on the bonds at which they will pay the purchase price.
- (b) If sold at public notice sale, purchasers shall submit their bids in writing, sealed or sent by telefacsimile or other electronic transmission, as set forth in the notice of sale, for all or any part of the bonds. In case any purchaser, whose bid is accepted, fails to carry out the contract, the deposit shall be forfeited to the municipality issuing the bonds. Bids shall be disclosed publicly and tabulated or compared only at the time and place specified in the notice. At the time and place specified, the bonds shall be sold to the highest and best bidder or bidders, and the bonds may be allotted among the bidders, however, any or all bids may be rejected. No contract for the sale of the bonds shall be made except on bids submitted as provided in this section. No bonds shall be delivered to any purchaser until the amount of the bid is placed in the hands of the officer in charge of the sale. The provisions of this section relating to public notice sale of bonds shall not apply to bonds: (1) secured solely and only

by revenues, (2) bonds sold, pursuant to written agreement, to the government of the United States of America or any bureau, department, instrumentality or agency thereof, (3) bonds issued pursuant to K.S.A. 10-427 et seq., and amendments thereto, (4) all bonds of the same series or which are issued simultaneously with such bonds, and (5) bond sales where the total amount of the issue does not exceed \$2,000,000. In such cases, the bonds may be sold at public notice or private sale as the officers having charge of the sale of such bonds determine. If bonds under clause (5) are to be sold at private sale, the officers having charge of the sale of such bonds shall publish in advance of the sale a notice of intent to seek private placement of such bonds in a newspaper having general circulation in the county where the bonds are issued and in the Kansas register. Such notice shall state the maximum aggregate principal amount of the bonds and shall indicate that the proposed sale is in all respects subject to the subsequent approval of an appropriate bond purchase agreement and an ordinance for the issuance of bonds. The practice of providing more than one issue within a twelve-month period for any one project is prohibited unless the project engineer or architect certifies that it is necessary to do so for the orderly construction progress of the project.

- (c) As an alternative to providing notice of the date, time and place of public notice auction or receipt of bids provided by subsection (a)(1), the officers having charge of a bond sale may establish a time period of not less than seven nor more than 30 days during which such bonds would be sold. Notice of such sale period shall be published one time in a newspaper having general circulation in the county where the bonds are issued and in the Kansas register and shall be published not less than six days nor more than 30 days before the beginning date of the sale period. The notice shall contain the information specified in subsection (a) except that in place of the time and date of sale, the notice shall specify the time period during which the bonds would be sold and the manner in which persons interested in submitting a bid may register for notice of the bond sale. At least three business days prior to the time and date of the bond sale, the officers having charge of the sale shall give notice to all persons having registered for notice of the bond sale, and bids shall be submitted and received and the sale made in the manner provided in subsection (a).

C. Terms and denominations of municipal bonds. (K.S.A. 10-103)

- 1. (a) Except as provided in subsection (b), all municipal bonds payable from special assessments against the property benefited, shall be issued to mature in not more than 20 installments. The last installment shall mature not more than 22 years after the date of issuance. All other municipal bonds shall be issued to mature in not more than 30 installments. The last installment shall mature not more than 32 years after the date of issuance. Such bonds shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto, payable at such times fixed by the municipality issuing the same. Each bond shall specify the date of its separate maturity and shall be in such denomination as the municipality issuing the same determines. (b) Municipal bonds sold, pursuant to written agreement, to the government of the United States of America or any bureau, department, instrumentality or agency thereof shall be issued to mature in not more than 40 years, may have serial or term maturities and shall bear interest at a rate not to exceed the maximum rate prescribed by K.S.A. 10-1009, and amendments thereto, payable

at such times fixed by the municipality issuing the same. The bonds may be in coupon or registered form and interchangeable, and shall have such other terms and provisions as the municipality provides by ordinance, resolution or trust agreement.

D. Rates of Interest; limitation. (K.S.A. 10-1009)

1. The maximum stated rate of interest which may be fixed on fixed-rate bonds issued by municipality or taxing subdivision of the state of Kansas shall be determined on the day the bonds are sold and shall not exceed the daily yield for the ten-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus (1) three percent, if the interest on the bonds is excluded from gross income for federal income tax purposes or (2) four percent, if the interest on the bonds is included in gross income for federal income tax purposes.
2. The maximum stated rate of interest which may be fixed on variable-rate bonds issued by a municipality or taxing subdivision of the state of Kansas shall be determined on the date on which the rate is determined in accordance with the resolution or ordinance of the issuer and shall not exceed the daily yield for the ten-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding such date, plus (1) three percent, if the interest on the bonds is excluded from gross income for federal income tax purposes or (2) four percent, if the interest on the bonds is included in gross income for federal income tax purposes.
3. Except as provided for variable rate bonds, the maximum rate of interest specified in this section shall be applicable to bonds issued after the effective date of this act. The maximum rate of interest on variable rate bonds issued prior to the effective date of this act shall be the higher of (1) the maximum rate of interest specified by subsection (a) or (b) of this section, as in effect prior to the effective date of this act, (2) the maximum rate of interest specified in this section or (3) the rate for such variable rate bonds specified in the documents authorizing the issuance thereof.
4. Notwithstanding the foregoing, for the period from the effective date of this act until and including June 30, 2012, the maximum stated rate of interest which may be fixed on fixed-rate or variable rate bonds issued by a municipality or taxing subdivision of the state of Kansas shall be determined on the day the bonds are sold and shall not exceed the daily yield for the ten-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus (1) 6%, if the interest on the bonds is excluded from gross income for federal income tax purposes or (2) 7%, if the interest on the bonds is included in gross income for federal income tax purposes.

IV. ISSUANCE OF \$20,000 IN BONDS OR TEMPORARY NOTES WITHOUT AN ELECTION (K.S.A. 72-6761)

- (b) Any board of education may issue, without an election but with the approval of the state board of education, bonds to construct or acquire buildings to be used for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, to repair school district buildings, to acquire equipment or to purchase school buses, in an amount not to exceed \$20,000. Bonds issued without an election under this subsection shall not be subject to any bonded debt limitations nor shall the bonds be considered in

determining the bonded indebtedness of any school district, and the total amount of bonds outstanding which are issued hereunder without an election shall not at any one time exceed \$20,000.

- (c) In lieu of bonds, temporary notes may be issued under K.S.A. 10-123, and amendments thereto, and the notes may be retired, at the option of the board of education, by tax levies made under K.S.A. 10-113, and amendments thereto.
 - A. Application should be made on Form 7-212-100 which may be obtained from the Division of Fiscal and Administrative Services, State Department of Education.
 - B. Temporary notes cannot mature later than four years from the date of the notes. (K.S.A. 10-123)

V. BOND PAYMENTS WHEN TERRITORY TRANSFERRED OR DISTRICT DISORGANIZED.

All territory within a school district on the date bonds of the district are issued remains liable for the payment of such bonds even though some of the territory subsequently is transferred or the district is disorganized. (K.S.A. 10-119, 72-7304, and 72-7305)

For the purpose of determining tax liability for bonds issued or other indebtedness incurred under the provisions of K.S.A. 10-119, the effective date of a transfer of school territory for bonds issued or other indebtedness incurred shall be the same as the effective date for election purposes as provided in the order of the State Board of Education in which the transfer of territory is approved. Residents of the territory transferred are liable for bonds issued and other indebtedness incurred by the receiving district on such date or thereafter. Residents of the territory transferred are not liable for bonds issued and other indebtedness incurred by the giving district on or after such date. (K.S.A. 72-7103, 72-7103a, and 72-7108)

VI. BOND ELECTIONS; FREQUENCY LIMITATION (K.S.A. 25-2019)

No school district can call or hold more than one special bond election at a time other than a general election or the election of board of education members within any one calendar year. In addition, no special bond election can be held within sixty (60) days before or after a general election or election of members of the board of education of the district. However, districts are not prohibited from planning for or considering a bond election during the period between authorized bond elections, nor from giving notice or making other preparations for an election during such period.

These restrictions have no application to an election for authorization to levy a capital outlay tax.

VII. CAPITAL OUTLAY TAX LEVY (K.S.A. 72-8801, as amended in 2005)

Subject to a possible vote by school district electors, the board of education of a school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate for a period of not to exceed five years upon the taxable tangible property in the school district for the purposes specified in the law. However, no levy can be made until a resolution is adopted and published by the board of education and a period is allowed for the filing of a petition requesting a vote on the question of whether the tax should be levied. Form 7-212-102 is a sample of the resolution that must be adopted under the requirements of the statute.

VIII. CAPITAL OUTLAY FUND (K.S.A. 72-8803)

In the budget of each school district in the state, there is a fund which is called the

capital outlay fund. The proceeds of any tax levied under K.S.A. 72-8801, except for an amount to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of re-development projects upon property located within the school district, must be deposited in the capital outlay fund of the school district making the levy.

IX. ISSUANCE OF TEMPORARY NOTES (K.S.A. 10-123)

If an improvement of a school district can be paid for lawfully, in whole or in part, by the issuance of bonds, the school district may issue temporary notes, bearing interest at a rate not exceeding the maximum rate prescribed by K.S.A. 10-1009, payable in accordance with the terms of the notes, maturing not later than four years from the date of the notes and not exceeding in the aggregate the amount of bonds which are to be issued and are then unissued, as shown by the approved estimates on file. Any school district may issue renewal temporary notes to pay for the cost of taking up any previously issued temporary notes as they mature when all aspects of the improvement will not be completed at the maturity date of the notes or when the school district has completed the improvements and the issuance of bonds is prevented, hindered or delayed. The temporary notes are to be in a form determined by resolution of the school board, acceptable for registration by the state treasurer. The entire temporary note must be contained on one sheet of paper. The notes must be executed and registered in the same manner as the bonds, and must be redeemed and canceled before, or at, the time permanent bonds are issued in lieu thereof. The amount of temporary notes and bonds issued and outstanding at any time cannot exceed the estimated cost and expense of the improvement. The temporary notes may be issued from time to time, as required during the progress of the work, are negotiable in accordance with their terms, and constitute a general obligation of the school district. The temporary notes are not negotiable until countersigned, following registration, by the clerk of the school district, and a statement to that effect must appear on the face of all such temporary notes. Temporary notes may be sold in the manner determined by the school district.

X. GUIDELINES TO APPLY FOR APPROVAL TO HOLD AN ELECTION ON THE QUESTION OF ISSUING BONDS IN AN AMOUNT EXCEEDING THE SCHOOL DISTRICT'S GENERAL BOND DEBT LIMITATION.

PROCEDURES

1. All forms necessary for unified school districts to make application to the State Board of Education for approval to exceed the general bond debt limitation of the school district may be obtained from the Division of Fiscal and Administrative Services of the State Department of Education. Phone number: (785) 296-3871
2. The notice required by K.S.A. 75-2317 of the intention to file an application for permission to exceed the general bond debt limitation must be made one time in a newspaper of general circulation in the district and the publication must be made no later than the 10th day of the month in which the application is submitted to the State Board.
3. The application for permission to hold an election, a copy of the published notice of intent to file the application, and an Affidavit of Publication must be received by the Division of Fiscal and Administrative Services by at least the 15th day of the month in which the application is submitted to the State Board.

**REQUIRED SUPPLEMENTAL MATERIAL TO ACCOMPANY APPLICATION
WHEN EXCEEDING BOND DEBT LIMITATION**

1. A copy of the published notice of intent to file the application, together with an Affidavit of Publication, must be enclosed with the application to the State Board. (Form 7-212-108)
2. An architect's schematic floor plan (8 1/2 x 11 inches, if readable, otherwise, large enough to be discernible by members of the State Board) of the proposed facilities must be included with each application.
3. A map (8 1/2 x 11 inches, if readable, otherwise large enough to be discernible by members of the State Board) of the school district showing present facilities, proposed facilities, attendance centers, and the bordering districts by number must be included with each application.
4. Form 7-212-106, Resolution to Submit Application to State Board.
5. Form 7-212-110, Application.
6. Form 7-212-114, Certified Assessed Valuation of School District.
7. Form 7-212-118, 14 Questions on School District Statistics.

XI. SUGGESTED FORMS

1. Proper forms must be used by a school district to assure a legal school bond issuance. School district authorities are advised to always use the services of a financial adviser and an attorney in conducting a school bond election and in selling and issuing school bonds.
2. To assist school districts and their advisors, the following suggested forms have been prepared and are furnished by the State Department of Education.

Form 7-212-100

Application for Approval to Issue General Obligation Bonds or
Temporary Notes Without an Election

Form 7-212-102 - Resolution to Levy Tax for Capital Outlay Fund

Form 7-212-104

Resolution - Stating the Purpose for which Bonds are to be
Issued, the Estimated Amount Thereof and the Time of Election
Therefor (Bond issue not exceeding general bond debt limitation)

Form 7-212-106

Resolution - Stating the Purpose for which Bonds are to be Issued,
the Estimated Amount Thereof, and the Time of Election Therefor
(Bond issue to exceed general bond debt limitation)

Form 7-212-108

Notice of Intent to File an Application to Vote and Issue Bonds
in Excess of General Bond Debt Limitation

Form 7-212-110

Application of Unified School District Board of Education for
Permission to Vote and Issue Bonds in Excess of the School
District's General Bond Debt Limitation

Form 7-212-114 - Assessed Valuation of School District

Form 7-212-116 - Suggested Notice for School District Bond Election

Form 7-212-117

**Suggested Notice for School District Bond Election when Mail
Ballot Election Act to be Followed**

Form 7-212-118

**Questions to be Completed by USD's Applying for Approval of Bond
Issuance in Excess of the District's General Bond Debt Limitation**

Form 7-212-140 - Notice of Special Meeting of Board of Education