



BILL LOCKYER
TREASURER
STATE OF CALIFORNIA

March 18, 2013

Honorable Attorney General Kamala Harris
Department of Justice
1300 I Street
Sacramento, CA 95814

Kamala
Dear Attorney General Harris:

I request your office's formal legal opinion regarding the conduct of some elected and appointed officials of local education agencies, and municipal finance firms doing business in California, as their conduct relates to local school bond measure ballot campaigns.

Some California school districts in recent years have entered agreements with underwriting firms under which the district awards the firm an exclusive, sole-source contract to underwrite all the bonds approved by voters in an election, in return for obtaining pre-bond election campaign services from the underwriter.

Typically under these agreements, the underwriter helps the district conduct community forums and other public meetings about the bond measure. Under some agreements, the underwriter conducts a voter opinion survey or helps prepare ballot arguments. Other agreements specify the underwriting fees paid in connection with any subsequent bond sale will reimburse the underwriter for pre-election campaign services provided.

These arrangements raise substantive questions about whether school district officials have violated state law by using public funds for campaign services related to advocating the passage of bond measures.

To address these concerns and obtain statewide legal guidance, I therefore request an opinion from your office that responds to the following questions:

- 1) Does a school or community college district violate California statutory prohibitions against using public funds to advocate passage of a bond measure, or violate any other state law, by entering a contract with any person or entity for the purposes of obtaining services related to a bond election campaign?

- 2) Does a school or community college district violate California statutory prohibitions against using public funds to advocate passage of a bond measure, or violate any other state law, if the district enters an agreement under which the district obtains pre-bond election campaign services, such as (1) conducting a voter opinion survey; (2) preparing ballot arguments or other ballot materials; or (3) providing campaign consultants to the bond election campaign committee; or any other services, from an underwriter in return for giving the underwriter an exclusive, sole-source contract to underwrite the bonds if voters approve the measure?
- 3) Does a school or community college district violate California statutory prohibitions against using public funds to advocate passage of a bond measure, or violate any other state law, if the district reimburses the underwriter for the cost of providing pre-election campaign services, such as (1) conducting a voter opinion survey; (2) preparing ballot arguments or other ballot materials; or (3) providing campaign consultants to the bond election campaign committee; or any other services, from the fees the district pays to the underwriter in connection with any subsequent bond sale?
- 4) Does a school or community college district violate California statutory prohibitions against using public funds to advocate passage of a bond measure, or violate any other state law, under the scenario described in Question No. 3, even if the underwriter does not receive specific or itemized reimbursement for the cost of providing the pre-election campaign services from the fees the district pays to the underwriter in connection with any subsequent bond sale?
- 5) Does an entity providing pre-election campaign services in exchange for future financial consideration, such as an exclusive agreement to sell bonds, incur an obligation to report the cost of such services as a contribution to the bond measure campaign in accordance with state and local campaign disclosure laws?

Our General Counsel, Mark Paxson, 916-651-6846, mpaxson@sto.ca.gov, is available to discuss or further explain this request. We can provide your Opinion Unit with additional information, including examples of recent service contracts between school districts and underwriters and media reports of the practices addressed in our request.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Bill".

BILL LOCKYER

California State Treasurer