

**Santa Monica-Malibu Unified School District
Board of Education Meeting
UPDATE TO THE AGENDA**

August 1, 2012

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SW

TO: BOARD OF EDUCATION

ACTION/MAJOR

FROM: SANDRA LYON

08/01/12

UPDATE

RE: ADOPT RESOLUTION NO. 12-03 – ORDERING AN ELECTION AND ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER

RECOMMENDATION NO. A.19

It is recommended that the Board of Education adopt Resolution No. 12-03 – Ordering an Election and Establishing Specifications of the Election Order.

COMMENTS: The resolution before the Board calls an election within the District for the purpose of approving school bonds, to request the Los Angeles County Registrar of Voters to conduct the election on behalf of the District, and to authorize the preparation of election materials including ballot arguments and tax rate statement, to be included in the ballot pamphlet.

State law requires the Board of Education to order school district elections. The Los Angeles County Registrar of Voters will conduct the election on behalf of the District, including publishing all required notices. This resolution meets the statutory requirements for describing the projects to be funded with the proceeds of the bonds, which is included as Exhibit B to the resolution. A 75-word summary of the measure, as it will appear on the ballot, is also included in the resolution as Exhibit A. The resolution also authorizes the preparation and filing of a tax rate statement, which must be included in the ballot pamphlet, describing the anticipated rates of tax throughout the life of the bond issue. The resolution also authorizes, but does not commit, the Board and/or individual members of the Board to prepare and sponsor a ballot argument in support of the bond measure. No more than five (5) persons may sign the ballot argument.

This election will be called under constitutional and statutory provisions that require fifty-five percent (55%) voter approval, and certain accountability requirements, including annual independent financial and performance audits of how funds are spent, and the formation of a Citizens' Bond Oversight Committee. Following adoption, the resolution (including the signed tax rate statement) must be delivered to the Registrar of Voters and the Board of Supervisors. State law requires that 2/3rd of a school board support the resolution calling an election requiring 55% voter approval. At least ~~four (4)~~ five (5) Board members must be present and vote "Yes" in order to call the election.

This item came forward for discussion at the July 18, 2012, board meeting in conjunction with a recommendation from the Economic Feasibility Committee.

MOTION MADE BY:

SECONDED BY:

STUDENT ADVISORY VOTE:

AYES:

NOES:

**SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION**

RESOLUTON NO. 12-03

**ORDERING AN ELECTION AND
ESTABLISHING SPECIFICATIONS OF THE ELECTION ORDER**

WHEREAS, the Board of Education (the "Board") of the Santa Monica Malibu Unified School District (the "District") is committed to improving the quality of education in Santa Monica and Malibu public schools by upgrading aging schools, classrooms, science labs and computer systems to keep pace with learning technology; and

WHEREAS, the Board acknowledges that for our students to be prepared for college and career choices they must be skilled in the use of 21st Century technologies and have a solid background in math, science and technology; and

WHEREAS, the State of California (the "State") is unable to provide the District with enough money for the District to adequately maintain its educational facilities notwithstanding ongoing efforts to obtain such monies; and

WHEREAS, the Board believes it is in the best interest of the District to continue to address facility improvements now before they become more pressing and more costly; and

WHEREAS, ongoing state budget cuts threaten the quality of local schools by forcing teacher layoffs, larger class sizes and deep cuts to instructional programs and the District's only remedy is securing local funding that the State cannot take away; and

WHEREAS, the Board has received information regarding the feasibility of a local bond measure and the District's bonding capacity; and

WHEREAS, a local measure will help provide funds that cannot be taken away by the State to upgrade aging schools, protect student safety, offset State budget cuts through increased efficiency and help the District qualify for millions of dollars of State matching funds; and

WHEREAS, such measure will include mandatory taxpayer protections, including an independent citizens' oversight committee and mandatory audits to ensure funds are spent as promised; and

WHEREAS, the Board and District has solicited stakeholder and community input on school priorities from parents, teachers, staff, the community and civic leaders; and

WHEREAS, Proposition 46, approved by the voters of the State on June 3, 1986 ("Proposition 46"), amended Section 1(b) of Article XIII A of the California Constitution by adding a provision that exempts from the 1% of full cash value limitation, those *ad valorem* taxes used to pay for debt service of any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by voters voting on the proposition; and

WHEREAS, on November 7, 2000, the voters of California approved the Smaller Classes, Safer Schools and Financial Accountability Act ("Proposition 39") which reduced the voter threshold for *ad valorem* tax levies used to pay for debt service or bonded indebtedness to 55% of the votes cast on a school district general obligation bond; and

WHEREAS, concurrent with the passage of Proposition 39, Chapter 1.5, Part 10, Division 1, Title 1 (commencing with Section 15264) of the Education Code (the "Act") became operative and established requirements associated with the implementation of Proposition 39; and

WHEREAS, the Board desires to make certain findings herein to be applicable to this election order and to establish certain performance audits, standards of financial accountability and citizen oversight that are contained in Proposition 39 and the Act; and

WHEREAS, the Board desires to authorize the submission of a proposition to the District's voters at an election to authorize the issuance of bonds to pay for certain necessary improvements and enhancements to District educational facilities; and

WHEREAS, the Board hereby determines that, in accordance with Opinion No. 04-110 of the Attorney General of the State of California, the restrictions in Proposition 39 which prohibit any bond money from being wasted or used for inappropriate administrative salaries or other operating expenses of the District shall be enforced strictly by the District's Citizens' Oversight Committee; and

WHEREAS, pursuant to Education Code Section 15270, based upon a projection of assessed property valuation, the Board has determined that, if approved by voters, the tax rate levied to meet the debt service requirements of the bonds proposed to be issued will not exceed the Proposition 39 limits per year per \$100,000 of assessed valuation of taxable property; and

WHEREAS, Section 9400 *et seq.* of the Elections Code of the State of California (the "Elections Code") requires that a tax rate statement be contained in all official materials relating to the election, including any ballot pamphlet prepared, sponsored, or distributed by the District; and

WHEREAS, the Board desires to authorize the filing of a ballot argument in favor of the proposition to be submitted to the voters at the election; and

WHEREAS, pursuant to the California Elections Code, it is appropriate for the Board to request consolidation of the election with any and all other elections to be held on Tuesday, November 6, 2012, and to request the Los Angeles County Registrar of Voters to perform certain election services for the District;

NOW THEREFORE, THE BOARD OF EDUCATION OF THE SANTA MONICA MALIBU UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the Board, pursuant to Education Code Sections 15100 *et seq.*, 15264 *et seq.*, and Government Code Section 53506, hereby requests the Los Angeles County Registrar of Voters to conduct an election under the provisions of Proposition 39 and the Act and submit to the electors of the District the question of whether bonds of the District in the aggregate principal amount of \$385,000,000 (the "Bonds") shall be issued and sold for the purpose of raising money for the projects described in Exhibits "A" and "B" hereto. Both exhibits are directed to be printed in the voter pamphlet.

Section 2. That the date of the election shall be November 6, 2012.

Section 3. That the purpose of the election shall be for the voters in the District to vote on a proposition, a copy of which is attached hereto and marked Exhibit "A," incorporated by reference herein, and containing the question of whether the District shall issue the Bonds to pay for improvements to the extent permitted by such proposition. In compliance with

Proposition 39 and the Act, the ballot propositions in Exhibits "A" and "B" are subject to the following requirements and determinations:

- (a) the proceeds of the sale of the Bonds shall be used only for the purposes set forth in the ballot measure and not for any other purpose, including teacher or administrator salaries or other school operating expenses;
- (b) that the Board, in establishing the projects set forth in Exhibit "B," evaluated the safety, class size reduction, classroom, educational, and information technology needs of the District as well as the importance of the projects to student achievement and high quality instruction;
- (c) that the Board shall cause an annual, independent performance audit to be conducted to ensure that the Bond monies get spent only for the projects identified in Exhibit "B" hereto;
- (d) that the Board shall cause an annual, independent financial audit of the proceeds from the sale of Bonds to be conducted until all of the Bond proceeds have been expended;
- (e) that the Board shall appoint a Citizens' Oversight Committee in compliance with Education Code Section 15278 no later than 60 days after the Board enters the election results in its minutes pursuant to Education Code Section 15274; and
- (f) that the tax levy authorized to secure the Bonds of this election shall not exceed the Proposition 39 limits per \$100,000 of taxable property in the District when assessed valuation is projected by the District to increase in accordance with Article XIII A of the California Constitution.

Section 4. That the authority for ordering the election is contained in Education Code Sections 15100 et seq., 15264 et seq., and Government Code Section 53506.

Section 5. That the authority for the specifications of this election order is contained in Sections 5322 of the Education Code.

Section 6. That the Los Angeles County Registrar of Voters and the Los Angeles County Board of Supervisors are hereby requested to consolidate the election ordered hereby with any and all other elections to be held on November 6, 2012 within the District.

Section 7. That the Secretary of the Board is hereby directed to deliver a certified copy of this Resolution to the Los Angeles County Registrar of Voters no later than August 10, 2012.

Section 8. That any Bonds issued pursuant to Section 15264 et seq. of the Education Code hereto shall have a maturity not exceeding twenty-five (25) years, and Bonds issued pursuant to Section 53506 of the Government Code shall have a maturity not exceeding forty (40) years. The maximum rate of interest on any Bond shall not exceed the maximum rate allowed by Education Code Sections 15140 to 15143, as modified by Government Code Section 53531.

Section 9. That the Board requests the governing body of any such other political subdivision, or any officer otherwise authorized by law, to partially or completely consolidate such election and to further provide that the canvass of the returns of the election be made by any body or official authorized by law to canvass such returns, and that the Board consents to such consolidation.

Section 10. Pursuant to Section 5303 of the Education Code and Section 10002 of the Elections Code, the Board of Supervisors of Los Angeles County is requested to permit the Registrar of Voters to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the District agrees to reimburse Los Angeles County, such services to include the publication of a Formal Notice of School Bond Election and the mailing of the sample ballot and tax rate statement (described in Section 9401 of the Elections

Code) pursuant to the terms of Section 5363 of the Education Code and Section 12112 of the Elections Code.

PASSED AND ADOPTED this 1st day of August 2012 by the following vote:

Ayes: _____

Noes: _____

Absent: _____

Ben Allen
President, Board of Education
Santa Monica-Malibu Unified School District

Sandra Lyon
Superintendent/Secretary, Board of Education
Santa Monica-Malibu Unified School District

STATE OF CALIFORNIA)
)ss
LOS ANGELES COUNTY)

I, Sandra Lyon, do hereby certify that the foregoing is a true and correct copy of Resolution No. 12-03, which was duly adopted by the Board of Education of the Santa Monica Malibu Unified School District at the meeting thereof held on the 1st day of August, 2012, and that it was so adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

By _____
Secretary

EXHIBIT A

~~LOCAL SCHOOL MODERNIZATION, ACADEMIC IMPROVEMENT AND EARTHQUAKE AND FIRE SAFETY BOND. “To improve academic instruction, increase college / career readiness for students, and ensure every school meets current earthquake and fire safety standards, shall Santa Monica-Malibu Unified School District modernize the 100 year-old Santa Monica High and aging elementary schools, including needed earthquake and fire safety upgrades, construct, acquire, modernize, repair classrooms, sites, equipment, computers and learning technology, by issuing \$385,000,000 in bonds at legal rates, with independent oversight, mandatory audits, and all funds for Santa Monica and Malibu schools?”~~

LOCAL SCHOOL MODERNIZATION, ACADEMIC IMPROVEMENT AND EARTHQUAKE AND FIRE SAFETY BOND. “To improve academic instruction and school safety by modernizing high school classrooms and campuses, repairing aging elementary schools, ensuring every school meets current earthquake and fire safety standards to protect students, and constructing, acquiring, modernizing, and/or repairing classrooms, sites, facilities, equipment, computers, and learning technology to raise student achievement, shall the Santa Monica-Malibu Unified School District issue \$385,000,000 in bonds at legal rates, with independent fiscal oversight, mandatory audits, and all funds for Santa Monica and Malibu schools?”

Bonds – Yes

Bonds – No

EXHIBIT B

FULL TEXT BALLOT PROPOSITION OF THE SANTA MONICA MALIBU UNIFIED SCHOOL DISTRICT BOND MEASURE ELECTION NOVEMBER 6, 2012

The following is the full proposition presented to the voters by the Santa Monica Malibu Unified School District.

~~LOCAL SCHOOL MODERNIZATION, ACADEMIC IMPROVEMENT AND EARTHQUAKE AND FIRE SAFETY BOND.~~ “To improve academic instruction, increase college / career readiness for students, and ensure every school meets current earthquake and fire safety standards, shall Santa Monica-Malibu Unified School District modernize the 100 year-old Santa Monica High and aging elementary schools, including needed earthquake and fire safety upgrades, construct, acquire, modernize, repair classrooms, sites, equipment, computers and learning technology, by issuing \$385,000,000 in bonds at legal rates, with independent oversight, mandatory audits, and all funds for Santa Monica and Malibu schools?”

LOCAL SCHOOL MODERNIZATION, ACADEMIC IMPROVEMENT AND EARTHQUAKE AND FIRE SAFETY BOND. “To improve academic instruction and school safety by modernizing high school classrooms and campuses, repairing aging elementary schools, ensuring every school meets current earthquake and fire safety standards to protect students, and constructing, acquiring, modernizing, and/or repairing classrooms, sites, facilities, equipment, computers, and learning technology to raise student achievement, shall the Santa Monica-Malibu Unified School District issue \$385,000,000 in bonds at legal rates, with independent fiscal oversight, mandatory audits, and all funds for Santa Monica and Malibu schools?”

PROJECT LIST

The **Board of Education** of the Santa Monica Malibu Unified School District **is committed to improving the quality of education by providing students and teachers with the facilities and equipment needed to prepare students for 21st Century academic and workforce standards.** To that end, the Board evaluated the District’s urgent and critical facility needs, including **safety** issues, class size, computer and information technology, enrollment trends and prepared a report entitled “Future Projects” dated May 2012, which is incorporated herein in its entirety, to develop the scope of projects to be funded. The District conducted a facilities evaluation and received extensive public input in developing this Project List through school site meetings, community presentations and opinion leader input. Teachers, staff, community members and the Board have prioritized the key health and safety needs so that the most critical facility needs are addressed. The Board concluded that if these needs are not addressed now, the problems will only become more pressing and expensive to address. **Therefore, in approving this Project List, the Board of Education determines that the District MUST:**

- (i) **Upgrade and modernize classrooms, science labs, and computer systems with 21st Century instructional technology to meet modern academic standards.**
- (ii) **Increase earthquake safety of all school buildings.**
- (iii) **Support classroom programs to retain qualified teachers and protect the quality of classroom instruction in core subjects like reading, math and science.**

- (iv) Improve fire safety systems at all schools, so kids are safe.
- (v) Repair or replace old, leaky roofs, worn-out floors, rusty plumbing and faulty electrical systems.
- (vi) Adhere to specific fiscal accountability safeguards such as:
 - (a) PROHIBIT SACRAMENTO FROM TAKING ANY OF THE FUNDS RAISED.
 - (b) All expenditures will be subject to annual independent financial audits.
 - (c) No funds will be used for administrators' salaries and/or pensions.
 - (d) ALL FUNDS WILL STAY IN THE DISTRICT AND BE SUBJECT TO LOCAL CONTROL.
 - (e) An independent Citizens' Oversight Committee will be appointed to ensure that all funds are spent only as authorized.

The Project List includes the following types of upgrades and improvements at the District schools:

Local School Modernization, Repair and Upgrade Projects

Goal and Purpose: Since providing facilities and equipment needed to prepare students for college and good paying jobs in fields like science, technology, and skilled trades is critical, local schools will benefit from projects including:

- Repair or replace old, leaky roofs, worn-out floors and walkways, old rusty plumbing, and faulty electrical systems.
- Repair, modernize, construct and acquire classrooms, science labs, facilities, equipment and computer systems so that they comply with current standards.
- Add electrical service capacity to relieve overloaded electrical systems so that it can handle modern instructional technology.

School Earthquake and Fire Safety and Energy Efficiency School Projects

Goal and Purpose: Since good, safe and up-to-date schools help protect and improve local property values and reduce maintenance and operating costs, returning more money to the classroom, allowing the District to retain qualified teachers and protect instruction in core subjects like reading, math, science and technology, schools and school sites will benefit from a variety of health and safety projects, such as:

Student Safety

- Increase earthquake safety of school buildings.
- Upgrade fire safety systems including fire alarm equipment and sprinklers to make students safe in the event of an emergency.
- Upgrade schools to meet handicap accessibility requirements.
- Remove hazardous materials like asbestos and lead paint from older school sites.

Energy Efficiency – Returning Savings to the Classroom

- Install energy efficient systems to save money and protect the quality of instruction in core subjects like reading, math, science and technology.

- Replace older heating, ventilation, air conditioning and lighting systems with building code compliant, energy efficient systems which will save money on operating costs, allowing the District to retain qualified teachers.

**District-Wide Instructional Technology and Wiring Projects
to Maintain a High Standard of Achievement**

Goal and Purpose: To upgrade classroom computers and computer technology to allow our teachers and students to be skilled in the use of 21st Century technologies and have a solid background in science, math and technology:

- Upgrade and maintain instructional technology in the classroom for improved student learning.
- Provide up-to-date technology, data and communication equipment.
- Upgrade and expand wireless systems, telecommunications, Internet and network connections.
- Upgrade and replace computers, hardware and software systems, classroom and library technology and teaching equipment to enhance instruction.

* * *

The listed projects will be completed as needed. Each project is assumed to include its share of furniture, equipment, architectural, engineering, and similar planning costs, program management, staff training expenses and a customary contingency, and escalation for unforeseen design and construction costs. In addition to the listed projects stated above, the Project List also includes the payment of the costs of preparation of all facility planning, facility assessment reviews, environmental studies, construction documentation, inspection and permit fees, and temporary housing of dislocated District activities caused by bond projects. The upgrading of technology infrastructure includes, but is not limited to, computers, projectors, portable interface devices, servers, switches, routers, modules, smart boards, sound projection systems, printers, digital white boards, document projectors, upgrade voice-over-IP, phone systems, call manager and network security/firewall, and other miscellaneous equipment and software. The District may establish a classroom technology fund to keep the technology up-to-date and ensure local schools keep pace with advancing technology. The repair of school facilities includes the upgrading/replacing school site parking, campus accessibility, roadways, entrances and exits, utilities, grounds, playground equipment, hard court surfaces, shade structures for student assembly and protecting students from inclement weather during lunch, libraries, and District support facilities; enhanced signage; fire sensors; athletic and play fields turf may be upgraded for safety and operational efficiency; construct or upgrade pools; renovate and paint interior and exterior building surfaces to extend their useful life; physical education facilities improvements; security, safety and communication systems and equipment; window and floor coverings (including tiles and carpeting); kitchen equipment; upgrade irrigation systems; improvements, related furniture and furnishings and/or electronic equipment and systems. The Project List also includes the refinancing of any outstanding lease obligations, or the bridge loans taken to initiate voter approved projects; the financing/refinancing of real property acquisition and improvements; acquiring, refinancing, and/or entering into arrangements for the joint use of real property for existing and future classrooms, student services, child care and/or other uses; and acquiring and/or entering into arrangements for the joint use of land, making site improvements, building infrastructure and/or constructing additional facilities thereon, for the purpose of expanding instructional programs to meet future educational demands. The allocation of bond proceeds may be affected by the District's receipt of State matching funds and the final costs of each project. In the absence of State matching funds, which the District will aggressively pursue to reduce the District's share of the costs of the projects, the District may not be able to complete some of the projects listed above. The budget for each project is an estimate and may be affected by factors beyond the District's control. Some projects throughout the District, such as gyms, fields and performing arts facilities, may be undertaken as joint use projects in cooperation with other local public or non-profit agencies.

The final cost of each project will be determined as plans are finalized, construction bids are awarded and projects are completed. Based on the final costs of each project, certain of the projects described above may be delayed or may not be completed. Demolition of existing facilities and reconstruction of facilities scheduled for repair and upgrade may occur, if the Board determines that such an approach would be more cost-effective in creating enhanced and operationally efficient campuses. Necessary site preparation/restoration and landscaping, may occur in connection with new construction, renovation or remodeling, or installation or removal of relocatable classrooms, including ingress and egress, removing, replacing, or installing irrigation, utility lines, trees and landscaping, redirecting fire access, and acquiring any necessary easements, licenses, or rights of way to the property.

Bond proceeds shall be expended only for the specific purposes identified herein. Proceeds of the bonds may be used to pay or reimburse the District for the cost of District staff when performing work on or necessary and incidental to the bond projects. The District shall create an account into which proceeds of the bonds shall be deposited and comply with the reporting requirements of Government Code § 53410.

FISCAL ACCOUNTABILITY: IN ACCORDANCE WITH EDUCATION CODE SECTION 15272, THE BOARD OF EDUCATION WILL APPOINT A CITIZENS' OVERSIGHT COMMITTEE AND CONDUCT ANNUAL INDEPENDENT AUDITS TO ASSURE THAT FUNDS ARE SPENT ONLY ON DISTRICT PROJECTS AND FOR NO OTHER PURPOSE. THE EXPENDITURE OF BOND MONEY ON THESE PROJECTS IS SUBJECT TO STRINGENT FINANCIAL ACCOUNTABILITY REQUIREMENTS. BY LAW, PERFORMANCE AND FINANCIAL AUDITS WILL BE PERFORMED ANNUALLY, AND ALL BOND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO ENSURE THAT FUNDS ARE SPENT AS PROMISED AND SPECIFIED. THE CITIZENS' OVERSIGHT COMMITTEE MUST INCLUDE, AMONG OTHERS, REPRESENTATION OF A BONA FIDE TAXPAYERS ASSOCIATION, A BUSINESS ORGANIZATION AND A SENIOR CITIZENS ORGANIZATION. NO DISTRICT EMPLOYEES OR VENDORS ARE ALLOWED TO SERVE ON THE CITIZENS' OVERSIGHT COMMITTEE.

No Administrator Salaries: Proceeds from the sale of the bonds authorized by this proposition shall be used only for the acquisition, construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, and not for any other purpose, including teacher and school administrator salaries and other operating expenses.