



## 2011 OSBA Sustainable Schools Workshop

# Understanding and Communicating on General Obligation Bonds: Legal Considerations

Wednesday, January 26, 2011  
3:00 to 4:15

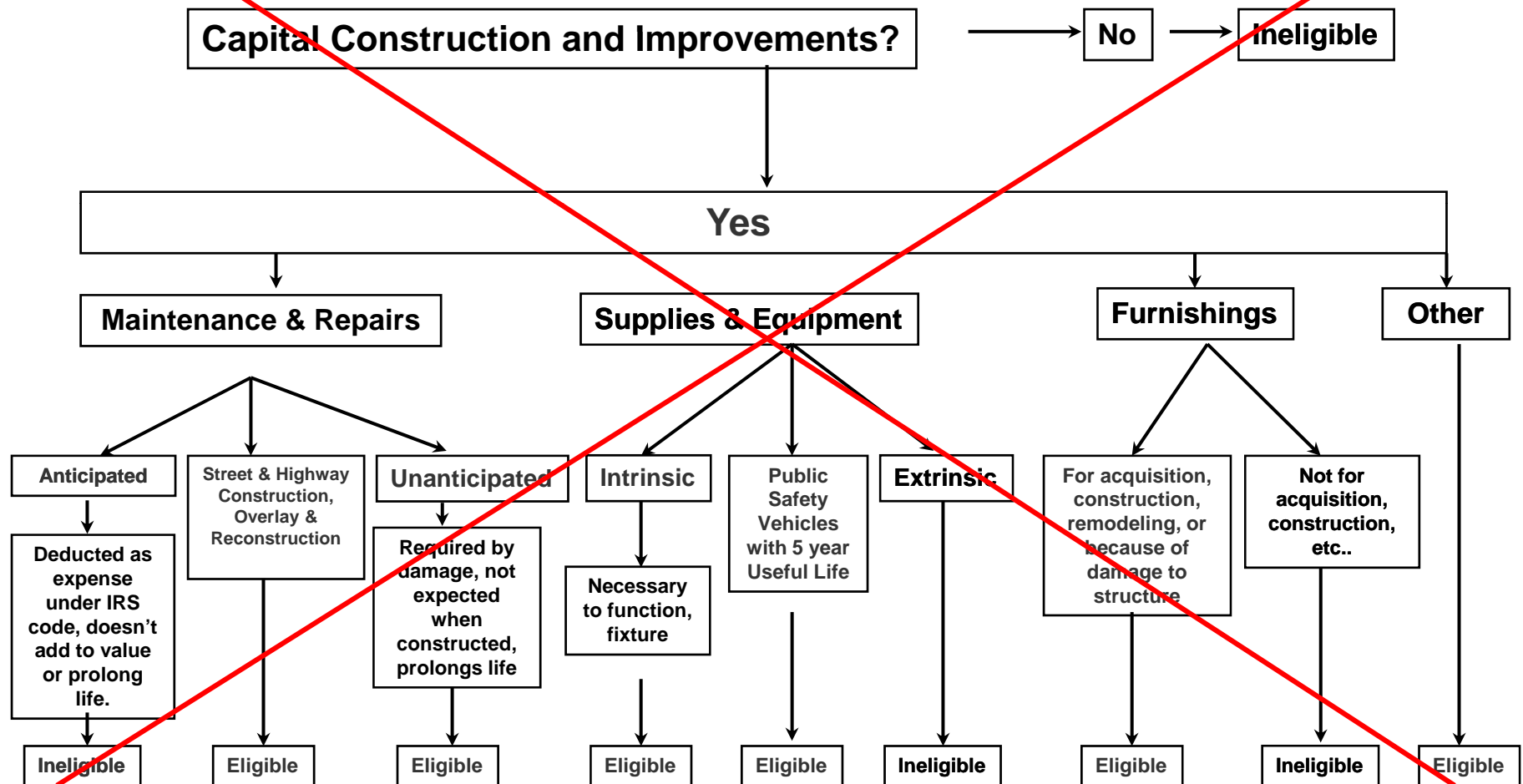
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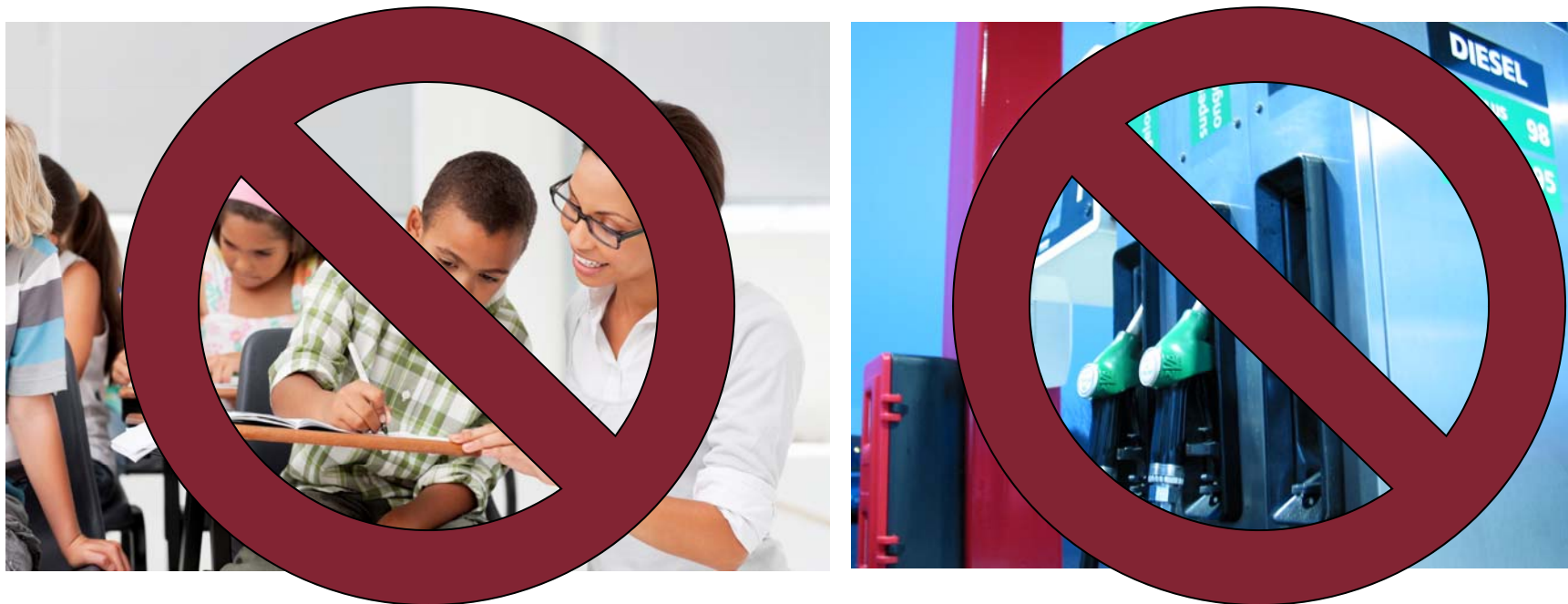
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What can G.O. Bonds be  
used for?

# DETERMINING PROJECT ELIGIBILITY





# NO OPERATING EXPENSES

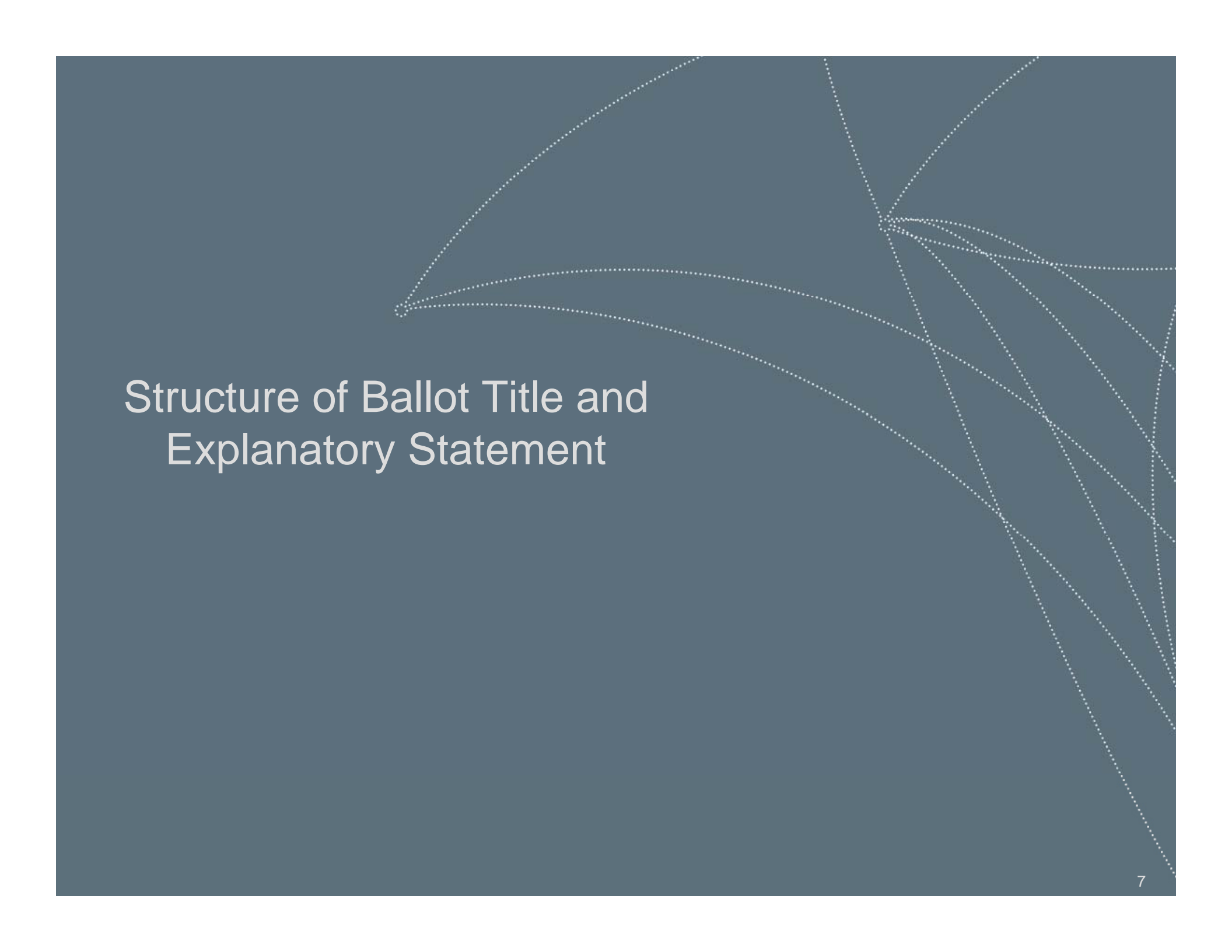
## New Measure 68

1. G.O. Bonds incurred (not voted on but issued) on or after January 1, 2011 may only be used for CAPITAL COSTS.
2. “Capital Costs” are defined as including land and other assets having a useful life of more than one year, including costs associated with acquisition, construction, improvement, remodeling, furnishing, equipping, maintenance or repair.
3. “Capital Costs” do NOT include routine maintenance or supplies.
4. Computers? Software? Textbooks? Pencils?
5. School Districts are also subject to the use restrictions in ORS 328.205 which are quite broad but do require that the projects be for school district purposes and to the debt limitations of ORS 328.245. (7.95% of RMV).

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## Maturity limits for G.O. Bonds

1. Measure 68 requires that, in addition to the useful life of the asset exceeding one year, the weighted average life of the bonds may not exceed the weighted average life of the capital costs financed with such bonds.
2. This requirement is meant to discourage the long term financing of short term assets and although it is an average calculation, it will be important to work with your underwriter to determine an amortization schedule that aligns with the life of your capital costs.



# Structure of Ballot Title and Explanatory Statement



## 1. Ongoing Ballot Title Issues

- Maximizing flexibility vs. specifying projects
- Separating projects in multiple ballot titles?
- Estimating levy impact — yes or no?
- Refinancing of existing obligations — needs to be in ballot if that is under consideration
- Using the explanatory statement in the voters' pamphlet
  - 500 words
  - file at same time as ballot title

# Sample Ballot Title

## *Caption and Question*

### NOTICE OF MEASURE ELECTION

\_\_\_\_ SCHOOL DISTRICT NO. \_\_\_\_  
\_\_\_\_ COUNTY, OREGON

NOTICE IS HEREBY GIVEN that on Tuesday, March 12, 2002, an election will be held within the boundaries of \_\_\_\_ School District No. \_\_\_\_, \_\_\_\_ County, Oregon. The election will be conducted by mail. The following question will be submitted to the qualified voters thereof:

CAPTION: [10 words]

\_\_\_\_ SCHOOL DISTRICT NO. \_\_\_\_  
GENERAL OBLIGATION BOND AUTHORIZATION

QUESTION: [20 words]

Shall the District be authorized to issue general obligation bonds to expand existing facilities at the \_\_ Elementary and High Schools? If the bonds are approved, they will be payable from taxes on property or property ownership that are not subject to the limits of Sections 11 and 11b, Article XI of the Oregon Constitution.

# Sample Ballot Title

## *Summary*

**SUMMARY: (175 words)**

**[This measure may be passed only at an election with at least a 50 percent voter turnout]**

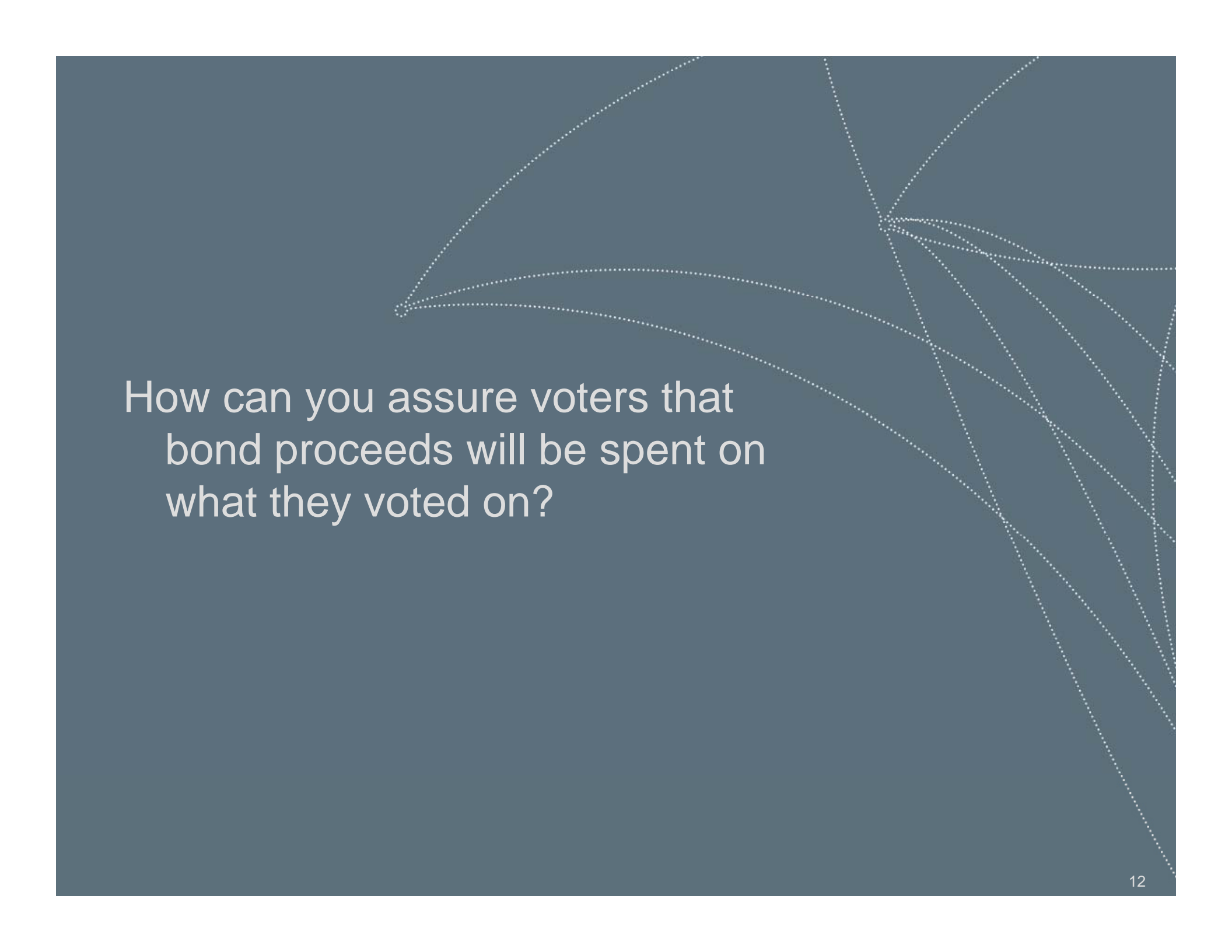
If approved, measure provides funds to:

- construct and furnish additional classrooms, library and restrooms at the High School;
- construct and furnish additional classrooms and restrooms at the Elementary School;
- relocate maintenance facilities;
- construct cafeteria, restrooms and relocate kitchen to west side of Elementary School; and
- pay bond issuance costs.

Bonds will not exceed \$10,000,000 and will mature in 21 years or less.

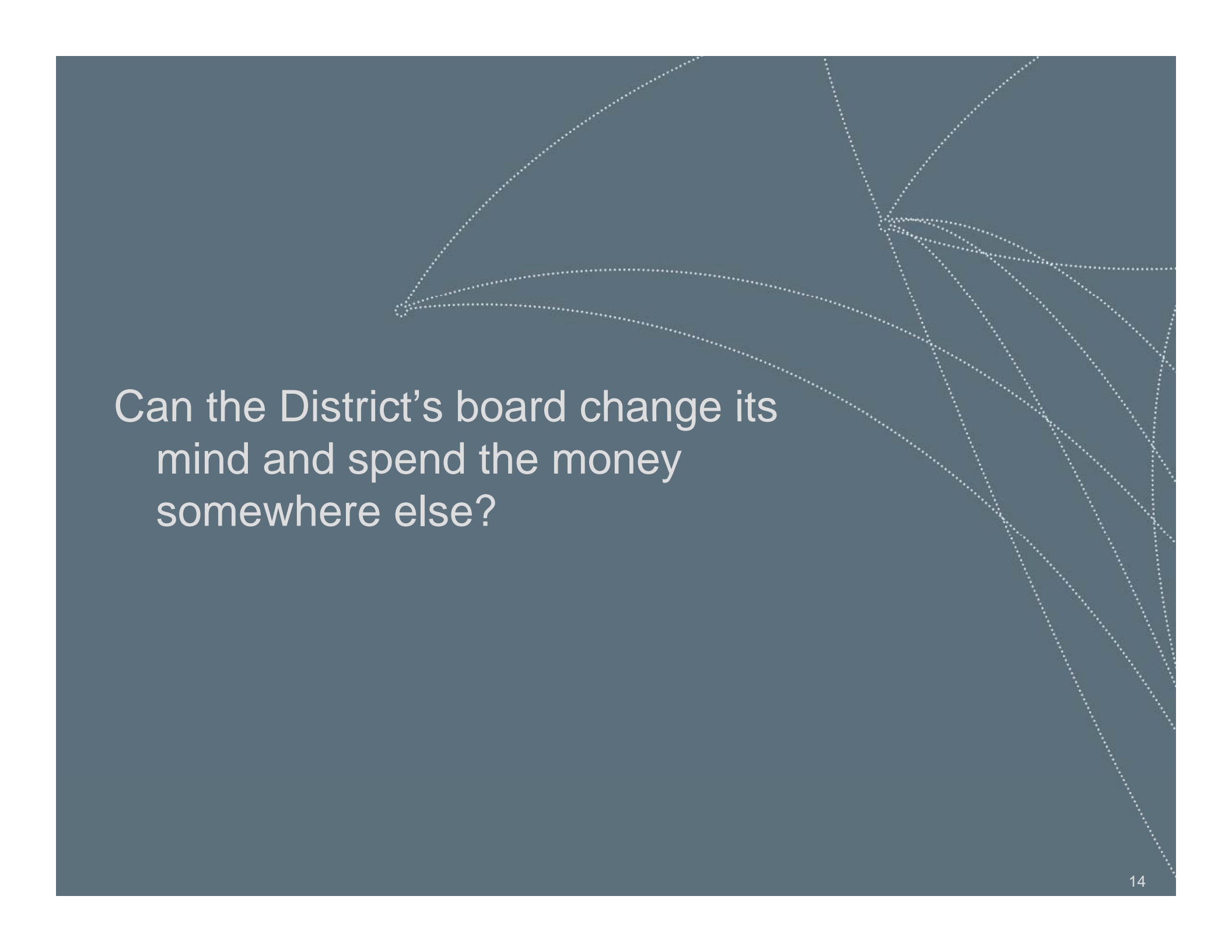
## 2. Federal Tax Exemption

- Assuming proceeds of bonds will be used for public purpose, interest paid to investors will be exempt from federal (and state) taxation.
- There are certain tax rules and regulations that should be discussed in detail with bond counsel. Topics to discuss include:
  - Timing on expenditure of proceeds – typically 3 years
  - Investment regulations – limitations on your ability to earn interest on proceeds (“arbitrage”)
  - Reimbursement regulations — limitations on ability to reimburse issuer for prior expenditures related to bond projects
  - Private use limitations



How can you assure voters that  
bond proceeds will be spent on  
what they voted on?

1. Add language on citizen oversight committee to ballot title.
2. Communicate with citizens that state constitution and statutes only allow you to spend both the principal amount of your bonds and the interest earnings on projects described in the ballot title. This is a trust and process issue and you will want the ballot to be broad enough and yet narrow enough to meet the statutory requirements for a reasonable, detailed, simple and understandable description of the use of proceeds (ORS 250.037(3)).
3. Federal tax law also requires that you spend proceeds and investment earnings only on capital or debt service.

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Can the District's board change its  
mind and spend the money  
somewhere else?

**Can the District's board change its mind and spend the money somewhere else?**

No. See above!