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# Discussion on Ballot Language for Texas Issuers of Ad Valorem Tax-Backed Debt

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## Objectives

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- Discuss Texas Law applicable to General Obligation Bond Elections of Texas cities
- Discuss prohibition of multiple measures in proposition and requirement to include only related projects in a single proposition
- Discuss application of Texas law to the preparation of the City's November 2018 Bond Election Ordinance

# Texas Law

# Election Ordinance and Requisite Notice of Election

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## 1. Defined

1) Instrument used to call an election and prescribe the terms of its conduct.

2) Key components:

a) Measure

b) Ballot Proposition

c) Election Administration

2. Notice of a City bond election requires posting / publication of a “substantial copy” of the Election Ordinance.

# Election Ordinance Components - Measure vs. Ballot Proposition

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1. “Measure” is a question or proposal submitted in an election for an expression of the voters’ will.
2. Ballot Proposition is the wording appearing on a ballot to identify the Measure.
3. Contents of Measure and Ballot Proposition in Election Ordinance formulate basis for “contract with voters”.

# Issuance of Ad Valorem Tax-Backed Bonds

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1. Unlike enterprise fund (or “revenue”) secured bonds (known as “revenue bonds”), Texas law requires voter approval as a condition to issuance.
2. Texas statutory law trumps City Charter provisions in matters relating to ad valorem tax-backed bond elections.
3. Texas statutes require Ballot Measure language for bond elections to state:
  - Total principal amount of bonds to be authorized; and
  - General description of purposes for which bonds to be issued.

# Texas Supreme Court Ruling on Ballot Proposition Language

1. Identification of Measure must be formal and sure.
2. Neither the entire Measure, nor its every detail, need be on ballot, BUT MUST describe “chief features” of the Measure;
3. When citizens must fund the measure out of their own pockets, that fact constitutes a “chief feature” that must be on ballot;
4. Chief feature of an ad valorem tax-backed bond is levy of tax for repayment of approved bonds.

# Texas Law Ballot Proposition Requirements

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1. Prescribed by statute and Texas Supreme Court Ruling
  - Amount of bonds
  - Purpose
  - Source of repayment (levy of tax) (“chief feature”)
2. Extraneous information jeopardizes Texas Supreme Court’s “formal and sure” requirements.



# Transparency

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- Proposition language that will appear on ballot;
- Purpose for which the bonds are issued;
- Principal amount of the bonds;
- Taxes sufficient to pay annual principal and interest may be imposed;
- Expected debt service tax rate if debt is authorized;
- Max maturity date of approved bonds (not to exceed 40 years);
- Amount of tax debt outstanding at the time of the election;
- Amount of interest on tax debt outstanding at the time of the election; and
- Ad valorem debt service tax rate at time of election (“[\$0.XXX] per \$100”).

# Prohibition Against Dual Propositions

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1. Ballot proposition containing two or more “separate and distinct” propositions is invalid
  - Single proposition for streets and fire station must be split into two separate propositions
  - Single proposition for jailhouse and drainage canals must be split into two propositions
2. Each proposition should specify a single purpose (i.e. streets), but no legal requirement to describe each project contemplated (be mindful of “contract with voters”)

## Prohibition Against Dual Propositions – cont.

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Single proposition may have several “naturally related” measures

- Single proposition for County jail and courthouse in the same building
- Related infrastructure (curb, drainage, utility repair/replacement, etc.)
- Public safety (police, fire, emergency response, and animal control)
- Single proposition to build roads may imply all roads within the City, even if not connected, or a road bridge

Questions?

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