



## LAW UPDATE SCHOOL BUSINESS

PHONE: (661) 636-4830 • FAX: (661) 636-4843  
E-mail: [sls@kern.org](mailto:sls@kern.org) • [www.schoolslegalservice.org](http://www.schoolslegalservice.org)

July 2022

### PREMIUM BONDS – HOW TO USE THE EXTRA MONEY

#### Background

General obligation bonds are a common means of financing new school and modernization construction projects. The sale of the bonds provides the district with funds for construction projects and then the taxpayers repay the bonds overtime with interest.

Districts must pay the cost of bond issuance. This cost is generally charged to the district's general fund or construction fund, which can reduce the money available for operating expenses or construction. Some districts inflate the interest rate offered on the bonds and receive a premium on the bond price in excess of the face value, thus generating more money.

#### Issue

How should a district use the premium on a general obligation bond?

Education Code section 15146(g) states: "... Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the school district or community college district."

Districts have used the premium to pay bond related expenses listed in Education Code section 15145(a), an underwriter's discount, or interest on previously issued securities. However, in its recent Opinion 14-202, the Attorney General has opined that the bond premium value may not be diverted for any purpose other than being deposited in the interest and sinking fund of the district. The purpose of Education Code section 15146 is that the bond's premium value should benefit the taxpayers, not the district.

### *Conclusion*

Courts are not bound by opinions of the Attorney General; however, they are given great weight. Thus, pursuant to the Attorney General, any premium generated on a general obligation bond can only be deposited in the district's bond interest and sinking fund.

Please contact our office if you have follow-up questions.

~ Mark E. Pafford

*School Business Law Updates are intended to alert clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Please consult legal counsel as to how the issue presented may affect your particular circumstances.*