
MEMORANDUM

TO: Poudre River Public Library District

FROM: Seter & Vander Wall, P.C.

DATE: November 8, 2021

RE: Legal Status Report

Executive Director Search

Task: Conduct a search for a new executive director upon the retirement of Executive Director, David Slivken.

Status: The Board conducted finalist interviews the week of Oct. 25th. Per C.R.S. §24-6-402(3.5), the District must publish the names of the finalists fourteen days prior to an offer of employment for an executive position. Recent Colorado case law has instructed that the finalist list may include only one name.

The Board also passed a resolution establishing job search goals for the executive director position at its July 12th regular meeting.

Action: None at this time.

Business Personal Property Legislation

Task: Update Board regarding passage of laws relating to business personal property tax exemptions, HB21-1312 and SB21-130

Status: HB21-1312 increases the exemption for business personal property from \$7,900 to \$50,000. All business personal property accounts with a value of \$7,901 to \$50,000 are now exempt from property tax obligation. The \$50,000 threshold will be adjusted biannually to adjust for inflation, starting January 1, 2023.

The State is required to reimburse local governments for lost property tax revenue caused by the increase to the business personal property exemption threshold.

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SB21-130 provides that for the property tax year commencing on January 1, 2021, any County, municipality, or special district may exempt up to one hundred percent of any business personal property from its property tax levy. This would affect revenues collected in 2022.

SB21-130 is discretionary and merely provides authorization for the Board to waive business property taxes to assist in the recovery of the Colorado economy from COVID-19.

Action: None at this time.

Options for Funding Future Facilities Development

Task: Summarize financing options the District can consider to fund future facilities development.

Status: The District has three options to pay for the construction of new libraries or the improvement of existing branches: (1) Cash out of reserve/budgeted funds; (2) General obligation bonds; and (3) Lease/purchase financing with or without certificates of participation. Each is summarized below. We recommend use of certificates of participation as a simple and cost-effective approach.

Cash on Hand: Availability of this “pay as you go” option depends on the scale of the project, the District’s financial position, and budget considerations for not only the next year, but in years to come. It is often best to utilize cash on hand to provide current services.

General Obligation Bonds: The most common form of government financing. Bonds are secured by the full faith credit and taxing power of the government issuer. Bonds offer low interest rates and are attractive to investors due to their double tax-exempt status. However, the issuance of debt through general obligation bonds requires an election as does the corresponding increase in taxes pursuant to Art. X, §20 of the *Colorado Constitution* (“**TABOR**”).

Lease/Purchase with or without Certificates of Participation (“COP”): Libraries are in a unique position to take advantage of sale/lease back financing. From a legal perspective, this method involves selling or leasing a property that is owned by the District. The funds received are used to buy new or improve old facilities. The property sold/leased by the District is leased back to the District which pays rent consisting of principal and interest to the investor[s]. The lease back to the District contains an option to purchase the property at the end of the lease for a

nominal fee, often \$1.00. Lease/purchase financing does not constitute long-term debt obligations of the issuing authority, and is therefore exempt from state and local laws that require voter approval under TABOR.

We recommend lease/purchase financing as the best option. However, we are ready to assist on any method the District may ultimately pursue.

Action: No action is required at this time. This item is being retained as placeholder for future considerations.