

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

Bond Waiver

# California State Board of EducationJuly 2018 AgendaItem #W-10

## Subject

Request by two local educational agencies to waive California *Education Code* sections 15102 and 15268 to allow the districts to exceed their bonded indebtedness limits. Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for elementary or high school districts. Depending on the type of bond, a tax rate levy limit to $30 per $100,000 of assessed value for elementary or high school districts may also apply.

## Waiver Numbers

* Galt Joint Union High School District: 10-4-2018
* San Benito High School District: 12-4-2018

## Type of Action

Action, Consent

## Summary of the Issues

The Galt Joint Union High School District’s bonded indebtedness is statutorily limited not to exceed 1.25 percent, which prohibits them from proceeding with their proposed issuance of the remaining $20 million from Measure E, which was approved by voters on November 8, 2016. The District originally requested to increase their limit to a rate up to, but not to exceed, 1.75 percent. However, the data submitted by the District could only substantiate a rate of 1.47 percent.

The San Benito High School District’s bonded indebtedness is statutorily limited not to exceed 1.25 percent, which prohibits them from proceeding with their proposed issuance of the remaining $43 million from Measure U, which was approved by voters on November 8, 2016. The District originally requested to increase their limit to a rate up to, but not to exceed, 1.60 percent. However, the data submitted by the District could only substantiate a rate of 1.55 percent.

## Authority for Waiver

California *Education Code (EC)* Section 33050

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

The California Department of Education (CDE) recommends that the bonded indebtedness limit be waived with the following conditions: (1) the period of request does not exceed the recommended period on Attachment 1, (2) the total bonded indebtedness does not exceed the recommended new maximum shown on Attachment 1, (3) the District does not exceed the statutory tax rate, (4) the waiver is limited to the sale of bonds approved by the voters on the measure(s) noted on Attachment 1, and (5) the District complies with the statutory requirements of Assembly Bill (AB) 182 related to school bonds which became effective January 1, 2014.

## Summary of Key Issues

The California *Education Code* (*EC*) provides limits related to a district’s total bonded indebtedness. *EC* sections 15102 and 15268 limit an elementary or high school district’s total general obligation (G.O.) bond indebtedness to 1.25 percent.

To raise funds to build or renovate school facilities, with voter authorization, school districts may issue G.O. bonds. Prior to 2001, districts needed a two-thirds voter approval. In November 2000, districts were given another option for authorizing and issuing bonds when California voters passed Proposition 39, which allows school bonds to be approved with a 55 percent majority vote if the District abides by several administrative requirements, such as establishing an independent Citizens’ Oversight Committee to oversee the use of the funds. Once G.O. bonds are authorized, school districts issue the bonds in increments as needed to fund their facility projects. When the voters authorize a local G.O. bond, they are simultaneously authorizing a property tax increase to pay the principal and interest on the bond. For Proposition 39 bonds, *EC* Section 15268 limits the tax rate levy authorized in each election to $30 per $100,000 of taxable property for elementary or high school districts.

Without a waiver, school districts that are close to their bonding capacity must decide either to issue fewer bonds, delay the issuance of bonds until their assessed valuation increases, or obtain other more expensive non-bond financing to complete their projects, the costs of which could be paid from district general funds. Therefore, the CDE has historically recommended that the State Board of Education (SBE) approve related waiver requests with the condition that the statutory tax levies are not exceeded at the time the bonds are issued.

On October 2, 2013, Governor Brown signed AB 182 (Chapter 477, Statutes of 2013) which established parameters for the issuance of local education bonds that allow for the compounding of interest, including capital appreciation bonds (CABs). AB 182 requires a district governing board to do the following:

* Before the bond sale, adopt a resolution at a public meeting that includes specific criteria, including being publicly noticed on at least two consecutive meeting agendas.
* Be presented with an agenda item at a public board meeting that provides a financial analysis of the overall costs of the bonds, a comparison to current interest bonds, and reasons why the compounding interest bonds are being recommended.
* After the bond sale, present actual cost information at the next scheduled public meeting and submit the cost information of the sale to the California Debt and Investment Advisory Commission.

**Galt Joint Union High School District**

The Galt Joint Union High School District wishes to proceed with their proposed issuance for the remaining $20 million from Measure E, which was approved by voters on November 8, 2016. The District originally requested to increase their limit to a rate up to, but not to exceed, 1.75 percent through 2022. However, the data submitted by the District for assessed valuation, outstanding bonds, and proposed issuance could only substantiate a rate of 1.47 percent though 2021. After reaching out to the District’s Chief Business Official to further discuss the matter, the department was directed to the District’s financial advisor, who after reviewing the data, revised the waiver request to 1.47 percent. The issuance will go toward vital facilities improvements throughout the District to keep its bond program moving forward to its scheduled completion without delay. The proposed issuance of the remaining $20 million will increase the District’s outstanding bonded indebtedness limit to a rate of 1.47 percent.

**San Benito High School District**

The San Benito High School District wishes to proceed with their proposed issuance for the remaining $43 million from Measure U, which was approved by voters on November 8, 2016. The District originally requested to increase their limit to a rate up to, but not to exceed, 1.60 percent through 2022. However, the data submitted by the District for assessed valuation, outstanding bonds, and proposed issuance could only substantiate a rate of 1.55 percent. After reviewing the data, the attorney representing the District revised the waiver request to 1.55 percent through 2022. The issuance will go toward vital facilities improvements throughout the District to keep its bond program moving forward to its scheduled completion without delay. The proposed issuance of the remaining $43 million will increase the District’s outstanding bonded indebtedness limit to a rate 1.55 percent.

**Demographic Information:**

The Galt Joint Union High School District has a student population of 2,190 and is located in Sacramento County. The San Benito High School District has a student population of 2,874 and is located in San Benito County.

Because this is a general waiver, if the State Board of Education decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a), available at <https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051.>

## Summary of Previous State Board of Education Discussion and Action

The SBE has approved all bond limit waiver requests limited to the sale of already authorized bonds and at the tax rate levy stated on the bond measure.

## Fiscal Analysis (as appropriate)

Approval of the waivers would allow the Districts to accelerate their issuance of voter approved bonds.

## Attachments

* **Attachment 1:** Summary Table (2 pages)
* **Attachment 2:**  Galt Joint Union High School District General Waiver Request 10-4-2018 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:**  San Benito High School District General Waiver Request 12-4-2018 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* (*EC*) Section 41402

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended** | **Bargaining Unit Representatives** | **Local Board and Public Hearing Approval** |
| --- | --- | --- | --- | --- | --- | --- |
| 10-4-2018  | Galt Joint Union High School District | **Requested:** July 1, 2018 to August 1, 2022**Recommended:**July 1, 2018 to August 1, 2021 | **Original Request:** Debt Limit 1.75%Tax Rate $30**Revised Request:** Debt Limit 1.47%Tax Rate $30 | Debt Limit 1.47% Limited to Sale of Bonds applicable to Measure E, Approved by Voters in the 2016 ElectionTax Rate $30 | Galt Federation of Classified and Certificated Emp.Clark Carter, Union President3/6/18**Support**  | Local Board Approval Date: 4/10/18Public Hearing Date: 4/10/18Public Hearing Advertised: Through email, newspaper publication, and other forms of communication.District Board of Trustees4/10/18**No objections** |
| 12-4-2018  | San Benito High School District | **Requested:** July 11, 2018 to June 30, 2022**Recommended:**July 11, 2018 to June 30, 2022 | **Original Request:** Debt Limit 1.60%Tax Rate $30**Revised Request:** Debt Limit 1.55%Tax Rate $30 | Debt Limit 1.55% Limited to Sale of Bonds applicable to Measure U, Approved by Voters in the 2016 ElectionTax Rate $30 | San Benito High School Teachers AssociationMark Krause, President3/16/18**Support**California School Employees Association, Chapter 173 Honor Spencer, President3/16/18**Support**  | Local Board Approval Date: 4/24/18Public Hearing Date: 4/24/18Public Hearing Advertised: Notices of Public Hearing were posted on District Website, front of high school, outside Superintendent’s office, and outside library.San Benito High School Citizen’s Bond Oversight4/24/18**No objections** |

Created by the California Department of Education

April 30, 2018

# Attachment 2: Waiver # 10-4-2018**Galt Joint Union High School District General**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3467355

Waiver Number: 10-4-2018

Active Year: 2018

Date In: 4/24/2018 2:41:03 PM

Local Education Agency: Galt Joint Union High School

District Address: 12945 Marengo Rd.

Galt, CA 95632

Start: 7/1/2018

End: 8/1/2022

Waiver Renewal: No

Waiver Topic: School Construction Bonds

Ed Code Title: Bond Indebtedness Limit - Non-Unified after 2000

Ed Code Section: 15102

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *EC* 15102: The total amount of bonds issued

pursuant to this Chapter and Chapter 1.5 (commencing with Section 15264) [shall not exceed 1.25 percent of the taxable property of the school district] or community college district , or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county of counties in which the district is located.

Outcome Rationale: On November 8, 2016, District voters approved the sale of up to $36 million in general obligation bonds. Measure E, a Prop 39 election requiring a 55% vote, passed with 64% approval.

The District has significant needs due to aging facilities and increasing enrollment. The District plans to use the proceeds of the sale for the renovation of 50-year old facilities, health, safety, and handicap accessibility upgrades (federal and state-mandated OSHA upgrades), install and upgrade campus security systems, replace portable classrooms, and additional projects.

In 2017, the District sold its first series of bonds from the 2016 Authorization for $16 million (did not require a debt limit waiver). This planned sale would be the second and final series of bonds from the 2016 Authorization.

The District does not expect to issue bonds that would increase the tax rate above the legal limit of $30.00 per $100,000 of assessed valuation. The District may issue capital appreciation bonds that would be within AB 182 limits, including a debt ratio of less than 4 to 1, a term not to exceed 25-years, and a 10-year call option.

Student Population: 2190

City Type: Small

Public Hearing Date: 4/10/2018

Public Hearing Advertised: Through email, newspaper publication, and other forms of communication.

Local Board Approval Date: 4/10/2018

Community Council Reviewed By: District Board of Trustees, the finance department, employee groups

Community Council Reviewed Date: 4/10/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Corey Reihl

Position: Chief Business Official

E-mail: creihl@ghsd.k12.ca.us

Telephone: 209-7 45-3094

Fax: 209-745-0881

Bargaining Unit Date: 03/06/2018

Name: Galt Federation of Classified and Certificated Emp.

Representative: Clark Carter

Title: Union President

Position: Support

Comments: None

# Attachment 3: Waiver # 12-4-2018**San Benito High School District General**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3567538

Waiver Number: 12-4-2018

Active Year: 2018

Date In: 4/25/2018 3:28:20 PM

Local Education Agency: San Benito High School

Address: 1220 Monterey St.

Hollister, CA 95023

Start: 7/11/2018

End: 6/30/2022

Waiver Renewal: N

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School Construction Bonds

Ed Code Title: Bond Indebtedness Limit - Non-Unified

Ed Code Section: 15102 and 15268

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: 15102 - [The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed 1.25 percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.] and 15268 - [The total amount of bonds issued , including bonds issued pursuant to Chapter 1

(commencing with Section 15100), shall not exceed 1.25 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.]

Outcome Rationale: Voters in the District have passed two general obligation bond measures authorizing the issuance of general obligation bonds. Voters approved

Measure G in 2014, which authorized the District to issue $42.5 million in bonds. The

District has issued all $42.5 million of Measure G bonds.

Voters in the District approved Measure U in November 2016, which authorized the

District to issue $60 million in general obligation bonds to construct a new science building, football stadium, athletic fields, and aquatic center. The District issued the first series of Measure U Bonds in the amount of $17 million in April 2017. In 2018, the

District wishes to issue its remaining $43 million of general obligation bonds authorized under Measure U to begin construction on several voter authorized projects.

Construction is scheduled to commence during the summer of 2018. The District is accelerating these projects due to escalating construction costs and state funding constraints. This accelerated schedule will allow the District to obtain a large portion of approximately $25 million of state funding and will potentially save millions of dollars in escalation costs.

The District requests that its outstanding bonded indebtedness limit be increased to an amount not to exceed 1.60% of assessed value for bonds issued through June 30,

2022. The requested debt limit will allow the District to accelerate the bond issuance, and the amount requested is limited to the issuance of bonds authorized by Measure U in November 2016. The District does not expect to issue bonds that would increase the tax rate above the legal limit of $30 per $100,000 of assessed valuation.

The District expects to issue approximately $35.2 million of bonds as current interest bonds and approximately $7.8 million of bonds as capital appreciation bonds. The

District will comply with the statutory requirements of Assembly Bill 182 relating to capital appreciation bonds.

Absent a waiver, the District will be limited to issuing approximately $23.8 million at this time, which will significantly delay Measure U projects. If the issuance of the remaining bonds is delayed, critical projects may become unaffordable while the District waits to access additional bond capacity. By issuing all remaining bonds now, the debt as a percentage of assessed value will initially increase to approximately 1.60%, but is expected to decrease below 1.25% in fiscal year ending 2022. After this issuance, the

District will have no remaining authorization unissued.

Please see Attachments A-D for additional supporting information regarding the

District's circumstances and financing plan.

Student Population: 2874

City Type: Rural

Public Hearing Date: 4/24/2018

Public Hearing Advertised: Notices of Public Hearing were posted on District Website, front of High School, outside Superintendent's office and outside library.

Local Board Approval Date: 4/24/2018

Community Council Reviewed By: San Benito High School Citizen's Bond Oversight

Committee

Community Council Reviewed Date: 3/16/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Jocelyn Pietsch

Position: Attorney - Dannis Woliver Kelley

E-mail: jpietsch@dwkesq.com

Telephone: 415-543-4111

Fax: 831-636-7630

Bargaining Unit Date: 03/16/2018

Name: San Benito High School Teachers Association

Representative: Mark Krause

Title: President

Position: Support

Comments: None

Bargaining Unit Date: 03/16/2018

Name: California School Employees Association, Chapter 173

Representative: Honor Spencer

Title: President

Position: Support