

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

Bond Waiver

# California State Board of Education September 2018 AgendaItem #W-06

## Subject

Requests by the **Stockton Unified School District** to waive California *Education Code* (*EC*) Section 15270(a) to allow the district to exceed its bonded indebtedness limit. Total bonded indebtedness may not exceed 2.5 percent of the taxable assessed valuation of property. Depending on the type of bond, a tax rate levy limit of $60 per $100,000 of assessed value may also apply.

## Waiver Numbers

* 4-6-2018
* 5-6-2018

## Type of Action

Action, Consent

## Summary of the Issue

The Stockton Unified School District’s bonded indebtedness is statutorily limited not to exceed 2.5 percent, which prohibits them from proceeding with their proposed issuance of $61,000,000 in general obligation (G.O.) bonds under its 2012 Authorization and $9,760,000 in Ed-Tech G.O. bonds under its 2014 Authorization. The district is requesting that the State Board of Education (SBE) authorize the district to exceed its statutory bonding capacity limit to a rate up to, but not to exceed, 3.17 percent.

## Authority for Waiver

California *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 measures 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 *EC* provides limits related to a district’s total bonded indebtedness. *EC* sections 15106 and 15270(a) limit a unified school district’s total G.O. bond indebtedness to 2.5 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 15270(a) limits the tax rate levy authorized in each election to $60 per $100,000 of taxable property for unified 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 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.

The Stockton Unified School District wishes to proceed with their proposed issuance for $61,000,000 in G.O. bonds under its 2012 Authorization and $9,760,000 in Ed-Tech G.O. bonds under its 2014 Authorization. The issuance will allow the district to maintain and upgrade educational technology, and upgrade classroom security systems in district facilities. The proposed issuance of the combined $70,760,000 will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 3.17 percent.

The district originally requested a date range of September 9, 2018 through September 10, 2018 (for Waiver Number 4-6-2018) and September 9, 2018 through September 10, 2020 (for Waiver Number 5-6-2018). However, after speaking with a district representative, the request was amended so that the start date for each be made retroactive to July 11, 2017, as the previous iterations of these waivers expired on July 10, 2017 and this will provide the district with continuity. The end dates for each were also amended to end on August 1, 2023, the point at which the district will fall back under its statutory bonding capacity.

The California School Employees Association, Chapter 885 (Transportation Unit) registered opposition to both waiver requests stating that approval of this waiver would result in an increase in taxes and the United Stockton Administrators (USA) also registered opposition to the waiver requests but did not provide any rationale. Staff notes that the approval of this waiver will not result in an increase in taxes beyond what the voters authorized when they approved the local G.O. Bonds and, as mentioned above, the tax rate shall not exceed the statutory limit.

**Demographic Information**

The Stockton Unified School District has a student population of 35,451 and is located in San Joaquin 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 on the California Legislation Information Web page 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. Waivers 34‑3‑2015 and 35-3-2015 (<https://www.cde.ca.gov/be/ag/ag/yr15/documents/jul15w12rev.doc>) were previously approved by the SBE as part of the July 2015 Agenda and they expired on
July 10, 2017.

## Fiscal Analysis (as appropriate)

Approval of the waivers would allow the district to accelerate its issuance of voter approved bonds.

## Attachments

* **Attachment 1:** Stockton Unified School District Waiver Requests for Bonded Indebtedness Limit Summary Table (1 page)
* **Attachment 2:**  Stockton Unified School District General Waiver Request 4‑6‑2018 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:**  Stockton Unified School District General Waiver Request 5‑6‑2018 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 2: Stockton Unified School District General Waiver Request 4-6-2018

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3968676

Waiver Number: 4-6-2018

Active Year: 2018

Date In: 6/11/2018 4:18:01 PM

Local Education Agency: Stockton Unified School District

Address: 701 North Madison St.

Stockton, CA 95202

Start: 9/9/2018

End: 9/10/2018

Waiver Renewal: No

Waiver Topic: School Construction Bonds

*Ed Code* Title: Bond Indebtedness Limit - Unified S.D.

*Ed Code* Section: 15270

*Ed Code* Authority: 33050-33053

*Education Code* or *CCR* to Waive: *Education Code* 15270. [(a) Notwithstanding Sections 15102 and 15268, any unified school district may issue bonds pursuant to this article that, in aggregation with bonds issued pursuant to Chapter 1 (commencing with Section 15100), may not exceed 2.5 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.] The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred pursuant to this chapter at a single election, by a unified school district, would not exceed sixty dollars ($60) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

Outcome Rationale: Please see Attachment.

Student Population: 35451

City Type: Urban

Public Hearing Date: 5/22/2018

Public Hearing Advertised: Notice in newspaper.

Local Board Approval Date: 5/22/2018

Community Council Reviewed By: Resources and Infrastructure Committee

Community Council Reviewed Date: 5/16/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Lisa Grant-Dawson

Position: Chief Business Official

E-mail: lgrantdawson@stocktonusd.net

Telephone: 209-933-7010 x2091

Bargaining Unit Date: 05/18/2018

Name: California School Employees Assn, Chapter 885-Transportation Unit

Representative: Cynthia Soles

Title: President

Position: Neutral

Bargaining Unit Date: 05/16/2018

Name: California School Employees Association, Chapter 821

Representative: Randy San Nicolas

Title: President

Position: Oppose

Comments: concerned about increased taxes

Bargaining Unit Date: 05/18/2018

Name: California School Employees' Association, Chapter 318

Representative: Deloris Foster

Title: President

Position: Neutral

Bargaining Unit Date: 05/18/2018

Name: Operating Engineers Local Union #3, Police Unit (OE3)

Representative: Donte Butcher

Title: President

Position: Neutral

Bargaining Unit Date: 05/24/2018

Name: Stockton Pupil Personnel Association (SPPA)

Representative: Robin Gurrola

Title: President

Position: Neutral

Bargaining Unit Date: 05/21/2018

Name: Stockton Teachers' Association (STA)

Representative: Erich Myers

Title: President

Position: Neutral

Comments:

Bargaining Unit Date: 05/23/2018

Name: Stockton Unified Supervisor's Unit (SUSU)

Representative: Joe Kusy

Title: President

Position: Neutral

For 2012 GOBs

Desired Outcome

 The 2018-19 assessed valuation for the Stockton Unified School District (the "District") puts the District's needed bonding capacity at 2.79%; however, we request that the waiver for bonding capacity to be up to 3.170% of assessed valuation. The granting of this waiver will permit the District to issue up to $61,000,000 in general obligation bonds under its 2012 Authorization (as further described below), and $9,760,000 in Ed-Tech general obligation bonds under its 2014 Authorization (as discussed in the District's second waiver application submission), in 2018.

Rationale

1. *Background*

The Stockton Unified School District (the "District") was established on July 1, 1936 and is located in San Joaquin County. The boundaries of the District cover an area of approximately 55 square miles. The District has 54 schools, including 41 K-8 schools (including one K-5 school, and two charter schools), 11 high schools (including four specialty high schools, and three specialty charter high schools), one K-12 special education school, and one adult education school. The District also maintains an independent study program and a child development program.

On February 5, 2008, District voters approved a general obligation bond measure in the amount of $464,500,000 (the "2008 Authorization"). However, because the District's assessed valuation had decreased by 22% which made the debt service for the bonds approved at the 2008 Election close to or at the Proposition 39 tax rate cap of $60 per $100,000 of assessed valuation, the District was unable to issue additional bonds under its 2008 Authorization without resorting to issuing expensive capital appreciation bonds, or waiting 20 or more years to issue (thereby delaying the voter approved projects).

In order to continue with the voter approved projects, the District returned to the voters in November 2012 to obtain approval to reauthorize $156,000,000 of the remaining, unissued 2008 Authorization. On November 6, 2012, District voters approved a general obligation reauthorization bond measure in the amount of $156 million (the "2012 Authorization"). The 2012 Authorization allowed the District to issue bonds under a new tax rate cap while saving taxpayers millions of dollars in interest and without increasing the 2008 Authorization.

The District was unable to issue any general obligation bonds under the 2012 Authorization without exceeding its 2.5% statutory bonding capacity under the California Education Code because the District's assessed valuation had not sufficiently recovered in 2013. The District submitted its first waiver request to the State Board of Education ("SBE") for consideration at its May 8, 2013 meeting, and submitted a second waiver request to the SBE for consideration at its July 8, 2015 meeting. The SBE approved both of those waiver requests and the District was able to issue $65,000,000 of general obligation bonds under its 2012 Authorization on March 6, 2014 and $30,000,000 on December 17, 2015, thereby providing financing for the construction, rehabilitation, repair and/or equipping of public school facilities.

Although the District’s assessed valuation is beginning to rebound, the recovery is insufficient to allow the District to issue its final series of general obligation bonds under the 2012 Authorization without exceeding its 2.5% statutory bonding capacity under the California Education Code. Because the District desires to issue said final series of general obligation bonds, it is now requesting a waiver of Education Code section 15270(a).

1. *Financial Information*

1. We estimate that issuing the third and final series of bonds, in the principal amount of $61,000,000, under the 2012 Authorization, together with $9,760,000 of Ed Tech general obligation bonds under the 2014 Authorization, will raise the District's total indebtedness to approximately 3.17% of its assessed valuation.

2. The assessed valuation within the District declined by 10.17%, 7.78%, 4.02% and 1.46% from fiscal year 2008-09 to 2009-10 through 2012-13, respectively. Although the District’s assessed valuation is beginning to rebound, it has not sufficiently recovered to allow the District to issue $61,000,000 of its 2012 Authorization for general obligation bonds.

3. The attached bonding capacity analysis shows the assessed valuation, projected tax rates and existing and proposed debt service requirements. The projections are based on the future issuances of a total of $70,760,000 in general obligation bonds from the 2012 and 2014 elections.

4. The current 2017-18 assessed valuation of the District puts the District's needed bonding capacity at 2.79%. However, in the event that assessed valuation changes or decreases in the future, we request that the waiver for bonding capacity to be up to 3.170% of assessed valuation. This will ensure the District’s ability to issue the $70,760,000 in general obligation bonds ($9,760,000 in Ed-Tech general obligation bonds under its 2014 Authorization and $61,000,000 in general obligation bonds under its 2012 Authorization).

1. *Reasons to approve this waiver*

1. Approval will permit the District to provide essential learning and recreational facilities to its students, so that the District does not have to wait until a future fiscal year when the bond indebtedness of the District is expected to fall below the 2.5% limit set forth in the California Education Code.

2. Approval will allow the District to capitalize on lower construction costs.

3. Approval will allow the District to take advantage of near historic low interest rates.

4. Approval will satisfy the will of District voters who, at the November 6, 2012 election, reviewed and approved the reauthorization of $156,000,000 of the 2008 Authorization. The voters approved issuing these new bonds under a new tax rate cap so that needed District projects can be completed now, instead of years from now.

1. *Who supports this waiver*
	1. Dale Scott & Company, Financial Advisor

2. Dannis Woliver Kelley, Bond and Disclosure Counsel

E. *Who opposes this waiver*

At a duly noticed public hearing on May 22, 2018, there was no opposition from the public or staff.

1. *Summary*

The Stockton Unified School District (the “District”) has a current need to construct, repair and renovate District facilities, yet historical assessed valuation in the District, coupled with negative assessed valuation growth due to the weak housing market in Stockton, California for the past several years, prohibit the District from issuing its voter-authorized general obligation bonds. However, the taxpayers want to see improvements in educational facilities allowed for by Measure E, as approved in 2012. The District fully supports that mission and desires to continue to carry out the physical improvements necessary to improve services and facilities, particularly at the secondary comprehensive high school level. These improvements are necessary to provide a safe, healthy and productive educational environment for our students. Approving this request for a waiver of the District’s bonding capacity limitation will allow for the continuation of an already efficient capital improvement program at the District, and permit the District to make necessary construction, repairs and upgrades to essential facilities.

# Attachment 3: Stockton Unified School District General Waiver Request 5-6-2018

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3968676

Waiver Number: 5-6-2018

Active Year: 2018

Date In: 6/12/2018 10:08:07 AM

Local Education Agency: Stockton Unified School District

Address: 701 North Madison St.

Stockton, CA 95202

Start: 9/9/2018

End: 9/10/2020

Waiver Renewal: No

Waiver Topic: School Construction Bonds

*Ed Code* Title: Bond Indebtedness Limit - Unified S.D.

*Ed Code* Section: 15270

*Ed Code* Authority: 33050-33053

*Education Code* or *CCR* to Waive: [(a) Notwithstanding Sections 15102 and 15268, any unified school district may issue bonds pursuant to this article that, in aggregation with bonds issued pursuant to Chapter 1 (commencing with Section 15100), may not exceed 2.5 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.] The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred pursuant to this chapter at a single election, by a unified school district, would not exceed sixty dollars ($60) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.

Outcome Rationale: Please see Attachment.

Student Population: 35451

City Type: Urban

Public Hearing Date: 5/22/2018

Public Hearing Advertised: Notice in newspaper.

Local Board Approval Date: 5/22/2018

Community Council Reviewed By: Resources and Infrastructure Committee.

Community Council Reviewed Date: 5/16/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Lisa Grant-Dawson

Position: Chief Business Official

E-mail: lgrantdawson@stocktonusd.net

Telephone: 209-933-7010 x2091

Fax: 209-933-7011

Bargaining Unit Date: 05/18/2018

Name: California School Employees Assn, Chapter 885-Transportation Unit

Representative: Cynthia Soles

Title: President

Position: Neutral

Bargaining Unit Date: 05/16/2018

Name: California School Employees Association, Chapter 821

Representative: Randy San Nicolas

Title: President

Position: Oppose

Comments: concerned about increased taxes

Bargaining Unit Date: 05/18/2018

Name: California School Employees' Association, Chapter 318

Representative: Deloris Foster

Title: President

Position: Neutral

Bargaining Unit Date: 05/18/2018

Name: Operating Engineers Local Union #3, Police Unit (OE3)

Representative: Donte Butcher

Title: President

Position: Neutral

Bargaining Unit Date: 05/24/2018

Name: Stockton Pupil Personnel Association (SPPA)

Representative: Robin Gurrola

Title: President

Position: Neutral

Bargaining Unit Date: 05/21/2018

Name: Stockton Teachers' Association (STA)

Representative: Erich Myers

Title: President

Position: Neutral

Bargaining Unit Date: 05/23/2018

Name: Stockton Unified Supervisor's Unit (SUSU)

Representative: Joe Kusy

Title: President

Position: Neutral

Bargaining Unit Date: 05/23/2018

Name: United Stockton Administrators (USA)

Representative: Gina Hall

Title: President

Position: Oppose

Comments: concerned about increased taxes

For 2014 Ed Tech Bonds:

Desired Outcome

 The 2017-18 assessed valuation for the Stockton Unified School District (the "District") puts the District's needed bonding capacity at 2.79%; however, we request that the waiver for bonding capacity to be up to 3.170% of assessed valuation. The granting of this waiver will permit the District to issue its second series of Ed Tech general obligation bonds, in the principal amount of $9,760,000, under its 2014 Authorization (as further described below), and the final series of its general obligation bonds, in the principal amount of $61,000,000, under its 2012 Authorization (as discussed in the District's second waiver application submission), in 2018.

Rationale

1. *Background*

The Stockton Unified School District (the "District") was established on July 1, 1936 and is located in San Joaquin County. The boundaries of the District cover an area of approximately 55 square miles. The District has 54 schools, including 41 K-8 schools (including one K-5 school, and two charter schools), 11 high schools (including four specialty high schools, and three specialty charter high schools), one K-12 special education school, and one adult education school. The District also maintains an independent study program and a child development program.

On November 4, 2014, District voters approved a general obligation bond measure in the amount of $114,000,000 (the "2014 Authorization"). Proceeds from the bonds are to be used to maintain and upgrade educational technology and upgrade classroom security systems in District facilities throughout the District.

The District's assessed valuation underwent a period of significant decline from 2010 through 2013. And, assessed valuation had not sufficiently recovered in 2015 when the District desired to issue its first series of Ed Tech general obligation bonds under the 2014 Authorization. As a result, the District sought and obtained a waiver from the State Department of Education, dated July 16, 2015, to allow a bond indebtedness of 3.75% for the period July 9, 2015 through July 10, 2017. The District issued its first series of first series of Ed Tech general obligation bonds, in the principal amount of $9,760,000 in December 2015.

The District now desires to issue its second series of Ed Tech general obligation bonds under its 2014 Authorization. However, because the July 16, 2015 waiver has expired, the District is currently unable to issue any additional Ed-Tech general obligation bonds without exceeding the 2.5% statutory bonding capacity under the California Education Code. The District is now requesting a waiver of Education Code Section 15270(a).

1. *Financial Information*

1. We estimate that issuing $9,760,000 of Ed Tech general obligation bonds under the 2014 Authorization, together with $61,000,000 of general obligation bonds under the 2012 Authorization (as discussed in the District's second waiver application submission), will raise the District's total indebtedness to approximately 3.17% of its assessed valuation.

2. The assessed valuation within the District declined by 10.17%, 7.78%, 4.02% and 1.46% from fiscal year 2008-09 to 2009-10 through 2012-13, respectively. Although the District’s assessed valuation is beginning to rebound, it has not sufficiently recovered to allow the District to issue $9,760,000 of its 2014 Authorization for the second series of Ed Tech general obligation bonds.

3. The attached bonding capacity analysis shows the assessed valuation, projected tax rates and existing and proposed debt service requirements. The projections are based on the future issuances of a total of $70,760,000 in general obligation bonds from the 2012 and 2014 elections.

4. The current 2017-18 assessed valuation of the District puts the District's needed bonding capacity at 2.79%. However, in the event that assessed valuation changes or decreases in the future, we request that the waiver for bonding capacity to be up to 3.170% of assessed valuation. This will ensure the District’s ability to issue the $70,760,000 in general obligation bonds ($9,760,000 in Ed-Tech general obligation bonds under its 2014 Authorization and $61,000,000 in general obligation bonds under its 2012 Authorization).

1. *Reasons to approve this waiver*

1. Approval will permit the District to maintain and upgrade educational technology and upgrade classroom security systems in District facilities throughout the District so that the District does not have to wait until a future fiscal year when the bond indebtedness of the District is expected to fall below the 2.5% limit set forth in the California Education Code.

2. Approval will allow the District to capitalize on lower construction costs.

3, Approval will allow the District to take advantage of near historic low interest rates.

4. Approval will satisfy the will of District voters who, at the November 4, 2014 election, reviewed and approved $114,000,000 of Ed Tech general obligation bonds. The voters approved issuing these new bonds under a new tax rate cap so that needed District projects can be completed now, instead of years from now.

1. *Who supports this waiver*
	1. Dale Scott & Company, Financial Advisor

2. Dannis Woliver Kelley, Bond and Disclosure Counsel

1. *Who opposes this waiver*

At a duly noticed public hearing on May 22, 2018, there was no opposition from the public or staff.

1. *Summary*

The Stockton Unified School District (the “District”) has a current need for educational technology and classroom security system upgrades in its facilities throughout the District. District taxpayers recognized the need for and approved said improvements at the November 4, 2014 election. The District is, however, prevented from issuing its voter-authorized Ed Tech general obligation bonds due to declines in the assessed valuation in Stockton during the past several years and the slow recovery. Approving this request for a waiver of the District’s 2.5% bonding capacity limitation will allow the District to make necessary upgrades to the educational technology and classroom security system in District facilities throughout the District.