

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

# California State Board of Education July 2019 AgendaItem #W-10

## Subject

Request by the **Klamath-Trinity Joint Unified School District** to waive California *Education Code* (*EC*) sections 15106 and 15270(a) to allow the district to exceed its bonded indebtedness limit. Total bonded indebtedness may not exceed 2.50 percent for unified school districts. Depending on the type of bond, a tax rate levy limit of $60 per $100,000 for unified school districts may also apply.

## Waiver Number

9-2-2019

## Type of Action

Action, Consent

## Summary of the Issues

The Klamath-Trinity Joint Unified School District’s (Klamath-Trinity JUSD) bonded indebtedness is statutorily limited not to exceed 2.50 percent, which prohibits them from proceeding with their proposed issuance of the cumulative $4.23 million from Measure H (approved by voters on November 4, 2008) and Measure D (approved by voters on June 7, 2016). 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, 3.25 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 for the district 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 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 General Obligation (G.O.) bond indebtedness to 2.50 percent.

To raise funds to build or renovate school facilities, with voter authorization, school districts may issue G.O. bonds. Under Proposition 46, school districts are allowed to increase the property tax rate above one percent for the period necessary to pay off new G.O. bonds if the following conditions are met:

* Two-thirds of those voting in a local election have approved the issuance of the bonds.
* The money raised through the sale of the bonds is exclusively used to purchase or improve land and buildings.

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.

AB 182 (Chapter 477, Statutes of 2013) has 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.

Klamath-Trinity JUSD wishes to proceed with their proposed issuance for the cumulative $4.23 million—$930,000 from Measure H (approved by voters on November 4, 2008) and $3.3 million from Measure D (approved by voters on June 7, 2016). Per the Measure D ballot text, the issuance will go toward making health and safety improvements, including mold, lead, and asbestos abatement; upgrading inadequate electrical systems; modernizing outdated classrooms, restrooms, and school facilities; and improving student access to computers and modern technology. Additionally, per the waiver rationale submitted by the district, the issuance will also go toward paying off a significant portion of their 2016-issued Certificates of Participation (COPs), the proceeds from which were expended to continue facilities projects. The district must repay the 2016 COPs to satisfy requirements of receiving financial hardship funding on prior School Facility Program construction projects. The proposed issuance of the $4.23 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 3.10 percent. The district initially requested a rate of 3.25 percent; however, as a result of CDE analysis, 3.10 percent was all that could be substantiated. The district has concurred with CDE’s analysis and is in agreement with the recommendation.

The district forwarded a letter from the Klamath-Trinity Teachers Association (KTTA), dated March 7, 2019, supporting the waiver request. However, the California School Employees Association (CSEA) Chapter 347 opposes the waiver request in a letter dated March 20, 2019. The CSEA Chapter 347 cited concerns with the district’s fiscal decisions and lack of transparency as reasons for the opposition. Considering the nature of the concerns expressed by the CSEA Chapter 347, including reference to the district’s Local Control and Accountability Plan, CDE has provided a copy of their letter of opposition to the Humboldt County Office of Education. Although the CSEA Chapter 347 opposed the waiver request, CDE staff notes that the district complied with the statutory requirements of including them during the development of the process seeking a waiver. CDE staff further notes that approval of this waiver will provide the district the ability to issue additional bonds necessary to assist them with their ongoing school facilities projects and prior obligations as stated above.

On December 12, 2018, a letter was sent by the District to the Indian Policies and Procedures Task Force (IPPTF) to offer an opportunity to review the waiver request. The District indicated they made several outreach attempts, and that the item had been agendized on several of the IPPTF meetings agendas for the last several months. Unfortunately, the item was never heard and the IPPTF did not take a position on the waiver request. During further talks with the District, the IPPTF expressed interest in learning about G.O. bonds and the waiver request process. The District has accommodated this request and presented material to the IPPTF. During these informal converstions, members of the IPPTF expressed concerns about the statutory bonding capacity limits and a desire to become more involved in the District’s facilities projects, including information about financing plans and the District’s use of G.O. bonds. In response, the District is planning to develop workshops to help educate the community about its facilities program.

### Demographic Information

Klamath-Trinity JUSD has a student population of 1,001 and is located in a rural area of Humboldt County.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* Section 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.

## Fiscal Analysis (as appropriate)

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

## Attachments

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Klamath-Trinity Joint Unified School District General Waiver Request 9-2-2019 (4 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* (*EC*) Section 15106 et seq.

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended** | **Bargaining Unit Representatives** | **Local Board, Public Hearing, and Advisory Committee Approval** |
| --- | --- | --- | --- | --- | --- | --- |
| 9-2-2019 | Klamath-Trinity Joint Unified School District | **Requested:**May 9, 2019 to September 30, 2024**Recommended:** May 9, 2019 to September 30, 2024 | **Requested:**Debt Limit: 3.25%**Recommended:**Debt Limit: 3.10% | Debt Limit 3.10%Limited to Sale of Bonds applicable to Measure H, approved by voters in the 2008 election and Measure D, approved by voters in the 2016 electionTax Rate $60 per $100,000 (authorization approved under Proposition 39) | California School Employees Association,Chapter 347Terry Bray, President3/20/2019**Oppose**Klamath-Trinity Teachers AssociationDavid Sanders, President3/7/2019**Support** | Local Board Approval Date: 12/11/2018Public Hearing Date: 12/11/2018Public Hearing Advertised: The hearing was advertised via public notice provided at the standard locations for District meeting notices.Indian Policies and Procedures Task Force12/12/2018**No Objections Received** |

Created by the California Department of Education

February 26, 2019

## Attachment 2: **Klamath-Trinity Joint UnifiedSchool District General** **Waiver Request 9-2-2019**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1262901

Waiver Number: 9-2-2019

Active Year: 2019

Date In: 2/7/2019 12:39:22 PM

Local Education Agency: Klamath-Trinity Joint Unified

District Address: 11800 Highway 96

Hoopa, CA 95546

Start: 5/9/2019

End: 9/30/2024

Waiver Renewal: No

Waiver Topic: School Construction Bonds

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

*Ed Code* Sections: 15106 and 15270(a)

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: 15106. [A unified school district or community college district may issue bonds that, in aggregation with bonds issued pursuant to Section 15270, shall not exceed 2.5 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.] In computing the outstanding bonded indebtedness of a unified school district or community college district for all purposes of this section , any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, and community college purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district or community college district to each of those purposes respectively. 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 XlllA of the California Constitution.

Outcome Rationale: The Klamath-Trinity Joint Unified School District, ("District"), has a smaller tax base than is typical for the student population served. While substantial in acreage, the District boundaries encompass Native American tribal lands and US Government properties which are exempt from taxation. As a result, the statutory bonding capacity limit for the District is lower on a per pupil basis than most California school districts. In order to issue remaining voter authorized General Obligation bonds, the District must exceed the statutory bonding capacity limit as codified in *Education Code* section 15106 and 15270(a).

Student Population: 1,006

City Type: Rural

Public Hearing Date: 12/11/2018

Public Hearing Advertised: The hearing was advertised via public notice provided at the standard locations for district meeting notices.

Local Board Approval Date: 12/11/2018

Community Council Reviewed By: Indian Policies and Procedures Task Force

Community Council Reviewed Date: 12/12/2018

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Jon Ray

Position: Superintendent

E-mail: jray@ktjusd.k12.ca.us

Telephone: 530-625-5600

Bargaining Unit Date: 12/06/2018

Name: CSEA Chapter 347

Representative: Terry Bray

Title: President

Position: Neutral

Bargaining Unit Date: 12/06/2018

Name: Klamath-Trinity Teachers Association

Representative: David Sanders

Title: President

Position: Neutral

**KLAMATH-TRINITY JOINT UNIFIED SCHOOL DISTRICT**

**WAIVER RATIONALE**

Commencing in the late 2000's, the Klamath-Trinity Joint Unified School District (District) engaged in efforts to modernize its school campuses, which resulted in the discovery of health and safety conditions that required remediation. Specifically, the District discovered a mold issue throughout most of its buildings which greatly increased the required scope of work necessary to maintain usable classrooms for all students. While District voters have twice approved General Obligation (GO) Bonds to address modernization and mold issues, the District's limited tax base size has thus far only allowed for issuance of approximately $3.9 million from a 2008 GO Bond Authority and $3.2 million from a 2016 GO Bond Authority. While State Aid provided (and will continue to provide) significant additional funds to address mold mitigation projects, the timing of this funding and lack of additional GO Bond capacity to provide sufficient resources resulted in the District utilizing Certificates of Participation (COPs) to 'bridge finance' future potential funding sources.

In 2015, the District issued COPs in the amount of $4.5 million to fund such efforts. In 2016, the District issued a second series of COPs in the amount of $11 .285 million. Proceeds of both COPs were expended to continue facilities projects in anticipation of future GO Bond issuances and anticipated State Aid allocations.

At this time, the District has experienced sufficient tax base growth to generate tax rate capacity to issue the remaining voter authorized GO Bonds. It is anticipated that planned GO Bond issuances will pay *off* a significant portion of the 2016 Certificates of Participation. Pursuant to requirements of the Office of Public School Construction (OPSC), the District must repay the 2016 COPs to maintain eligibility for additional State Aid funding.

While the District currently has adequate tax rate capacity to issue $4.23 million in remaining GO Bond authorization, the limited total tax base size does not provide adequate bonding capacity to issue this amount of GO Bonds. It is projected that the issuance of the District remaining authorized GO Bonds will result in a total outstanding bonded indebtedness of up to $12,212,523 - or 3.10% of the total assessed value of the District. Pursuant to the requirements of *Education Code* Section 15270, the District is limited to outstanding indebtedness of no more than 2.5% of total assessed value.

As such, the District is seeking a waiver of the bonding capacity limitation under Section 33050 *et seq.* of the California *Education Code*. The District projects that it will need permission to have outstanding GO Bonds in an amount up to 3.25% of its total assessed valuation immediately after the planned issuance of the remaining $4.23 million in authorized GO Bonds. Based upon a projected 4.5% annual secured assessed value growth rate, the District is projected to return to the statutory bonding capacity limit of no more than 2.5% of assessed valuation during fiscal year 2022-23.

On December 6, 2018, the District provided notice to the Klamath-Trinity Teachers Association and the California School Employees Association via written correspondence. Additionally, the District and its Financial Advisor provided further information to Lathe Gill, Regional UniServ Staff for CTA pursuant to his request on December 13, 2018. Despite several subsequent requests by the District for feedback on the proposed waiver, neither of the District's bargaining units have provided an indication of their position on the waiver. The District will continue to seek this feedback; however, in order to meet OPSC requirements, the District must submit this waiver request at this time. Copies of the original correspondence to each bargaining group as well as the subsequent e-mails with Lathe Gill are included in the attached exhibits

The District also provided notice of the proposed waiver to the IPP Task Force on December 12, 2018. The IPP Task Force has not provided any feedback to the District as of this submission. The District does not have any other active site councils, oversight committees or similar groups at this time. Conversations with COE staff regarding this lack of site councils were conducted and the IPP Task Force was determined to be the best and only entity to provide information and request feedback from. A copy of the correspondence to the IPP Task Force is included in the attached exhibits.

In support of the District's request for a waiver of its bonding capacity limit under *Education Code* Section 15270, the following exhibits are provided:

1. Assessed Valuation History for the District
2. Assessed Valuation History by County for the District
3. Computation of Gross Bonding Capacity
4. History of Bonded Indebtedness Issuances of the District
5. Projected Debt Service Schedules for proposed 2008 Authority, Series 2019 GO Bonds
6. Projected Debt Service Schedules for proposed 2016 Authority, Series 2019 GO Bonds
7. Projected Debt Service Schedules by GO Bond Authority
8. 2008 Authority Tax Rate Analysis
9. 2016 Authority Tax Rate Analysis
10. Projection of Net Bonding Capacity subsequent to proposed GO Bond Issuances
11. Related Bargaining Unit and IPP Task Force Correspondence