

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2020 AgendaItem #W-07

## Subject

Request by **two local educational agencies** to waive California *Education Code* sections 15102, 15106, and 15270(a) 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 school districts, and 2.50 percent of the taxable assessed valuation of property for unified school districts. Depending on the type of bond, a tax rate levy limit of $30 per $100,000 of assessed value for elementary school districts, and $60 per $100,000 of assessed value for unified school districts may also apply.

## Waiver Numbers

* Natomas Unified School District: 3-5-2020
* San Ysidro Elementary School District: 1-5-2020

## Type of Action

Action, Consent

## Summary of the Issues

The Natomas Unified School District (Natomas USD)’s bonded indebtedness is statutorily limited not to exceed 2.50 percent, which prohibits the district from proceeding with its proposed issuance of $147.5 million—$112.0 million from Measure L, which was approved by voters on November 6, 2018; $20.5 million from Measure J, which was approved by voters on November 4, 2014; and a refinancing of $15.0 million from Measure D, which was approved by voters on June 6, 2006. 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, 3.80 percent.

The San Ysidro Elementary School District (San Ysidro ESD)’s bonded indebtedness is statutorily limited not to exceed 1.25 percent, which prohibits the district from proceeding with its proposed issuance of $37.5 million—$17.5 million from Measure T and $20.0 million from Measure U—which were approved by voters on March 3, 2020. The district is requesting that the SBE authorize the district to exceed its statutory bonding capacity limit to a rate up to, but not to exceed, 2.47 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 for each of the districts with the following conditions:
(1) the periods of request do 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 districts do not exceed the statutory tax rate; (4) the waivers are limited to the sale of bonds approved by the voters on the measures noted on Attachment 1; and (5) the districts comply with the statutory requirements of Assembly Bill 182 related to school bonds, which became effective on January 1, 2014.

## Summary of Key Issues

The California *EC* provides limits related to a district’s total bonded indebtedness. *EC* sections 15102 and 15268 limit an elementary school district’s total general obligation (G.O.) bond indebtedness to 1.25 percent, and 15106 and 15270(a) limit a unified school district’s total 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 15268 limits the tax rate levy authorized in each election to $30 per $100,000 of taxable property for elementary school districts, and *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.

### Natomas USD

Natomas USD wishes to proceed with its proposed issuance of a cumulative $147.5 million—$112.0 million from Measure L, which was approved by voters on November 6, 2018; $20.5 million from Measure J, which was approved by voters on November 4, 2014; and a refinancing of $15.0 million from Measure D, which was approved by voters on June 6, 2006. The issuance will go toward increasing student safety and security; upgrading classrooms for 21st century learning and college/career readiness with technology and equipment; upgrading aging infrastructure and utilities; and repairing and constructing facilities. Funds from Measure J and Measure L will also be used toward making progress on the district’s facilities master plan and protecting the facilities program against risk and uncertainty likely to be brought on by the economic impact of the current coronavirus pandemic. The issuance of $147.5 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 3.80 percent.

### San Ysidro ESD

San Ysidro ESD wishes to proceed with its proposed issuance for a cumulative $37.5 million—$17.5 million from Measure T and $20.0 million from Measure U, both of which were approved by voters on March 3, 2020. The issuance will be used to make student safety and school security improvements; upgrade classroom technology; construct, rehabilitate, acquire, equip and furnish classrooms and school facilities; and include the reconstruction or replacement of roofs and plumbing. The issuance of $37.5 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 2.47 percent, as stated in Board Resolution #19/20-0041, dated April 16, 2020.

### Demographic Information

Natomas USD has a student population of 15,595 and is located in Sacramento County.

San Ysidro ESD has a student population of 4,578 and is located in San Diego County.

**Because these are general waivers, if the SBE decides to deny the waivers, 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

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:** Natomas Unified School District General Waiver Request
3-5-2020 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** San Ysidro Elementary School District General Waiver Request 1-5-2020 (2 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

 California *Education Code* (*EC*) Section 15102 et seq.

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended** | **Bargaining Unit Representatives** | **Local Board, Public Hearing, and Advisory Committee Approval** |
| --- | --- | --- | --- | --- | --- | --- |
| 3-5-2020 | Natomas Unified School District | **Requested:**7/15/2020 to 7/15/2025**Recommended:** 7/15/2020 to 7/15/2025 | **Requested:**Debt Limit: 3.80%**Recommended:**Debt Limit: 3.80% | Debt Limit: 3.80%Limited to sale of bonds applicable to Measures L and J and the refinancing of Measure D, which were approved by voters in the 2018, 2014, and 2006, respectively.Tax Rate $60 per $100,000 (authorization approved under Proposition 39) | California School Employees Association Brenda Borge, President4/24/2020 **Support**Natomas Teachers Association Pamela Rothwell, President4/24/2020 **Support** | Local Board Approval Date: 4/8/2020Public Hearing Date: 4/8/2020Public Hearing Advertised: A formal notice was posted on the district Web site and it was published twice in the Sacramento BeeThe Citizens' Bond Oversight Committee (CBOC) for Measure L and the CBOC for Measure J4/27/2020**No Objections** |
| 1-5-2020 | San Ysidro Elementary School District | **Requested:**7/9/2020 to 8/1/2029**Recommended:** 7/9/2020 to 8/1/2029 | **Requested:**Debt Limit: 2.47%**Recommended:**Debt Limit: 2.47% | Debt Limit: 2.47%Limited to sale of bonds applicable to Measures T and U, approved by voters in March 2020Tax Rate $30 per $100,000 (authorization approved under Proposition 39) | California School Employees Association Fernanda Rios, President4/13/2020**Support**San Ysidro Education Association Natalie La Rosa, President4/14/2020**Support** | Local Board Approval Date: 4/16/2020Public Hearing Date: 4/16/2020Public Hearing Advertised: Publication of notice in the San Diego Union-TribuneCitizens' Bond Oversight Committee4/30/2020**No Objections** |

Created by the California Department of Education

May 5, 2020

# Attachment 2: **Natomas Unified School District General Waiver Request 3-5-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3475283

Waiver Number: 3-5-2020

Active Year: 2020

Date In: 4/29/2020 9:18:03 PM

Local Education Agency: Natomas Unified

Address: 1901 Arena Blvd.

Sacramento, CA 95834

Start: 7/15/2020

End: 7/15/2025

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.

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.

Outcome Rationale: The District faces significant growth in new development and must prepare to accommodate new students with the construction of new schools. In addition, the potential economic impact from the Coronavirus puts the District’s ability to issue bonds in the future at risk with a higher degree of uncertainty. A waiver limitation of 3.80% is estimated to be needed to allow the District to complete the issuance of all remaining bonds approved by voters.

More specifically, the District would like to proceed with issuing bonds from Measure J and Measure L, and refinance bonds from Measure D. Measure J was successfully passed by voters with 72% voter approval at the November 2014 election and authorized $129 million of bonds. $108.5 million has been issued to date, leaving $20.5 million remaining. Measure L was successfully passed by voters with 68% voter approval at the November 2018 election and authorized $172 million of bonds. $60 million has been issued to date, leaving $112 remaining. Measure D was successfully passed by voters with 62% voter approval at the June 2006 election and authorized $145.5 million of bonds. All bonds have been issued to date, but the District has an opportunity to refinance $15 million bonds issued in 2007 with a waiver.

With a bonding capacity waiver limitation of 3.80%, the District is expected to be able to issue all $20.5 million remaining from Measure J, all $112 million remaining from Measure L, and complete the refinancing of $15 million of bonds previously issued in 2007 under Measure D.

Funds from Measure J and Measure L will be used toward making progress on the District’s facilities master plan and allow the facilities effort to stay on track. Importantly, this will help protect the facilities program against risk and uncertainty from the economic impact due to Coronavirus. The District is facing a significant facilities’ need, both for the repair and upgrade of existing facilities as well as the construction of new facilities. Growth from new development has been tremendous, with approximately 2,000 additional students (15% increase) over the last 5 years (FY 2014-15 to 2019-20), and approximately 3,000 additional students (25% increase) over the last 10 years (FY 2009-10 to 2019-20). The refinancing of prior Measure D bonds will produce savings for taxpayers (estimated at several million dollars) that will be especially helpful during these difficult economic times.

The Measure J and Measure L bonds are planned for issuance as current interest bonds with no capital appreciation bonds. The planned refinancing of the Measure D bonds will convert capital appreciation bonds into current interest bonds at a significantly lower interest rate, generating substantial savings expected to be several million dollars to the benefit of taxpayers.

Tax rates for both Measure J and Measure L are estimated to be well below the $60 projected maximum tax levy limitation, even with the issuance of the remaining bonds. The refinancing of Measure D bonds will reduce the tax levy to lower levels in the future.

Student Population: 15,595

City Type: Urban

Public Hearing Date: 4/8/2020

Public Hearing Advertised: A formal notice was posted, it was on the District website and it was published twice in the Sacramento Bee

Local Board Approval Date: 4/8/2020

Community Council Reviewed By: The Citizens' Bond Oversight Committee (CBOC) for Measure L and the CBOC for Measure J

Community Council Reviewed Date: 4/27/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Lalanya Rothenberger

Position: Executive Director

E-mail: [lrothenberger@natomasunified.org](lrothenberger%40natomasunified.org)

Telephone: 916-567-5467

Bargaining Unit Date: 04/24/2020

Name: California School Employees Association

Representative: Brenda Borge

Title: President

Phone: [bborgeca@gmail.com](bborgeca%40gmail.com)

Position: Support

Comments:

Bargaining Unit Date: 04/24/2020

Name: Natomas Teachers Association

Representative: Pamela Rothwell

Title: President

Phone: prothwell@natomasunified.ord

Position: Support

Comments:

# Attachment 3: **San Ysidro Elementary School District General Waiver Request 1-5-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 3768379

Waiver Number: 1-5-2020

Active Year: 2020

Date In: 5/1/2020 1:15:51 PM

Local Education Agency: San Ysidro Elementary

Address: 4350 Otay Mesa Rd.

San Ysidro, CA 92173

Start: 7/9/2020

End: 8/1/2029

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: Pursuant to *Education Code* section 15102, the total amount of bonds issued by an elementary school district 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: On March 3, 2020, voters of San Ysidro School District approved Measures T and U. As part of these Measures, the District has covenanted to cancel an equivalent amount of bond authorization from Proposition C approved by District voters in 1997, resulting in no increase in total authorized bonds. In order to fund projects authorized under Measures T and U, including improvements to student safety and repair, and renovation and repair of school facilities, the District wishes to issue general obligation bonds in a total amount not-to-exceed $37.5 million from Measures T and U.

The California *Education Code* contains provisions that limit the amount of general obligation bonds a school district can have outstanding at any given time. For elementary school districts, the principal amount of bonds that may be outstanding at any one time is equal to 1.25% of the total assessed value for the school district. However, as of April 2020, this constraint would likely prevent the District from issuing any bonds for several years.

Student Population: 4,578

City Type: Small

Public Hearing Date: 4/16/2020

Public Hearing Advertised: Publication of notice in the San Diego Union-Tribune

Local Board Approval Date: 4/16/2020

Community Council Reviewed By: Citizens' Bond Oversight Committee

Community Council Reviewed Date: 4/30/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Joe Crump

Position: Financial Analyst

E-mail: [jcrump@dalescott.com](jcrump%40dalescott.com)

Telephone: 415-956-1030

Bargaining Unit Date: 04/13/2020

Name: California School Employees Association

Representative: Fernanda Rios

Title: President

Phone: 619-742-2581

Position: Support

Comments:

Bargaining Unit Date: 04/14/2020

Name: San Ysidro Education Association

Representative: Natalie La Rosa

Title: President

Phone: 619-948-0687

Position: Support

Comments: