

California Department of Education

Executive Office

SBE-005 (REV. 10/2017)

General Waiver

# California State Board of Education March 2018 Agenda Item #W-04

## Subject

Request by the **Franklin-McKinley Elementary School District** to waive California *Education Code* sections 15102 and 15268 to allow the district to exceed its bonded indebtedness limit. Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for elementary school districts. Depending on the type of bond, a tax rate levy limit to $30 per $100,000 of assessed value for elementary school districts may also apply.

## Waiver Number

32-12-2017

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Franklin-McKinley Elementary School District’s bonded indebtedness is statutorily limited not to exceed 1.25 percent, which prohibits them from issuing the entirety of $42.4 million in bonds authorized in June 2016. The district requests to increase the limit to 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 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 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 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.

The Franklin-McKinley Elementary School District wishes to issue the remaining $42.4 million of authorization from its June 2016 Bond Election for vital facilities improvements throughout the District to keep its bond program moving forward to its scheduled completion without delay. The District requests that its outstanding bonded indebtedness limit be increased to an amount not to exceed 1.55 percent of assessed value. The requested debt limit increase will allow the District to issue its remaining authorization, which is limited to the issuance of bonds authorized by the June 2016 Election.

**Demographic Information:** Franklin-McKinley Elementary School District has a student population of 7,985 and is located in Santa Clara 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 33051(a), available at** <http://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 the issuance of voter approved bonds.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Franklin-McKinley Elementary School District General Waiver Request 32-12-2017 (2 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 Consulted, Date and Position | Local Board and Public Hearing Approval |
| --- | --- | --- | --- | --- | --- | --- |
| 32-12-2017 | Franklin-McKinley Elementary School District | **Requested:** March 15, 2018 to March 15, 2023  **Recommended:** March 15, 2018 to March 15, 2023 | **Requested:**  Debt Limit 1.55%  Tax Rate $30  **Recommended:** Debt Limit 1.55%  Tax Rate $30 | Debt Limit 1.55%  Limited to Sale of Bonds Approved by Voters on the June 2016 Election  Tax Rate $30 | California School Employees Association  Donnell Fassler, President  11/8/17  **Support**  Franklin-McKinley Education Association  Scott Shulimsom, President  11/9/17  **Support** | Local Board Approval Date: 11/14/17  Public Hearing Date: 11/14/17  Public Hearing Advertised: Newspaper  Superintendent’s Advisory Committee  11/8/17  **No objections** |

Created by the California Department of Education

December 27, 2017

# Attachment 2: 32-12-2017 Franklin-McKinley Elementary School District

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4369450

Waiver Number: 32-12-2017

Active Year: 2017

Date In: 12/20/2017 10:19:26 AM

Local Education Agency: Franklin-McKinley Elementary School District

Address: 645 Wool Creek Dr.

San Jose, CA 95112

Start: 3/15/2018

End: 3/15/2023

Waiver Renewal: No

Waiver Topic: School Construction Bonds

Ed Code Title: Bond Indebtedness Limit - Non-Unified

Ed Code Section: 15102 & 15268

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: [15102 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: The District wishes to issue its remaining $42.4 million of authorization from its June 2016 Bond Election for vital facilities improvements throughout the District, to keep its bond program moving forward to its scheduled completion without delay. The District requests that its outstanding bonded indebtedness limit be increased to an amount not to exceed 1.55% of assessed value through [month year]. The requested debt limit will allow the District to issue its remaining authorization from the June 2016 Election and the amount requested is limited to the issuance of bonds authorized by the June 2016 Election. Please see Attachments A-C for additional supporting information regarding the District's circumstances and financing plan.

Student Population: 7985

City Type: Urban

Public Hearing Date: 11/14/2017

Public Hearing Advertised: Newspaper

Local Board Approval Date: 11/14/2017

Community Council Reviewed By: Superintendent’s Advisory Committee  
Community Council Reviewed Date: 11 /8/2017  
Community Council Objection: No  
Community Council Objection Explanation: N/a

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Veronica Lanto  
Position: Director, Maintenance & Auxiliary Services  
E-mail: [veronica.lanto@fmsd.org](mailto:veronica.lanto@fmsd.org)   
Telephone: 408-283-6061  
Fax: 408-283-6025

Bargaining Unit Date: 11/08/2017

Name: California School Employees Association

Representative: Donnell Fassler  
Title: President  
Position: Support

Bargaining Unit Date: 11/09/2017

Name: Franklin-McKinley Education Association  
Representative: Scott Shulimsom  
Title: President