

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education May 2018 Agenda Item #W-05

## Subject

Request by the **Albany City Unified School District** to waive a portion of California *Education Code* sections 15106 and 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 for unified school districts. Depending on the type of bond, a tax rate levy limit to $60 per $100,000 of assessed value for unified school districts may also apply.

## Waiver Number

13-2-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Albany City Unified School District’s (District) bonded indebtedness is statutorily limited not to exceed 2.5 percent, which prohibits them from proceeding with their proposed issuance schedule for the remaining $62.5 million from Measure B and Measure E, which was approved by voters on June 7, 2016. The District requests to increase their limit to a rate up to, but not to exceed, 4.25 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 15106 and 15270(a) limit a unified school district’s total general obligation (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 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 District wishes to proceed with their proposed issuance schedule for the remaining $62.5 million from Measure B and Measure E, which was approved by voters on June 7, 2016. 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 schedule for issuance of the remaining $62.5 million will increase the District’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 4.25 percent.

**Demographic Information:**

The Albany City Unified School District has a student population of 3,658 and is located in Alameda 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 waiver would allow the District to accelerate the issuance of voter approved bonds.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Albany City Unified School District General Waiver Request 13-2-2018 (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 Consulted, Date and Position** | **Local Board and Public Hearing Approval** |
| --- | --- | --- | --- | --- | --- | --- |
| 13-2-2018 | Albany City Unified School District | **Requested:**  May 11, 2018 to June 30, 2029  **Recommended:**  May 11, 2018 to June 30, 2029 | **Requested:**  Debt Limit 4.25%  Tax Rate $60  **Recommended:**  Debt Limit 4.25%  Tax Rate $60 | Debt Limit 4.25%  Limited to Sale of Bonds applicable to Measures B and E, Approved by Voters in the June 2016 Election  Tax Rate $60 | Albany Teachers Association  Karen DeHart, Co-President  1/24/18  **Neutral**  Service Employees International Union Local 1021  Anthony Douglas, President  1/23/18  **Neutral** | Local Board Approval Date: 2/13/18  Public Hearing Date: 2/13/18  Public Hearing Advertised: Website, Board Packet Email Notification, Agenda Posting at the District Office, Library, and City Hall  Citizens Bond Oversight Committee  7/19/17  **No objections** |

Created by the California Department of Education

March 14, 2018

# Attachment 2: Waiver # 13-2-2018 Albany City Unified School District General

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 0161127

Waiver Number: 13-2-2018

Active Year: 2018

Date In: 2/16/2018 2:53:16 PM

Local Education Agency: Albany City Unified School District

Address: 1051 Monroe St.

Albany, CA 94706-2213

Start: 5/11/2018

End: 6/30/2029

Waiver Renewal: No

Waiver Topic: School Construction Bonds

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

Ed Code Section: 15106

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.

Outcome Rationale: Albany Unified School District has identified over $137 million in significant capital facilities needs including seismic upgrades to two elementary schools and addressing overcrowding at the middle and high schools. To address these needs, the District sought and received two general obligation bond authorizations in June 2016. Measure B was a $70 million bond measure that required two-thirds support for passage. Measure E was a $25 million bond measure that required 55.0% support for passage (under Proposition 39). Both the Measure Band Measure E language included the possibility of a bonding capacity waiver.

In October 201 6, the District issued the first series of bonds under the Measure Band Measure E authorizations totaling $32.5 million. With the issuance of the Series A bonds, the District was right at its bonding capacity of 2.5% of 2016-17 assessed value. To continue with the necessary projects, the District will need to issue additional bonds (approximately $44.0 million in mid-2018 and approximately $18.5 million in 2020). A bonding capacity waiver is necessary to move forward with these projects to ensure safe and modern facilities for our students. We are requesting a bonding capacity waiver to issue bonds up to 4.25% of the total taxable property of the District. Our current projections show that the District will be back within their statutory bonding capacity levels by June 2029.

Two of our three elementary schools are seismically deficient and we need to address these safety concerns in a timely manner. This waiver will allow us to continue with the projects that our community has approved to ensure that our students have a safe learning environment.

Moreover, our bonding capacity on a per student basis is very low compared to other school districts within Alameda County and adjacent Contra Costa County. However, we do not believe that this should limit our obligation to provide the necessary capital facilities upgrades for our students. Furthermore, the District believes that all students in California should have access to safe and modern school facilities. The current bonding capacity requirements tie access to capital funding to local wealth levels. By doing so, we believe that it creates an inequitable access to capital facilities funding to pay similar costs of construction.

Student Population: 3658

City Type: Small

Public Hearing Date: 2/13/2018

Public Hearing Advertised: Website, Board Packet Email Notification, Agenda Posting at the District Office, Library, and City Hall

Local Board Approval Date: 2/13/2018

Community Council Reviewed By: Citizens Bond Oversight Committee

Community Council Reviewed Date: 7/19/2017

Community Council Objection: No

Community Council Objection Explanation: N/a

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Allan Garde

Position: Chief Business Official

E-mail: [agarde@ausdk12.org](mailto:agarde@ausdk12.org)

Telephone: 510-558-3751

Bargaining Unit Date: 01/24/2018

Name: Albany Teachers Association

Representative: Karen DeHart

Title: Co-President (At Executive Board Meeting)

Position: Neutral

Bargaining Unit Date: 01/23/2018

Name: Service Employees International Union Local1021

Representative: Anthony Douglas

Title: President

Position: Neutral