

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

Bonded Indebtedness Waiver

# California State Board of Education September 2019 Agenda Item #W-07

## Subject

Request by **two local educational agencies** to waive California *Education Code* (*EC*) sections 15102, 15268, 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 high school districts or 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 high school districts or $60 per $100,000 of assessed value for unified school districts may also apply.

## Waiver Numbers

* Arvin Union High School District: 7-6-2019
* Lindsay Unified School District: 11-6-2019

## Type of Action

Action, Consent

## Summary of the Issues

The Arvin Union High School District’s (Arvin UHSD) bonded indebtedness is statutorily limited not to exceed 1.25 percent, which prohibits them from proceeding with their proposed issuance from Measure G, which was approved by voters on November 6, 2018, and from Measure E, which was approved by voters on November 4, 2014, for a total of $4.1 million. 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, 1.55 percent.

The Lindsay Unified School District’s (Lindsay USD) bonded indebtedness is statutorily limited not to exceed 2.50 percent, which prohibits them from proceeding with their proposed issuance of $5.84 million—$2.48 million from Measure B, which was approved by voters on February 5, 2008, and $3.36 million from Measure L, which was approved by voters on November 6, 2012. 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, 3.26 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 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 a high school district’s total general obligation (G.O.) bond indebtedness to 1.25 percent. *EC* sections 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 high 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.

### Arvin UHSD

Arvin UHSD wishes to proceed with their proposed issuance from Measure G, which was approved by voters on November 6, 2018, and from Measure E, which was approved by voters on November 4, 2014, for a total of $4.1 million. The issuance will go toward repairing or replacing aging schools with safe, modernized facilities; improving student safety and security; rehabilitating deteriorated roofs, plumbing and electrical systems; and upgrading technology. The issuance of $4.1 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 1.55 percent.

### Lindsay USD

Lindsay USD wishes to proceed with their proposed issuance of $5.84 million—$2.48 million from Measure B, which was approved by voters on February 5, 2008, and $3.36 million from Measure L, which was approved by voters on November 6, 2012. The issuance will go toward modernizing, constructing, and improving classrooms and student support facilities at older schools throughout the district; and increasing student access to computers and modern classroom technology. The issuance of $5.84 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 3.26 percent.

### Demographic Information

Arvin UHSD has a student population of 3,088 and is located in a small area of Kern County.

Lindsay USD has a student population of 4,121 and is located in a suburban area of Tulare 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.

Waiver 38-2-2013 (Lindsay USD, Item #W-29) was previously approved by the SBE as part of the May 2013 agenda and it expires on December 31, 2019. The request was for an issuance of $8 million from Measure L, which was approved by voters on  
November 6, 2012. The waiver is available on the SBE Web page located at <https://www.cde.ca.gov/be/ag/ag/yr13/documents/may13w29.doc>.

## Fiscal Analysis (as appropriate)

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:** Arvin UHSD General Waiver Request 7-6-2019 (4 pages). (Original waiver request is signed and on file in the Waiver Office)
* **Attachment 3:** Lindsay USD General Waiver Request 11-6-2019 (4 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** |
| --- | --- | --- | --- | --- | --- | --- |
| 7-6-2019 | Arvin Union High School District | **Requested:** September 15, 2019 to September 15, 2025  **Recommended:** September 15, 2019 to September 15, 2025 | **Requested:** Debt Limit: 1.55%  **Recommended:** Debt Limit: 1.55% | Debt Limit 1.55%  Limited to sale of bonds applicable to Measure G, approved by voters in November 2018, and Measure E, approved by voters in November 2014.  Tax Rate $30 per $100,000 (authorization approved under Proposition 39) | Arvin Teachers Association John Bullard, President 5/2/2019 **Support**  California Schools Employees Association Luis Carmona, President 5/2/2019 **Support** | Local Board Approval Date: 5/21/2019  Public Hearing Date: 4/9/2019  Public Hearing Advertised: Notice posted at school site and on district Web site  District Advisory Council 5/1/2019 **No Objections** |
| 11-6-2019 | Lindsay Unified School District | **Requested:** September 13, 2019 to August 1, 2024  **Recommended:** September 13, 2019 to August 1, 2024 | **Requested:** Debt Limit: 3.26%  **Recommended:** Debt Limit: 3.26% | Debt Limit: 3.26%  Limited to sale of bonds applicable to Measure B, approved by voters in February 2008, and Measure L, approved by voters in November 2012.  Tax Rate $60 per $100,000 (authorization approved under Proposition 39) | California Schools Employees Association Carlos Rodriguez, President 5/14/2019 **Support**  Lindsay Teachers Association Gary Shanley, President 5/10/2019 **Support** | Local Board Approval Date: 6/3/2019  Public Hearing Date: 6/3/2019  Public Hearing Advertised: Posted notice of public hearing in the Sun Gazette on Wednesday, May 8th, 2019. The Sun Gazette is a weekly newspaper published in the City of Lindsay.  District English Learner Advisory Committee (DELAC) 5/14/2019 **No Objections** |

Created by the California Department of Education

June 25, 2019

# Attachment 2: **Arvin Union High School District General** **Waiver Request 7-6-2019**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1563313

Waiver Number: 7-6-2019

Active Year: 2019

Date In: 6/14/2019 2:50:46 PM

Local Education Agency: Arvin Union

District Address: 737 Bear Mountain Blvd.

Arvin, CA 93203

Start: 9/15/2019

End: 9/15/2025

Waiver Renewal: No

Previous Waiver Number:

Previous SBE Approval Date:

Waiver Topic: School Construction Bonds

*Ed Code* Title: Bond Indebtedness Limit - Non-Unified after 2000

*Ed Code* Section: 15268, 15102

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: See Page 3

Outcome Rationale: See Pages 4–5

Student Population: 3088

City Type: Small

Public Hearing Date: 4/9/2019

Public Hearing Advertised: Notice posted at school site and District Web site

Local Board Approval Date: 5/21/2019

Community Council Reviewed By: District Advisory Council

Community Council Reviewed Date: 5/1/2019

Community Council Objection: N

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Chris Davis

Position: Chief Business Official

E-mail: <chdavis@arvin-do.com>

Telephone: 661-854-6500

Bargaining Unit Date: 05/02/2019

Name: Arvin Teachers Association

Representative: John Bullard

Title: President

Position: Support

Comments:

Bargaining Unit Date: 05/02/2019

Name: California Schools Employees Association

Representative: Luis Carmona

Title: President

Position: Support

Comments:

***Education Code* sections to be waived**

**Section 15102**. The total amount of bonds issued pursuant to this chapter and Chapter 1.5(commencing with Section 15264) shall not exceed [1.25] 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. For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating non unitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987-88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987-88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating non unitary property of the county on the last equalized assessment roll.

**Section 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.] 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 by a school district pursuant to this chapter, at a single election, would not exceed thirty dollars ($30) 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.

**Circumstances behind the Request and Why the Waiver is Necessary**

Arvin Union School District is requesting this waiver to apply to the general obligation bond authorizations previously approved by voters via a bond measure in 2014 (designated as Measure "E") and in 2018 (designated as Measure ("G"). The vote was conducted in Kern County to conform with the District's boundaries.

On August 6, 2014, the Board of Trustees ("Board") of the Arvin Union School District ("District") adopted Resolution No. 3:2014/2015, which called a general obligation bond election within the District for November 4, 2014, pursuant to the provisions of the California Constitution and related California law. On November 4, 2014, the voters within the District voted to approve the bond measure (designated as Measure "E") to authorize the District to issue general obligation bonds to finance certain specified capital projects and facilities by more than the required 55% vote (under Proposition 39). The vote was conducted in Kern County to conform with the District's boundaries. At that election the qualified electors of the District approved the issuance and sale of general obligation bonds of the District for various purposes, as set forth in the ballot measure submitted to the voters, in the maximum amount of $15,000,000, payable from the levy of ad valorem taxes against the taxable property in the District.

The Board previously issued its Arvin Union School District General Obligation Bonds, Election of 2014, Series 2015A, ("2015A Bonds"), in the initial par amount of $3,115,000, in 2015. The Board previously issued its Arvin Union School District General Obligation Bonds, Election of 2014, Series 20178 ("2017B Bonds") in the initial par amount of $3,500,000, in 2017. Proceeds of the 2015A Bonds and 2017B Bonds were used for various District capital facilities projects and technology improvements.

On July 20, 2018, the Board adopted Resolution No. 2:2018/2019, which called a general obligation bond election within the District for November 6, 2018, pursuant to the provisions of the California Constitution and related California law. On November 6, 2018, the voters within the District voted to approve the bond measure (designated as Measure "G'') to authorize the District to issue general obligation bonds to finance certain capital projects and facilities by more than the required 55% vote (under Proposition 39). The vote was conducted in Kern County to confirm with the District's boundaries. At that election the qualified electors of the District approved the issuance and sale of general obligation bonds of the District for various purposes, as set forth in the ballot measure submitted to the voters, in the maximum amount of $15,000,000, payable from the levy of ad valorem taxes against the taxable property in the District. The Board previously issued its Arvin Union School District General Obligation Bonds, Election of 2018, Series 2019A, ("2019A Bonds''), in the initial par amount of $3,385,000, in 2019. Proceeds of the 2019A Bonds were used for various District capital facilities projects and technology improvements.

Based upon the current facilities plans of the District, and subject to the limitations of State law, the Board is expected to adopt a resolution authorizing the issuance and sale of not to exceed $4,100,000 of the Arvin Union School District General Obligation Bonds, Election of 2014, Series 2019C ("2019C Bonds").

To allow the District to issue additional general obligation bonds over and above the current applicable statutory bonding capacity limit of 1.25% of assessed valuation within the District, the District is pursuing this waiver of statutory limits from the State Board of Education. The District is requesting that the bonded indebtedness limit be increased by 0.30%, raising the limit to 1.55% of the assessed valuation within the District. The District requests that the proposed waiver extend to all the authorized and unissued bonds under Measure E and Measure G. The District will use the additional funds for capital projects and infrastructure upgrades. Improved school facilities, classrooms and updated infrastructure resources are expected to assist the District to meet its goal of improved student performance.

# Attachment 3: **Lindsay Unified School District General Waiver Request 11-6-2019**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 5471993

Waiver Number: 11-6-2019

Active Year: 2019

Date In: 6/24/2019 6:01:02 PM

Local Education Agency: Lindsay Unified School District

Address: 371 East Hermosa St.

Lindsay, CA 93247

Start: 9/13/2019

End: 8/1/2024

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

*Education Code* or *CCR* to Waive: 15270. (a) Notwithstanding sections 15102 and 15268, any unified school district may issue bonds under this article that when added with bonds pursuant to Chapter 1 (commencing with Section 15100), shall not exceed 2.50 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: Current Request:

The District requests that its outstanding bonded indebtedness limit be increased to an amount not to exceed 3.26% of assessed value through and until August 1, 2024.

Once the waiver is granted in September 2019, the District will issue 2019 Series Bonds in an amount not to exceed $5.84 million. The exact date of issuance has not been determined but is expected within 6 months of receiving the waiver.

The 2019 Series Bonds will be issued from both the District's 2008 Election and the 2012 Election.

2008 Election Measure "B" - Of the $20.7 million approved, there is $12.9 million of remaining authorization in the 2008 Election. However, the District can issue only $2.48 million due to the $60 tax rate limit for the 2008 Election. Further, the majority, if not all, of the 2008 Election Series 2019 Bonds will be Capital Appreciation Bonds (CABs).

The exact bond sizing will depend on the assessed valuation and interest rates at the time of the bond sale. These bonds will be have payments starting 2039 when the tax rate is projected to be below the required $60.

2012 Election Measure "L" - Of the $16.0 million approved, there is $7.3 million of remaining authorization in the 2012 Election. The balance of the 2019 Series Bonds will be from the 2012 Election for an amount of approximately $3.36 million. These will be a combination of Current Interest Bonds (CIBs) and CABs.

The proceeds from the 2019 Series Bonds will provide funding for the following:

a) The Local Match required to be provided by the District for approved State Facilities Program grants that are expected to be funded in the near term

b) Completion of identified modernization and new construction projects associated with the 2008 and 2012 Elections

c) CTE project at the high school

The District expects the waiver limit of 3.26% to be reduced over time to the statutory limit of 2.50% in 2024. This is based on a 3% growth in assessed valuation and ongoing principal payments on existing outstanding bonds. If assessed valuation grows at a rate different than the 3%, the projected 2024 timeline is subject to change.

Note 1: The District currently has a Qualified Zone Academy Bond (QZAB) outstanding in the amount of $1.95 million. This QZAB is in the form of a Certificate of Participation and payable from the District's general fund.

Note 2: All Capital Appreciation Bonds (C~Bs) issued will be compliant with AB182.

Existing Outstanding Bond Waiver:

The District is operating in compliance with the terms of an existing bond waiver approved in May 2013 (COE Waiver #38-2-2013). Per the terms of that waiver, the District is permitted to have bonded indebtedness up to 3.50% of assessed valuation, as opposed to the statutory 2.50% maximum. In addition, the May 2013 bond waiver was granted with conditions that allowed only for the issuance of bonds in connections with the District's 2012 Election.

Currently the District's bonded indebtedness to assessed valuation is 2.51%:

Lindsay Unified School District

Waiver Request Calculation

Total Assessed Value (2018/2019) 788,415,123

Statutory Debt Limit (% of AV) 2.50%

Statutory Debt Limit 19,710,378

Total Outstanding Debt ($) 19,818,615

Net Debt Capacity -108,237

Total Outstanding Debt (% of AV) 2.51%

Proposed New Debt Issuance 5,833,805

NEW TOTAL DEBT OUTSTANDING 25,652,421

2008 Election, Series 2019C 2,480,242 (CABS)

2012 Election, Series 2019D 2,950,000 (CIBS)

2012 Election, Series 2019E 403,563 (CABS)

Proposed New Debt Issuances 5,833,805

Waiver Request 3.26%

Analysis:

Attached to this waiver request is the following:

Attachment A - Historical Assessed Valuations, Fiscal Years 2002-2019

Attachment B - Summary of Bond Indebtedness vs Estimated Debt Limits

Attachment C - Tax Rate Analysis

Attachment D - Resolution Authorizing Request for Waiver

Excel Attachment - Lindsay Waiver Tables in Excel

Student Population: 4121

City Type: Suburban

Public Hearing Advertised: Posted Notice of Public Hearing In the Sun Gazette on Wednesday, May 8th, 2019. The Sun Gazelle is a weekly newspaper published In the City of Lindsay within Tulare County, California.

Local Board Approval Date: 6/3/2019

Community Council Reviewed By: DELAC

Community Council Reviewed Date: 5/14/2019

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Grant Schimelpfening

Position: Chief Business Official

E-mail: <gschimelpfening@lindsay.k12.ca.us>

Telephone: 559-562-5111 x5113

Bargaining Unit Date: 5/14/2019

Name: California Schools Employees Association (CSEA)

Representative: Carlos Rodriguez

Title: President

Position: Support

Comments:

Bargaining Unit Date: 5/10/2019

Name: Lindsay Teachers Association (LTA)

Representative: Gary Shanley

Title: President

Position: Support

Comments: