

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education January 2022 Agenda Item #W-05

## Subject

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

## Waiver Numbers

* Calexico Unified School District 5-10-2021
* El Monte City School District 1-11-2021
* Rio Elementary School District 7-10-2021

## Type of Action

Action, Consent

## Summary of the Issues

The Calexico Unified School District (Calexico USD) is requesting to waive portions of *Education Code (EC)* sections 15106 and 15270(a), which will allow the district to exceed its statutory bonding capacity limit at a rate of up to, but not in excess of, 4.19 percent.

The El Monte City School District (El Monte City SD) is requesting to waive portions of *EC* sections 15102 and 15268, which will allow the district to exceed its statutory bonding capacity limit at a rate of up to, but not in excess of, 1.93 percent.

The Rio Elementary School District (Rio ESD) is requesting to waive portions of *EC* Section 15102, which will allow the district to exceed its statutory bonding capacity limit at a rate of up to, but not in excess of, 1.55 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 an elementary or high school district’s total general obligation (G.O.) bond indebtedness to 1.25 percent and *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 elementary or 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 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.

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.

### Calexico USD

Calexico USD wishes to proceed with its proposed issuance of $42.8 million from Measure Q, which was approved by voters in November 2020. The issuance will be used to expand vocational/education facilities; repair schools, including science/math classrooms; increase student internet/computer technology access; expand Calexico High School’s student cafeteria; improve school security; upgrade school emergency preparedness; and create local construction jobs. The issuance of $42.8 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 4.19 percent, as confirmed by the district.

### El Monte City SD

El Monte City SD wishes to proceed with its proposed cumulative issuance of $82.65 million, which includes the remaining $33 million from Measure M, approved by voters in November 2014; the remaining $37.85 million from Measure KC, approved by voters in November 2008; and the remaining $11.80 million from Measure J, approved by voters in November 2004. The issuance of $82.65 million will be used for upgrades to roofing, safety, HVAC, ventilation, painting, and numerous other facilities improvements, and will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 1.93 percent, as confirmed by the district.

When Measure M was approved in November 2014, the district had nearly $50 million in authorized but unissued bonds under Measures J and KC. The decision to pursue a new bond measure in spite of this was a result of declining assessed values, which limited the accessibility of the existing bonds pursuant to the statutory tax rate maximum. The district postponed the issuance of bonds under Measures J and KC and placed Measure M on the ballot in order to keep its bond program moving forward without delay to its scheduled completion.

El Monte City SD previously sought and was approved for a waiver in May 2015 (Item W-09, <https://www.cde.ca.gov/be/ag/ag/yr15/documents/may15w09.doc>) for an issuance of $35 million, also from Measure M. That waiver was for a rate of 2.00 percent and it expires in June 2023. The current waiver request is inclusive of the issuances authorized through the May 2015 request.

### Rio ESD

Rio ESD wishes to proceed with its proposed issuance of $17.7 million from Measure L, which was approved by voters in November 2018. The issuance will be used to improve the quality of education; modernize outdated classrooms, restrooms, and facilities; make health, safety, and security improvements; provide HVAC; upgrade technology; and construct new classrooms and libraries. The issuance of $17.7 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 1.55 percent, as confirmed by the district.

Rio ESD previously sought and was approved for a waiver in March 2019 (Item W-07, <https://www.cde.ca.gov/be/ag/ag/yr19/documents/mar19w07.docx>) for an issuance of $33 million, also from Measure L. That waiver was for a rate of 1.36 percent and it expires in August 2023. The current waiver request is inclusive of the issuance authorized through the March 2019 request.

### Demographic Information

Calexico USD has a student population of 9,246 and is located in Imperial County.

El Monte City SD has a student population of 7,589 and is located in Los Angeles County.

Rio ESD has a student population of 5,417 and is located in Ventura 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 (3 pages)
* **Attachment 2:** Calexico Unified School District General Waiver Request 5-10-2021 (3 pages). (Original waiver request is signed and on file in the Waiver Office.
* **Attachment 3:** El Monte City School District General Waiver Request 1-11-2021 (3 pages). (Original waiver request is signed and on file in the Waiver Office.
* **Attachment 4:** Rio Elementary School District General Waiver Request 7-10-2021 (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** |
| --- | --- | --- | --- | --- | --- | --- |
| 5-10-2021 | Calexico Unified School District | **Requested:** January 13, 2022 to August 1, 2030  **Recommended:** January 14, 2022 to August 1, 2030 | **Requested:** Debt Limit: 4.19%  **Recommended:** Debt Limit: 4.19% | Debt Limit 4.19%  Limited to sale of bonds applicable to Measure Q, approved by voters in the November 2020 election  Tax Rate $60 per $100,000 (authorization approved under Proposition 39) | Associated Calexico Teachers Darla Dreesen, President 10/06/2021 **Support**  California State Employees Association (CSEA) Calexico Chapter #399 Sonia Redona, President 10/12/2021 **Support** | Local Board Approval Date: 4/22/2021  Public Hearing Date: 4/22/2021  Public Hearing Advertised: Notification in the Imperial Valley Press  Citizen Bond Oversight Committee 4/12/2021 **No Objections** |
| 1-11-2021 | El Monte City School District | **Requested:** July 1, 2021 to June 30, 2029  **Recommended:** January 14, 2022 to June 30, 2029 | **Requested:** Debt Limit: 1.93%  **Recommended:** Debt Limit: 1.93% | Debt Limit: 1.93%  Limited to sale of bonds applicable to Measure M, approved by voters in November 2014; Measure KC, approved by voters in November 2008; and Measure J, approved by voters in November 2004  Tax Rate $30 per $100,000 (authorization approved under Proposition 39) | CSEA  Roberta Rodarte, CSEA President 10/11/2021 **Support**  El Monte Elementary Teachers Association Judy Joseph, Union President 10/14/2021 **Support** | Local Board Approval Date: 10/18/2021  Public Hearing Date: 10/18/2021  Public Hearing Advertised: Local Newspaper (Mid Valley News)  El Monte City SD Parent Advisory Group 10/14/2021 **No Objections** |
| 7-10-2021 | Rio Elementary School District | **Requested:** February 1, 2022 to August 1, 2029  **Recommended:** February 1, 2022 to August 1, 2029 | **Requested:** Debt Limit: 1.55%  **Recommended:** Debt Limit: 1.55% | Debt Limit: 1.55%  Limited to sale of bonds applicable to Measure L, approved by voters in the November 2018 election  Tax Rate $30 per $100,000 (authorization approved under Proposition 39) | CSEA Em Ramsey, Union President 10/12/2021 **Neutral**  Rio Teachers Association (RTA) Marisela Valdez, RTA Representative 10/20/2021 **Support** | Local Board Approval Date: 10/20/2021  Public Hearing Date: 10/20/2021  Public Hearing Advertised: Board meeting; public notified through District website, emails, and other forms of communication.  Citizens' Oversight Committee 10/12/2021 **No Objections** |

Created by the California Department of Education

October 2021

# Attachment 2: **Calexico Unified School District General** **Waiver Request 5-10-2021**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1363099

Waiver Number: 5-10-2021

Active Year: 2021

Date In: 10/19/2021 2:02:08 PM

Local Education Agency: Calexico Unified

District Address: 901 Andrade Ave.

Calexico, CA 92173

Start: 1/13/2022

End: 8/1/2030

Waiver Renewal: No

Waiver Topic: School Construction Bonds

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

*Ed Code* Section: 15106 & 15270(a)

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive:

*EC* 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.

*EC* 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 XIII A of the California Constitution.

Outcome Rationale: On November 3, 2020, voters within the Calexico Unified School District approved a $47 million general obligation bond measure (Measure Q) which authorized the District to issue bonds for the purpose of funding repairs to schools and classrooms, improving technology and emergency preparedness and expanding District facilities. As of the date of this application, $4.2 million Measure Q bonds have been issued. In order to fund Measure Q projects in a timely manner, the District wishes to issue the remaining balance of $42.8 million of bonds.

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 unified school districts, the principal amount of bonds that may be outstanding at any one time is equal to 2.50% of the total assessed value of the school district. However, as of the date of this application, this constraint would limit the amount of Measure Q bonds that could be issued to approximately $2.9 million.

Student Population: 9,246

City Type: Suburban

Public Hearing Date: 4/22/2021

Public Hearing Advertised: Notification in the Imperial Valley Press

Local Board Approval Date: 4/22/2021

Community Council Reviewed By: Citizen Bond Oversight Committee

Community Council Reviewed Date: 4/12/2021

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>

Telephone: 415-956-1030 x116

Bargaining Unit Date: 10/06/2021

Name: Associated Calexico Teachers

Representative: Darla Dreesen

Title: President

Phone: 760-768-3980 Ext. 4010

Position: Support

Comments:

Bargaining Unit Date: 10/12/2021

Name: CSEA Calexico Chapter #399

Representative: Sonia Redona

Title: President

Phone: 760-768-3888 Ext. 3029

Position: Support

Comments:

# Attachment 3: **El Monte City School District General Waiver Request 1-11-2021**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 1964501

Waiver Number: 1-11-2021

Active Year: 2021

Date In: 11/1/2021 3:39:40 PM

Local Education Agency: El Monte City

Address: 3540 North Lexington Ave.

El Monte, CA 91731

Start: 7/1/2021

End: 6/30/2029

Waiver Renewal: No

Waiver Topic: School Construction Bonds

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

*Ed Code* Section: Waiver of *Ed Code* Section 15102 & Section 15268

*Ed Code* Authority: 33050

*Education Code* or CCR to Waive: *Ed. Code* 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 nonunitary 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 nonunitary property of the county on the last equalized assessment roll.

*Ed. Code* 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. 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 nonunitary 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 nonunitary property of the county on the last equalized assessment roll.

Outcome Rationale: The El Monte City School District (the “District”) is seeking a waiver of *Education Code* Sections 15102 and 15268. Each of these statutes limit the statutory bonding capacity of an elementary school district to 1.25% of its current assessed valuation. The District is seeking a waiver of 1.93% of its current assessed valuation and for a period of eight years ending June 30, 2029. The 2021 waiver will be applicable to (i) 2014 Measure M authorization, (ii) 2008 Measure KC authorization and (iii) 2004 Measure J authorization. Approval of such waiver would enable the District to issue bonds under its approved 2014 Measure M bond, 2008 Measure KC, and 2004 Measure J authorizations without delay in amounts necessary to keep its bond program moving forward to its scheduled completion.

The funds accessed under this waiver will allow the District to move ahead with its voter supported facility bond program to improve the safety and equity of educational facilities for its students without delay. The projects will consist of various outdoor, indoor, exterior of the campus, and underground infrastructure projects. Roofing, safety, HVAC, ventilation, painting, and numerous other facilities improvements will be targeted with the use of the remaining bond funds.

Authorized but Unissued Bonds: In November 2014, voters approved Measure M by a vote of 67.1% in favor. At the time of the election, the District had nearly $50 million in authorized but unissued bonds under two prior authorizations – 2004 Measure J and 2008 Measure KC. The decision to pursue a new bond measure despite having a significant amount of authorized but unissued bonds was a result of declining assessed values which limited the accessibility of 2004 Measure J and 2008 Measure KC pursuant to the statutory tax rate maximum. The District postponed the issuance of bonds under 2004 Measure J and 2008 Measure KC and placed a new $78 million bond measure on the ballot in November 2014 in order to keep its bond program moving forward without delay to its scheduled completion. The District currently has a combined $82.65 million of unissued authorization remaining from 2004 Measure J, 2008 Measure KC and 2014 Measure M.

Student Population: 7,589

City Type: Urban

Public Hearing Date: 10/18/2021

Public Hearing Advertised: Local Newspaper (Mid Valley News)

Local Board Approval Date: 10/18/2021

Community Council Reviewed By: EMCSD Parent Advisory Group

Community Council Reviewed Date: 10/14/2021

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Jose Herrera

Position: Chief Business Officer

E-mail: <jherrera@emcsd.org>

Telephone: 626-453-3790

Fax:

Bargaining Unit Date: 10/11/2021

Name: CSEA

Representative: Roberta Rodarte

Title: CSEA President

Phone: 626-453-3782

Position: Support

Comments:

Bargaining Unit Date: 10/14/2021

Name: EMETA

Representative: Judy Joseph

Title: Union President

Phone: 626-453-3798

Position: Support

Comments:

# Attachment 4: **Rio Elementary School District General Waiver Request 7-10-2021**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 5672561

Waiver Number: 7-10-2021

Active Year: 2021

Date In: 10/21/2021 9:18:40 AM

Local Education Agency: Rio Elementary

Address: 1800 Solar Dr.

Oxnard, CA 94596

Start: 2/1/2022

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: *EC* 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 of counties in which the district is located.

Outcome Rationale: The District anticipates issuing approximately $17.7 million of general obligation bonds in January 2022; the bonds will be issued pursuant to the District’s 2018 Election (Measure L) in which more than 55% of the District’s voters authorized the sale of not to exceed $59.2 million of GO Bonds. Measure L was authorized pursuant to Prop 39 and the expected maximum tax rate is $30.00 per $100,000 of assessed valuation. Proceeds will be used to modernize classrooms, restrooms and facilities; make health, safety, and security improvements; provide HVAC; upgrade technology; and construct new classrooms and libraries. Current bonding capacity does not allow the District to issue the necessary $17.7 million in general obligation bonds at this time to finance the much-needed projects. Further, increasing interest rates and construction costs make it beneficial to sell bonds now instead of waiting. This will complete the Measure L authorization.

Student Population: 5,417

City Type: Urban

Public Hearing Date: 10/20/2021

Public Hearing Advertised: Board meeting; public notified through District website, emails, and other forms of communication

Local Board Approval Date: 10/20/2021

Community Council Reviewed By: district school board, citizens' oversight committee, parent groups, and labor groups

Community Council Reviewed Date: 10/12/2021

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Jeff Pickett

Position: Principal, Financial Advisor

E-mail: <jeff@isomadvisors.com>

Telephone: 925-478-7450

Fax:

Bargaining Unit Date: 10/12/2021

Name: CSEA

Representative: Em Ramsey

Title: Union President

Phone: 805-485-3111

Position: Neutral

Comments:

Bargaining Unit Date: 10/20/2021

Name: Rio Teachers Association

Representative: Marisela Valdez

Title: RTA Representative

Phone: 805-485-3111

Position: Support

Comments: