

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education July 2023 Agenda Item #W-06

## 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 of $30 per $100,000 of assessed value for elementary school districts may also apply.

## Waiver Numbers

8-4-2023

## Type of Action

Action, Consent

## Summary of the Issues

The Franklin-McKinley Elementary School District (Franklin-McKinley ESD) is requesting to waive portions of *Education Code* (*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, 1.58 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 Franklin-McKinley ESD with the following conditions:  
(1) the periods of request do not exceed the recommended period of July 1, 2023 to August 1, 2030; (2) the total bonded indebtedness does not exceed the recommended new maximum of 1.58 percent; (3) Franklin-McKinley ESD does not exceed the statutory tax rate; (4) the waivers are limited to the sale of bonds approved by the voters on March 2020 as Measure R; and (5) Franklin-McKinley ESD complies 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.

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 educational agency 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.

Franklin-McKinley ESD wishes to the proceed with the issuance of $53.0 million of general obligation bonds over the next two to three years beginning in July 2023; the bonds will be issued pursuant to the District’s 2020 Election (Measure R) in which more than 55 percent of the District’s voters (65.7 percent) authorized the sale of not to exceed $80.0 million of GO Bonds. Measure R was authorized by voters in the March 2020 election pursuant to Prop 39 and the expected maximum tax rate is $30.00 per $100,000 of assessed valuation (the Prop. 39 maximum). Because the district has an outstanding bond debt of $145,565,017, this additional issuance would exceed the district’s total allowable bonding capacity, resulting in a maximum total G.O. bond indebtedness to 1.58 percent. Further, increasing interest rates and construction costs make it beneficial to sell bonds now instead of waiting. Proceeds will be used to modernize classrooms, restrooms and facilities; repair/replace roofs, and repair and acquire classrooms and equipment. This will complete the Measure R authorization.

### Demographic Information

The Franklin-McKinley ESD is an urban district with a student population of 8,107 and serves the city of San Jose in Santa Clara 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. If approved, this request would fall within the range of previously approved bonding capacity waivers, in both capacity and term.

## Fiscal Analysis

Approval of the waivers would allow the district to accelerate their issuance of voter-approved bonds.

## Attachments

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Franklin-McKinley Elementary School District General Waiver Request 8-4-2023 (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** |
| --- | --- | --- | --- | --- | --- | --- |
| 8-4-2023 | Franklin-McKinley Elementary School District | **Requested:** July 1, 2023 to August 1, 2030  **Recommended:** July 1, 2023 to August 1, 2030 | **Requested:** Debt Limit: 1.58%  **Recommended:** Debt Limit: 1.58% | Debt Limit 1.58%  Limited to sale of bonds applicable to Measure R, approved by voters in the March 2020 election  Tax Rate $30 per $100,000 (authorization approved under Proposition 39) | Franklin-McKinley Education Association Scott Shulimson President 4/12/2023 **Support**  California School Employees Association (CSEA) Chapter 502 Vanessa Fonseca President 3/28/2023 **Support** | Local Board Approval Date: 4/14/2023  Public Hearing Date: 4/14/2023  Public Hearing Advertised: District website and posting on school bulletin boards  Citizens’ Bond Oversight Committee 3/23/2023 **No Objections** |

Created by the California Department of Education

July 2023

# Attachment 2: **Franklin-McKinley Elementary School District General** **Waiver Request 8-4-2023**

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 4369450

Waiver Number: 8-4-2023

Active Year: 2023

Date In: 4/16/2023 11:17:36 AM

Local Education Agency: Franklin-McKinley Elementary

Address: 645 Wool Creek Dr.

San Jose, CA 94595

Start: 7/1/2023

End: 8/1/2030

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

Outcome Rationale: The District anticipates issuing $53.0 million of general obligation bonds over the next two to three years beginning in July 2023; the bonds will be issued pursuant to the District’s 2020 Election (Measure R) in which more than 55% of the District’s voters (65.7%) authorized the sale of not to exceed $80.0 million of GO Bonds. Measure R was authorized pursuant to Prop 39 and the expected maximum tax rate is $30.00 per $100,000 of assessed valuation (the Prop. 39 maximum). Proceeds will be used to modernize classrooms, restrooms and facilities; repair/replace roofs, and repair and acquire classrooms and equipment. Current bonding capacity does not allow the District to issue the necessary $53.0 million in general obligation bonds 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 R authorization.

Student Population: 8107

City Type: Urban

Public Hearing Date: 4/14/2023

Public Hearing Advertised: public notified through District website and posting at school sites

Local Board Approval Date: 4/14/2023

Community Council Reviewed By: District Board of Trustees, finance department, employee groups; Citizens’ Oversight Committee, pare

Community Council Reviewed Date: 3/23/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. jeff pickett

Position: Principal, Financial Advisor

E-mail: [jeff@isomadvisors.com](mailto:jeff@isomadvisors.com)

Telephone: 925-478-7450

Bargaining Unit Date: 03/28/2023  
Name: California Schools Employee Association  
Representative: Vanessa Fonseca  
Title: President, #502  
Phone: 408-283-6208  
Position: Support

Bargaining Unit Date: 04/12/2023  
Name: Franklin-McKinley Education Association  
Representative: Scott Shulimson  
Title: President  
Phone: 831-325-0465  
Position: Support