

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education January 2021 Agenda Item #W-04

## Subject

Request by **two local educational agencies** to waive California *Education Code* sections 15106 and 15270(a) to allow the districts to exceed their bonded indebtedness limit. Total bonded indebtedness may not exceed 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 $60 per $100,000 of assessed value for unified school districts may also apply.

## Waiver Numbers

* Gilroy Unified School District: 1-11-2020
* West Contra Costa Unified School District: 2-9-2020

## Type of Action

Action, Consent

## Summary of the Issues

The Gilroy Unified School District’s (Gilroy USD) bonded indebtedness is statutorily limited not to exceed 2.50 percent, which prohibits it from proceeding with its proposed issuance of the remaining $94.68 million from Measure E, which was approved by voters in June 2016. 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, 3.09 percent.

The West Contra Costa Unified School District (West Contra Costa USD)’s bonded indebtedness is statutorily limited not to exceed 2.50 percent, which prohibits it from proceeding with its proposed issuance of the full $575 million from Measure R, which was approved by voters in March 2020, as well as the remaining $77.6 million from Measure J, which was approved by voters in November 2005, for a cumulative issuance of $652.6 million. 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, 4.05 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 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 15106 and 15270(a) limit a unified school district’s total general obligation (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 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.

### Gilroy USD

Gilroy USD wishes to proceed with its proposed issuance of the remaining $94.68 million from Measure E, which was approved by voters in June 2016. The issuance will go toward renovating or replacing leaky roofs; improving student access to computer technology; renovating plumbing and sewer systems; making health, safety, and security improvements; upgrading science labs and classrooms throughout the district; and constructing a new elementary school. The issuance of $94.68 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 3.09 percent.

### West Contra Costa USD

West Contra Costa USD wishes to proceed with its proposed issuance of the full $575 million from Measure R, which was approved by voters in March 2020, as well as the remaining $77.6 million from Measure J, which was approved by voters in November 2005, for a cumulative issuance of $652.6 million. The issuance will go toward repairing and upgrading schools; modernizing core classrooms; and providing safe, secure school environments, including updated technology and air conditioning. The issuance schedule of the $652.6 million will increase the district’s outstanding bonded indebtedness limit to a rate up to, but not to exceed, 4.05 percent. The district initially requested a rate of up to 4.10 percent; however, as a result of CDE analysis, 4.05 percent was what could be substantiated. The district has concurred with our analysis and agrees with our recommendation.

### Demographic Information

Gilroy USD has a student population of 11,672 and is located in Santa Clara County.

West Contra Costa USD has a student population of 28,144 and is located in Contra Costa 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 (2 pages)
* **Attachment 2:** Gilroy Unified School District School District General Waiver Request 1-11-2020 (3 pages). Original waiver request is signed and on file in the Waiver Office.
* **Attachment 3**: West Contra Costa Unified School District School District General Waiver Request 2-9-2020 (3 pages). Original waiver request is signed and on file in the Waiver Office.

# Attachment 1: Summary Table

California *Education Code* (*EC*) Section 15106 et seq.

| **Waiver Number** | **District** | **Period of Request** | **District’s Request** | **CDE Recommended** | **Bargaining Unit Representatives** | **Local Board, Public Hearing, and Advisory Committee Approval** |
| --- | --- | --- | --- | --- | --- | --- |
| 1-11-2020 | Gilroy Unified School District | **Requested:** February 1, 2021 to August 1, 2025  **Recommended:** February 1, 2021 to August 1, 2025 | **Requested:** Debt Limit: 3.09%  **Recommended:** Debt Limit: 3.09% | Debt Limit: 3.09%  Limited to sale of bonds applicable to Measure E, approved by voters in the June 2016 election  Tax Rate $60 per $100,000 (authorization approved under Proposition 39) | California School Employee Association Linda Figone, President 10/16/2020 **Support**  Gilroy Federation of Paraeducators Arcelia O'Connor, President 10/16/2020 **Support**  Gilroy Teachers Association Lindsay Hack, President 10/16/2020 **Support** | Local Board Approval Date: 11/5/2020  Public Hearing Date: 11/5/2020  Public Hearing Advertised: District web page and at the district office  Citizens' Oversight Committee 10/16/2020 **No Objections** |
| 2-9-2020 | West Contra Costa Unified School District | **Requested:** September 10, 2020 to June 30, 2028  **Recommended:** January 14, 2021 to June 30, 2028 | **Requested:** Debt Limit: 4.10%  **Recommended:** Debt Limit: 4.05% | Debt Limit: 4.05%  Limited to sale of bonds applicable to Measure R, approved by voters in the 2020 election, and Measure J, approved by voters in the 2005 election  Tax Rate $60 per $100,000 (authorization approved under Proposition 39) | Teamsters Local 856 Jeanette Bradfield, Representative 9/8/2020 **Support**  United Teacher of Richmond Marissa Glidden, President 9/8/2020 **Support** | Local Board Approval Date: 9/9/2020  Public Hearing Date: 9/9/2020  Public Hearing Advertised: East Bay Times  Citizens’ Bond Oversight Committee  9/14/2020  **No Objections** |

Created by the California Department of Education

November 2020

## Attachment 2: **Gilroy Unified School District General** **Waiver Request 1-11-2020**

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 4369484

Waiver Number: 1-11-2020

Active Year: 2020

Date In: 11/6/2020 8:58:41 AM

Local Education Agency: Gilroy Unified School District

District Address: 7810 Arroyo Cir.

Gilroy, CA 95020

Start: 2/1/2021

End: 8/1/2025

Waiver Renewal: No

Waiver Topic: School Construction Bonds

*Ed Code* Title: Bond Indebtedness Limit

*Ed Code* Section: 15106 and 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): (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 June 7, 2016, voters of Gilroy USD approved a $170 million GO Bond Authorization (“Measure E”). The District currently has approximately $24.9 million of net debt capacity, which is not sufficient to issue the remaining $94.68 million of authorization from Measure E. The District has construction funding needs in early 2021, would like to avoid costly delays and also wants to take advantage of very low interest rates. The District does not expect to issue bonds that would cause the tax rate to increase above the legal requirement of $60.00 per $100,000 of assessed valuation. The increase in bonding capacity to 3.09% and the issuance of the third and final series of bonds from Measure E would allow the District to move ahead with its voter-supported facility improvements without delay.

Student Population: 11,672

City Type: Suburban

Public Hearing Date: 11/5/2020

Public Hearing Advertised: District web page and at district office

Local Board Approval Date: 11/5/2020

Community Council Reviewed By: Citizens' Oversight Committee,

Community Council Reviewed Date: 10/16/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Alvaro Meza

Position: Asst. Supt., Business Services

E-mail: <alvaro.meza@gilroyunified.org>

Telephone: 669-205-4080

Bargaining Unit Date: 10/16/2020

Name: California School Employee Association

Representative: Linda Figone

Title: President

Phone: 669-205-7904

Position: Support

Bargaining Unit Date: 10/16/2020

Name: Gilroy Federation of Paraeducators

Representative: Arcelia O'Connor

Title: President

Phone: 669-205-4000

Position: Support

Bargaining Unit Date: 10/16/2020

Name: Gilroy Teachers Association

Representative: Lindsay Hack

Title: President

Phone: 408-472-6638

Position: Support

**Attachment 3:** West Contra Costa Unified School District General Waiver Request 2-9-2020

**California Department of Education**

**WAIVER SUBMISSION – General**

CD Code: 0761796

Waiver Number: 2-9-2020

Active Year: 2020

Date In: 9/14/2020 7:22:54 AM

Local Education Agency: West Contra Costa Unified

Address: 1108 Bissell Ave.

Richmond, CA 94804

Start: 9/10/2020

End: 6/30/2028

Waiver Renewal: No

Waiver Topic: School Construction Bonds

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

*Ed Code* Section: Sections 15106 and 15270(a)

*Ed Code* Authority: 33050

*Education Code* or *CCR* to Waive: *Ed. Code* 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.

*Ed. Code* 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: The West Contra Costa Unified School District (the “District”) is seeking a waiver of Education Code Sections 15106 and 15270(a). Each of these statutes limit the statutory bonding capacity of a unified school district to 2.5% of its current assessed valuation. The District is seeking a waiver to increase its bonding capacity limit to 4.10% of its current assessed valuation for a period of eight years, ending June 30, 2028. The 2020 waiver will be applicable to (i) 2020 Measure R authorization and (ii) 2005 Measure J authorization. Approval of such waiver would enable the District to issue bonds under its recently approved 2020 Measure R bond authorization without delay, in amounts necessary to keep its bond program moving forward to its scheduled completion. The waiver will also enable the District to access remaining 2005 Measure J authorization as a secondary resource although this measure is currently tax rate constrained and would require the use of AB 182 compliant Capital Appreciation Bonds (CABs). The District currently has no immediate plans to access 2005 Measure J.

Student Population: 28,144

City Type: Urban

Public Hearing Date: 9/9/2020

Public Hearing Advertised: East Bay Times

Local Board Approval Date: 9/9/2020

Community Council Reviewed By: Citizens’ Bond Oversight Committee

Community Council Reviewed Date: 9/14/2020

Community Council Objection: No

Community Council Objection Explanation:

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Tony Wold

Position: Associate Superintendent, Business Services

E-mail: <tony.wold@wccusd.net>

Telephone: 510-231-1170

Bargaining Unit Date: 09/08/2020

Name: Teamsters Local 856

Representative: Jeanette Bradfield

Title: Representative

Phone: 510-231-1170

Position: Support

Bargaining Unit Date: 09/08/2020

Name: United Teacher of Richmond

Representative: Marissa Glidden

Title: President

Phone: 510-231-1170

Position: Support