



## CALIFORNIA STATE BOARD OF EDUCATION

### MARCH 2011 AGENDA

**General Waiver**

<b>SUBJECT</b> Request by <b>West Contra Costa Unified School District</b> to waive California <i>Education Code</i> sections 15106 and 15270(a) to allow the district to exceed its bond indebtedness limit of 2.5 percent of the taxable assessed value of property (requesting 5.0 percent).  Waiver Number: 200-12-2010	<input checked="" type="checkbox"/> <b>Action</b>  <input type="checkbox"/> <b>Consent</b>
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#### **RECOMMENDATION**

Approval  Approval with conditions  Denial

The California Department of Education recommends that the bonded indebtedness limit of West Contra Costa Unified School District (USD) be waived provided it does not exceed 5.0 percent of the assessed valuation of taxable property of the district and that the waiver is limited to the sale of bonds approved by the voters in the June 2010 election. In addition, at no time is the tax levy to exceed the \$60 per \$100,000 of taxable property authorized by the voters to secure the bonds.

#### **SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

The State Board of Education (SBE) has approved all bond limit waiver requests as long as they have been limited to the sale of general obligation bonds already approved by local voters and do not exceed the tax amount authorized by the voters. In November 2002 and May 2009, the SBE approved similar waivers for the West Contra Costa USD.

#### **SUMMARY OF KEY ISSUES**

West Contra Costa USD is requesting a waiver of California *Education Code (EC)* sections 15106 and 15270(a), which prohibit unified school districts from issuing bonds in excess of 2.5 percent of the assessed valuation of a district's taxable property and it is requesting a waiver of up to 5.0 percent. In May 2009, the SBE approved and debt ratio of up to 3.5 percent of the assessed valuation of the district's taxable property. The district's current debt ratio is 3.46 percent.

In June 2010, district voters approved a \$380 million bond measure to acquire, repair, and construct facilities throughout the district. The estimated tax was limited to \$60 per \$100,000 of taxable property.

## **SUMMARY OF KEY ISSUES (Cont.)**

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The district operates 58 school and program sites, including 38 elementary and pre-schools, six middle schools, six comprehensive high schools, and eight other sites. In 2005, the district undertook a major facility improvement plan because school facilities on average were over 50 years old and in dire need of modernization and improvements. The district's modernization and improvement projects address health and safety issues, such as adding or improving fire, safety, and other building systems; removing hazardous materials; repairing restrooms; and improving access under the Americans with Disabilities Act.

Due to the decline in the district's tax base over the past two years, the district is seeking to waive the bonding capacity limit in order to continue its construction program without interruption and without interim financing. The district is requesting a waiver that would allow it to issue up to \$380 million in bonds under its recently approved June 2010 bond authorization. Currently, the available bonding capacity is not sufficient for the district to issue the remaining November 2005 bonds within the 3.5 percent limit set by the SBE and the tax rate limit. Therefore, the district wishes to continue its projects using the June 2010 bond authorization. The district is requesting to increase its bonding capacity to 5.0 percent until December 31, 2020.

Based on the district's 2010–11 assessed valuation, scheduled principal reduction on outstanding bonds, and an estimated four percent annual growth in assessed valuation (the 10-year average growth rate in assessed valuation was 5.15 percent), the district projects that its bonded indebtedness ratio will fall below the statutory limit of 2.5 percent by 2021-22. However, given the uncertainty of how quickly the district will repay the bonds or future tax rate growth, the district will submit another waiver before December 2020, if the district does not fall below the statutory rate by 2020.

The Department recommends the board approve the waiver provided that it would be limited to the sale of bonds approved by the voters in the June 2010 election. In addition, at no time is the tax levy to exceed the \$60 per \$100,000 of taxable property estimated by the voters to secure the bonds. Without the waiver, the district would need to obtain other, more expensive, non-bond financing to complete its projects. This would impose an additional general fund cost to the district.

**Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in EC 33051(a).** The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with

**SUMMARY OF KEY ISSUES (Cont.)**

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Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

**Demographic Information:** West Contra Costa USD has a student population of 30,300 and is located in an urban community in Contra Costa County.

**Authority for Waiver:** EC Section 33050

**Period of request:** March 1, 2011, to December 31, 2020

**Local board approval date(s):** November 17, 2010

**Public hearing held on date(s):** November 17, 2010

**Bargaining unit(s) consulted on date(s):** October 6, 2010, October 7, 2010, October 29, 2010, and November 13, 2010

**Name of bargaining unit/representative(s) consulted:** Local 1 Public Employees Union, Richard Leung, Mike Wasilchin, and Bobby Kilough; United Teachers of Richmond, Diane Brown; Site Supervisors Association, Mary Jones and Sandy Falk; West Contra Costa Administrators Association, Susan Kahn

**Position of bargaining unit(s) (choose only one):**

Neutral                       Support                       Oppose:

Comments (if appropriate):

**Public hearing advertised by (choose one or more):**

posting in a newspaper       posting at each school       other (specify)

**Advisory committee(s) consulted and date(s) consulted:** Facilities Board Subcommittee, October 19, 2010 and November 16, 2010; Citizen Bond Oversight Committee, October 27, 2010 and November 10 2010

**Objections raised (choose one):**  None       Objections are as follows:

**FISCAL ANALYSIS (AS APPROPRIATE)**

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Approval of this waiver would allow the district to issue \$380 million in voter-approved bonds for improvements and renovation at several schools throughout the district and avoid incurring added debt service costs associated with non-bond financing.

**ATTACHMENT(S)**

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Attachment1: West Contra Costa USD General Waiver Request (9 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)