
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 2429
Author: Thurmond
Version: March 18, 2016
Urgency: No
Consultant: Kathleen Chavira
Hearing Date: June 8, 2016
Fiscal: No

Subject: School district and community college district bonds

NOTE: This measure has been referred to the Committees on Education and Governance and Finance. A "do pass" motion should include referral to the Governance and Finance Committee.

SUMMARY

This bill increases the cap on bonded indebtedness for school districts and community college districts.

BACKGROUND

Existing law authorizes school districts and community college districts to issue general obligation (GO) bonds upon approval by voters and establishes a process and guidelines for such issuances under the Education Code. Existing law also authorizes any city, county, city and county, school district, community college district, or special district to issue GO bonds, secured by the levy of ad valorem taxes, and establishes a process for such issuances under the Government Code.
(Education Code § 15100, et seq. and Government Code § 53506, et seq.)

Existing law cap the total amount of bonds issued by a school district at 1.25% of the taxable property of the district and caps the tax rate at \$30 per \$100,000 of taxable property. (EC § 15102 and § 15268)

Existing law caps the total amount of bonds issued by a unified school district and a community college district at 2.5% of the taxable property of the district and caps the tax rate at \$60 per \$100,000 of taxable property for a unified school district and \$25 per \$100,000 of taxable property for a community college district.
(EC § 15106 and § 15270)

ANALYSIS

This bill increases the level of bonded indebtedness for school districts and community college districts. Specifically, it:

- 1) Increases the cap on bonded indebtedness for elementary and high school districts from 1.25% to 2% of the taxable property of the district.

- 2) Increases the cap on bonded indebtedness for unified and community college districts from 2.5% to 4% of the taxable property of the district.

STAFF COMMENTS

- 1) ***Intent of the bill.*** Current law grants any school district governing board the authority to request a waiver of all or part of any section of the Education Code or any regulation adopted by the Board to implement state law, with specified exceptions (Education Code Section 33050-33053). Under these provisions, school districts can and do apply for waivers of the existing statutory bond indebtedness caps. According to the author, this bill is intended to reduce administrative costs to applicant school districts and the State Board while also increasing the ability to generate revenue for school facilities construction and renovations at the local level.
- 2) ***Is there a statewide need?*** K-12 districts have sought and received waivers to increase their percentage of bonded indebtedness beyond the statutory limits. From 2001-2015, the State Board received and approved 52 such waiver requests. While the State Board has not denied any requests, it has established conditions for the approvals, such as limiting the waiver for a specified number of years. The approved waivers are generally within those proposed by this bill, although some exceed the proposed cap. There is currently no process for waiver of these Education Code provisions for community colleges.

It is unclear how many districts have reached their cap for bond indebtedness under current law. It is also unclear whether districts could use the expanded authority since any increased issuance of bonds would still be subject to voter approval.

Given the existence of a waiver process that appears to be working, as well as the limited number of districts that have requested such waivers, is a permanent statutory change necessary?

- 3) ***Related Governor's Actions.*** Amid concerns about the complexity and structure of the current program and the state's increasing debt service obligations, the Governor's 2015 and 2016 budget proposals discussed significant changes to the way school facilities are funded. Among other things, the Governor proposed to expand revenue generation tools at the local level by expanding local funding capacity and increasing caps on local bond indebtedness. The Governor also proposed to restructure developer fees to set one level for all projects at a level between existing Level II and Level III fees subject to local negotiation. The Governor has also noted that he is prepared to engage with the Legislature and education stakeholders to shape a future state program that is focused on districts with the greatest need, including communities with low property values and few borrowing options, as well as overcrowded schools.
- 4) ***One leg of a three-legged stool?*** Under current law, funding for new construction and modernization of school facilities comes from both state and local sources. Current law establishes the School Facility Program (SFP) under

which the state provides general obligation bond funding for various school construction projects. Local funding comes from a variety of sources including local general obligation bonds, Mello-Roos bonds and developer fees. This bill would make changes to facilitate the ability to generate revenue from local general obligation bonds.

State bond funds are essentially exhausted. Since 2009, the State Allocation Board (SAB) has been making "unfunded approvals" which represented approved projects waiting to convert to funding apportionments when bonds are sold and cash becomes available. In addition, since November 1, 2012, the SAB has maintained an "Applications Received Beyond Bond Authority" list. At its May 25th meeting, the SAB took action to declare that new construction funds/apportionments were no longer available, thereby authorizing districts to impose Level 3 developer fees.

The same day, the California Building Industry Association (CBIA) filed a legal challenge to the SAB action in Sacramento Superior Court. A temporary restraining order (TRO) was imposed until the court holds a hearing (currently scheduled for July 1, 2016) to decide whether a preliminary injunction should be issued.

Additionally, as noted in staff comment #3, this administration has proposed significant changes to the state's role in funding school facilities.

Should a change in the capacity to incur local bond debt be authorized absent a broader discussion of the need for accompanying changes to developer fees or the role of state general obligation bond revenues?

SUPPORT

Alameda County Office of Education
Albany Unified School District Board of Education

OPPOSITION

California Charter Schools Association Advocates
Howard Jarvis Taxpayers Association

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