



Date November 22, 2019

Bulletin No. 20-022

TO: Chief Business Officials and Directors of Fiscal Services
San Bernardino County School Districts

Subject: **Disclosure of Non-Voter Approved Debt**

This bulletin reminds school districts of the requirement for Disclosure Non-Voter-Approved Debt, pursuant to Education Code (EC) Sections 17150(a), 17150.1(a), 17170, and 41233(a), and Government Code (GC) Section 53635.7.

Timelines for Disclosure and Comment

EC Section 17150.1 requires that, all school districts must, upon approval by the governing board to proceed with the issuance of revenue bonds or to enter into an agreement for financing school construction pursuant to Chapter 18 (commencing with Section 17170), notify the county superintendent and the county auditor.

EC Section 17150.1 requires all school districts submit public disclosures of intent to issue non-voter approved debt instruments secured by real property to the county superintendent and the county auditor **no later than thirty (30) days prior to the date on which the governing board will take action on the proposed debt issuance.** This includes:

- Certificates of Participation (COPs)
- Lease Purchases (LPs) Secured by Real Property
- Qualified Zone Academy Bonds (QZABs) Secured by Real Property
- Revenue Bonds
- Bond Anticipation Notes
- Any other debt instrument secured by real property and not subject to voter approval

The county superintendent of schools and the county auditor **may comment**, within 15 days of the receipt of the information, on a district's capability to repay that debt obligation. The San Bernardino County Superintendent of Schools (SBCSS) ability to approve a district's budget or to concur with Interim Reports certified "Positive" could be affected by a district's failure to comply with debt disclosure requirements.

Additional requirements apply to energy service contracts and any necessary related facility ground leases. GC Section 4217.12 requires, "That the anticipated cost to the public agency for thermal or electrical energy or conservation services provided by the energy conservation facility under the contract will be less than the anticipated marginal cost to the public agency of thermal, electrical, or other energy that would have been consumed by the public agency in the absence of those purchases."

Further, as per EC Section 41233(a), “A school district that has a qualified or negative certification in any fiscal year may not issue, in that fiscal year or in the next succeeding fiscal year, certificates of participation, tax anticipation notes, revenue bonds, or any other debt instruments that do not require the approval of the voters of the district, nor may the district cause an information report regarding the debt instrument to be submitted pursuant to subdivision (e) of Section 149 of Title 26 of the United States Code, unless the county superintendent of schools determines, pursuant to criteria established by the Superintendent of Public Instruction, that the district’s repayment of that indebtedness is probable...”.

Public Disclosure of Non-Voter-Approved Debt Form

The Disclosure of Non-Voter Approved Debt form is attached for reference and can be downloaded for completion at: <http://www.sbcss.k12.ca.us/index.php/business-services/business-advisory-services/forms-financial-information>.

Information Required with Form

In addition to the public disclosure form that facilitates compliance, the district **must** provide **repayment schedules, evidence of the district’s ability to repay the obligation, and issuance costs.**

Be advised, that compliance with the 30-day advance disclosure requirement is measured upon receipt of all pertinent documents and information by SBCSS and the San Bernardino County Auditor-Controller/Treasurer/Tax Collector (ATC). We recommend you allow yourself additional time if you desire the opportunity to pursue any recommendations made by our offices in advance of board submittal.

Separate Board Item

GC Section 53635.7 specifies the process that districts must follow in securing board approval for issuance of non-voter approval debt: “In making any decision that involves borrowing in the amount of one hundred thousand dollars (\$100,000) or more, the legislative body of the local agency shall discuss, consider, and deliberate each decision as a separate item of business on the agenda of its meeting...”. Accordingly, **Disclosures of Non-Voter Approved Debt must be placed on the Discussion Calendar.**

If you have questions about disclosure requirements or would like assistance in planning an issuance or refunding, structuring your issuance team, or evaluating options, please contact Annette Baker at (909) 386-9675.

Ted Alejandre
County Superintendent of Schools

Thomas G. Cassida, Jr.
Director
Business Advisory Services

TGC:lc

Attachment: Disclosure of Non-Voter Approved Debt form

DISCLOSURE OF NON-VOTER APPROVED DEBT

In accordance with the provisions of Education Code Section 17150 and Assembly Bill 2197, the following information must be provided to the County Superintendent of Schools and the County Auditor **at least 30 days prior** to the district's governing board approval of an issuance of non-voter approved debt. This includes all new and refunded issuances.

School District: _____ Date: _____

Contact Person: _____ Phone: _____

Type of Issue: _____
(Indicate the type of debt instrument, i.e. Certificates of Participation (COP), Direct Capital Lease, etc)

Tentative Date
of Board Approval: _____
*(The date the board will approve proceeding
with the debt issuance)*

Anticipated Date
of Issue: _____
*(The date the debt instrument is expected
to be purchased by the investor(s).)*

Amount of Issue: \$ _____ Term of Issue: _____ years
(The total dollar amount the district is borrowing, including any amounts to refund existing debt issuances.)

Interest Rate(s) %: _____ (Fixed , Variable , Other)
(The projected rates of interest payable on the debt instrument for the term of the issue. If variable, indicate what drives variability, expected rate ranges, and rate cap(s).)

Purpose of Issue:

(Describe the projects to be financed, i.e. building a multi-purpose room, district match to state school building project, refunding existing debt issuance for lower interest rate. Provide the estimated cost for each project.)

Tentatively Pledged Source(s) of Funds for Debt Repayment:

(Indicate the anticipated sources of funds that district is expecting to receive to repay this debt obligation. I.e. State school building project apportionments, developer fees, redevelopment revenues, LCFF. If applicable, provide an analysis of projections for developer fees and/or calculations of anticipated student attendance growth for LCFF pledges based on historical trends adjusted for current conditions.)

Contingency Plan:

(Indicate the district's contingency plan should the pledged sources of repayment not materialize as projected.)

DISCLOSURE OF NON-VOTER APPROVED DEBT

_____ School District

Financial Advisor: _____

Contact: _____ Phone: _____
(Indicated the company and the individual contact person handling your debt financing)

Bond Counsel: _____

Contact: _____ Phone: _____
(Indicate the company and the individual contact person handling your debt financing)

Underwriter: _____

Contact: _____ Phone: _____
(Indicated the company and the individual contact person handling your debt financing)

Attach copies of the following:

◆ **Preliminary Official Statement**

Provide completed copy of the Preliminary Official Statement for this debt issuance, and the following detailed information:

1. The amount and date or proposed date of actual issuance
2. Debt Issuance Costs (Detail of anticipated costs by vendor and service provided)
3. Listing that indicates the parties involved in the financing
4. Maturity Schedule
5. Repayment Schedule (Dates of each principal and interest payment throughout the debt term). If refinance, include current repayment schedule and compare for savings expected.
6. Purpose of Funds
7. Pledged Sources of funds for repayment (Generally includes General Fund as backup in event other fund resources are not available)

◆ **Multi-year Financial projections and assumptions for each fund tentatively pledged for debt repayment**

Provide updated multi-year financial projections for each fund indicated as a pledged source of repayment of the debt issuance. The SACS MYP Form provided in CDE's Budget and Interim reporting software should be completed with the district's projections. Attach a listing of assumptions, including calculations of how these assumptions were determined. For student attendance growth this could include an analysis of students in each grade level, new housing information and the impact on the district. For developer fees this could include an analysis of new housing permits or sales in the area. For BANs, this would include a summary of historical assessed values, future estimates, current bonding capacity and expected analysis of future bonding capacity.

DISCLOSURE OF NON-VOTER APPROVED DEBT

Questions to ask and answer before debt issuance

Respond to the following six questions and ensure back-up for each answer is included in your submission.

1. Why is the district borrowing?
2. What will the annual costs be, including costs of issuance, debt service repayment and administrative costs.
3. What are the planned repayments sources?
4. What is the risk the obligation will vary year to year over the life of the issuance?
5. What is the likelihood the planned sources for repayment will be sufficient?
6. What is the cost of issuance and is it reasonable?

The information provided in this document and the required attachments summarize the financial implications of the proposed debt issuance.

Certified by: _____ Phone: _____
(Original signature of District's Chief Business Official)

Submit this Disclosure of Non-Voter Approved Debt to Business Advisory Services (BAS) and the San Bernardino County Auditor-Controller at least 30 days prior to the district's governing board approval of an issuance of non-voter approved debt:

Business Advisory Services (BAS)
Attn: Annette Baker
760 E. Brier Drive
San Bernardino, CA 92408

San Bernardino County Auditor-Controller
222 West Hospitality Lane
San Bernardino, CA 92415-0018

If you desire an opportunity to act on any recommendations made by BAS or the County Auditor-Controller, consider submitting disclosures well in advance of anticipated Board submission.