Public Disclosure of Non-Voter-Approved Debt

Requirements related to non-voter-approved debt, pursuant to Education Code (EC) sections 17150(a) and 17150.1(a), and Government Code (GC) section 53635.7.

Issuing non-voter-approved debt can be an appropriate way to finance capital projects and obtain working capital, but it must be accompanied by prudent fiscal management and consistent monitoring to preserve a district's credit-worthiness and financial solvency. Public disclosure of proposed debt provides stakeholders with vital information about the implications of any financial obligation, including how it may affect a district's financial status and its ability to meet instructional priorities.

Regardless of its budget certification status, a school district is required to disclose all planned issuances of non-voter-approved debt to the county superintendent of schools and the county auditor at least 30 days prior to the district's governing board's approval of any such debt issuances, including:

- Certificates of participation (COPs)
- Lease purchases secured by real property
- Revenue bonds
- Bond anticipation notes (BANs)*
- Tax and revenue anticipation notes (TRANs)**
- Any debt Instrument secured by real property and not subject to voter approval

* Unless the source of repayment is restricted solely to the proceeds of specific general obligation bonds already authorized by voters and not yet issued.
**Public Disclosure of Non-Voter Approved Debt is only required for TRANs when repayment will cross fiscal years.

A school district is required to provide its governing board, the county auditor, the county superintendent of schools and the public with information about its planned debt issuance, including repayment schedules, cost of issuance, evidence of the district's ability to repay the obligation, and other information needed to assess the anticipated effects of the debt issuance.

The district should submit to the county superintendent of schools all information the district used to determine that the debt is affordable so that the county superintendent of schools can understand the decision-making process.

Criteria the county superintendent will use for review will include key questions such as the following:

- Why is the district borrowing?
- What will the district's annual obligation be, including debt service payments and administrative costs?
- What is the risk that the annual obligation will vary from year to year, and by how much?
- What sources does the district plan to use to repay the debt?
- What is the likelihood that the sources of funds for repayment will be sufficient to repay the entire debt?
- What is the cost of funds, and is this reasonable?

Within 15 days of receipt of the information from a district, the county superintendent of schools and the county auditor may comment publicly to the district's governing board regarding the district's capability to repay the debt. Whenever possible, the county superintendent of schools should coordinate with the county auditor to share information.

A school district that has a qualified or negative interim financial report certification in the current or prior fiscal year may not issue non-voter-approved debt without approval in advance from the county superintendent of schools.

That approval will only be given if the county superintendent of schools determines that repayment of the debt is probable (EC 42133(a) and (b)). To prevent delays to a desired schedule and to allow adequate time for the county superintendent to determine whether repayment is probable, earlier notification of potential debt issuance is recommended. FCMAT also recommends that a county superintendent of schools ensure that the letter that approves or denies such debt issuance is addressed to the district's governing board so that they are made fully aware of the county superintendent's decision.

Proceeds cannot be used for General Operations

The proceeds from COPs and other non-voter-approved debt secured by real property cannot be used for a district's general operations, regardless of the district's budget certification (EC 42133.5).

District Governing Boards must Take Action on Issuance of Non Voter Approved Debit

Government Code section 53635.7 specifies that proposed non-voter-approved debt of $100,000 or more should not be placed on the consent calendar:

> *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 . . .*

Please complete and submit the attached Disclosure form to your Santa Clara County Office of Education District Business Advisor and to the Santa Clara County Controller 30 days prior to the date of the board meeting in which the board will take action on whether to approve issuance of non-voter approved debt. Please include all additional information with your submission such as:

- Expected repayment schedule
- Expected costs of issuance
- Expected annual administrative costs
- Contracts with public finance professionals (bond counsel, municipal advisor, broker, etc.)
- Presentations and advice provided by public finance professionals (board presentations, staff presentations, memoranda, disclosure forms, email communication, etc.)
- Proposed timeline for completing the borrowing
- District staff work evaluating proposed borrowing (budget worksheets, projections, memoranda, board reports, email, etc.)
- Proposed authorizing board resolution
- Proposed financing documents (loan, lease, trust agreement, preliminary official statement, etc.)
- Project information relevant to affordability (e.g., savings analysis, expected reimbursements, grants, etc.)
- Multi-year financial projections for each fund indicated as a pledged source of repayment of the debt issuance

Santa Clara County Office of Education

Disclosure of Non-Voter-Approved Debt

In accordance with Education Code Section 17150 and following, the information below must be provided to the county superintendent of schools and the county auditor at least 30 days prior to a district's governing board's approval of an issuance of non-voter-approved debt.

This form is designed to support a timely and easy disclosure so review can begin quickly to meet a district's timeline. Providing more information will reduce the questions and follow-up needed, allowing the county superintendent to determine whether repayment of the debt is probable. Please provide all information used to determine that the debt is affordable so that the county superintendent of schools can understand the decision-making process.

School District ______________________________ Date ____________

District Administrator Submitting Disclosure ______________________________ Phone Number ____________

Name and Title

Email ____________

Primary District Employee Leading the Borrowing ______________________________ Phone Number ____________

Name and Title

Email ____________

Type of Issuance ______________________________

Indicate the type of debt instrument — e.g., certificates of participation (COPs), lease, note, bond, loan, line of credit, etc.

Tentative Date of Board Approval ____________

The date the board is expected to consider approving proceeding with the debt issuance.

Proposed Amount of Issuance $ ____________

The total dollar amount the district exoects to borrow, including any amounts to re-fund existing debt.

Proposed Term of the Borrowing ____________

years

Anticipated Date of Issue ____________

The closing date.

Expected Interest Rate(s) % ❑ Fixed ❑ Variable ❑ Convertible

________% to ________%

The projected rates of interest payable on the debt instrument for the term of the borrowing. If variable, provide information that indicates variability, expected rate ranges, and rate cap.

Purpose of Borrowing

Describe the projects to be financed by this debt issuance — e.g., building a multi-purpose room, district match to state school building project, refunding existing debt, etc. Provide the estimated cost for each project.

Expected Sources of Funds for Debt Repayment

Indicate the planned sources of funds the district is expecting to receive to repay this debt obligation — e.g., state school building project apportionments, developer fees, general fund, etc. Provide revenue projections for these sources.

Risks and Risk Mitigation Strategies

Describe the risks the borrowing poses to the district's financial condition, the risks related to the ability to repay the debt, and strategies identified to mitigate these risks. Include attachments as appropriate.

Contingency Plan

Indicate the district's contingency plan if expected sources of repayment do not materialize as projected or if the final agreement costs are more than originally estimated.

Other Information Attached, as Available:

Please check all items addressed by attachments. Please note on the first page of each attachment which item the attachment addresses.

- ❏ 1. Expected repayment schedule
- ❏ 2. Expected costs of issuance
- ❏ 3. Expected annual administrative costs
- ❏ 4. Contracts with public finance professionals (bond counsel, municipal advisor, broker/dealer/underwriter
- ❏ 5. Presentations and advice provided by public finance professionals (board presentations, staff presentations, memoranda, disclosure forms, email communication, etc.)
- ❏ 6. Proposed timeline for completing the borrowing
- ❏ 7. District staff work evaluating proposed borrowing (budget worksheets, projections, memoranda, board reports, email, etc.)
- ❏ 8. Proposed authorizing board resolution
- ❏ 9. Proposed financing documents (loan, lease or trust agreement, preliminary official statement, etc.)
- ❏ 10. Project information relevant to affordability (e.g., savings analysis, expected reimbursements, grants, etc.)
- ❏ 11. 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.

12. Other information relevant to affordability:

Any Additional Comments Regarding the Affordability of the Financing

Please note that no new documents need be created for the initial submission. The purpose of this submission is to share the district's analysis of the proposed borrowing.

13. Other documents (please list below):

Ensure that you provide all information that district staff relied on to recommend this financing. This could include reports, presentations and correspondence not already requested. It is important to provide as much information as possible to help the county superintendent understand why the district is recommending this financing.