



West Contra Costa USD

Presentation to the Facilities Subcommittee
March 12, 2013



1333 Broadway, Suite 1000, Oakland, CA 94612
phone 510-839-8200 fax 510-208-8282

A Division of Zions First National Bank

Bonding Capacity Limitation

- State law prevents a unified school district from issuing bonds if issuing such bonds causes the total amount of bonds outstanding to exceed 2.5% of its then-current assessed value.
 - Test must be met at time of issuance only.
 - Bonds issued beyond such limitation (through waiver) create issues for future bonds.
 - The impact of such issues is mitigated over time as the size of the tax base increases and as bonds are repaid.
 - The bonding capacity limitation is different than the Proposition 39 tax rate limitation.

Bonding Capacity Waiver

- The District is in the process of applying to the State Board of Education for a waiver of the bonding capacity limitation for its 2012 Measure E Bonds.
 - The District has a relatively large and ongoing bond program and a tax base that is relatively small vis-à-vis the number of students it serves.
 - The District has applied for bonding capacity waivers under each of its three most recent bond authorizations and has used them on each of its three most recent issues of new money bonds (in 2009, 2010, and 2011).
 - The District was open and transparent about its need and intent to apply for a new bonding capacity waiver in connection with 2012 Measure E.
 - The District went through a process and submitted a complete on-line application on Friday, January 11th.

Application Review Process

- The application is currently under review and is expected to be heard by the State Board of Education in May.
 - On-line application was reviewed by fiscal services staff and additional information was requested on Thursday, February 7th, and submitted on Friday, February 15th.
 - Additional information has been received and reviewed by fiscal services staff, and a recommendation is under development.
 - Application and recommendation will be reviewed through the fiscal services department for sign-off by late March or early April.
 - Final application and recommendation will be delivered to the waiver department to be placed on the agenda for the upcoming May meeting.
 - Agenda items will be reviewed with members of the Board of Education by senior Department of Education staff and a final agenda will be published no less than ten days prior to the meeting.

Anticipated Outcome

- At this point, we expect that the State Board of Education will approve its application subject to certain conditions.
 - The District's past applications have been approved routinely by the SBE.
 - The approvals have come with conditions – (1) as to what bonds they apply to, (2) how long they would apply, (3) to what percentage the District could issue up to, and (4) that the District could only use the approval if maintaining tax rates within Proposition 39 maximums.
 - SBE staff continues to recommend that applications be approved with conditions.
 - There are some that would argue that Education Code Section 33050 limits the SBE's ability to deny waiver requests.

Changing Environment

- The outcome is far from certain, however, given the changing environment in the world of school bond finance.
 - Beginning in September (and to some degree earlier), the use of capital appreciation bonds by California school districts has attracted significant attention from the press and from local and State government officials.
 - Other State agencies and other State officials have taken their cue from State Treasurer Bill Lockyer, a vocal opponent of the use of CABs specifically (and other school financing practices generally).
 - This group includes the Department of Education, which has tried to incorporate such concerns into its evaluation and recommendations regarding school district bonding capacity waiver requests.

Recent Applications

- Staff recommendations for two recent applications suggest some specific ways of how the Department of Education is responding to this changing environment.
 - Both Alum Rock ESD (Santa Clara County) and Jefferson ESD (San Joaquin County) have submitted applications for waivers of their bonding capacity limitations that will be heard later this week.
 - Staff has recommended that both applications be approved with conditions – four of which are familiar and one of which is new (that bonds may not be issued as capital appreciation bonds).
 - One significant change to one of the familiar conditions is that the waiver approvals are limited to one day less than two years (despite both school districts requesting longer periods).
 - Another significant change to a familiar condition is that the waiver approvals are to a percentage less than that requested.
 - It is our unconfirmed understanding that such conditions are acceptable to Alum Rock ESD but not to Jefferson ESD.

Upcoming Meeting

- This week's State Board of Education meeting will provide more information regarding the new developments.
 - We know there has been some discussion between Jefferson ESD and the Department of Education.
 - We know that the bonding capacity waiver requests are not on the consent calendar (as they have frequently been in the past).
 - We believe that Jefferson ESD will send a contingent to Thursday's meeting to argue their case.
 - The outcome of the discussion should tell us something about how the Board of Education is seeing this issue.

Potential Outcomes

- In developing an action plan on this matter, the District should consider the potential impact of at least three potential outcomes.
 - That the Board of Education will approve the District's request without additional conditions.
 - That the Board of Education will approve the District's request with conditions similar to those imposed on Alum Rock ESD and Jefferson ESD.
 - That the Board of Education will deny the District's request or not consider the item.

No Changes

- In the event the State Board of Education approves the District's application without additional conditions, the District will have relatively good flexibility in implementing its bond program.
 - The District currently has \$796 million in bonds outstanding (3.4% of its current assessed value).
 - With an increase in its bonding capacity limit to 5%, the District would immediately be able to issue an additional \$385 million in bonds (if such issuance were possible within its estimated tax rate constraints and without using capital appreciation bonds).
 - Available bonding capacity is expected to increase by approximately \$20 million per year with scheduled bond repayment and by somewhere between \$40 million and \$60 million per year with projected tax base growth.
 - The District's current plan is to issue \$125 million of bonds in alternate years through 2021 (with a final issuance of \$92.5 million in 2023).

Limitation as to Term

- A limitation in term to two years will create significant uncertainty for the District.
 - To the extent future waivers are granted as a matter of course, this condition would work with the current plan.
 - The District might consider issuing two series of bonds under this waiver (summer/fall of 2013 and spring 2015).
 - The District might mitigate future uncertainty by shifting the balance of these two issues more toward 2012 Measure E bonds (and away from 2010 Measure D) and by submitting a second application in 2014 rather than in 2015.
 - The outstanding questions are how much effort can the District afford to put into another waiver push and whether the District would be willing to plan projects based on assumed success.

Reducing Allowable Percentage

- A further reduction in the allowable percentage to which the District could issue will also create significant uncertainty, but only to the extent there is no significant limitation as to term.
 - If the waiver approval is limited in term to two years, we would not expect the District to need a waiver to more than 4.00% in order to implement the next two series of bonds under the current financing plan.
 - In fact, depending on tax base growth, the District might be able to make this program work over the long-term with a waiver of 4.25% or less (though it would suffer a significant loss in flexibility).
 - The District might consider mitigating the negative impact of an SBE imposed reduction by biasing early issues to 2012 Measure E (and away from 2010 Measure D).
 - In addition, the District would want to be aggressive in pursuing follow-up waiver applications.

Denial of Waiver

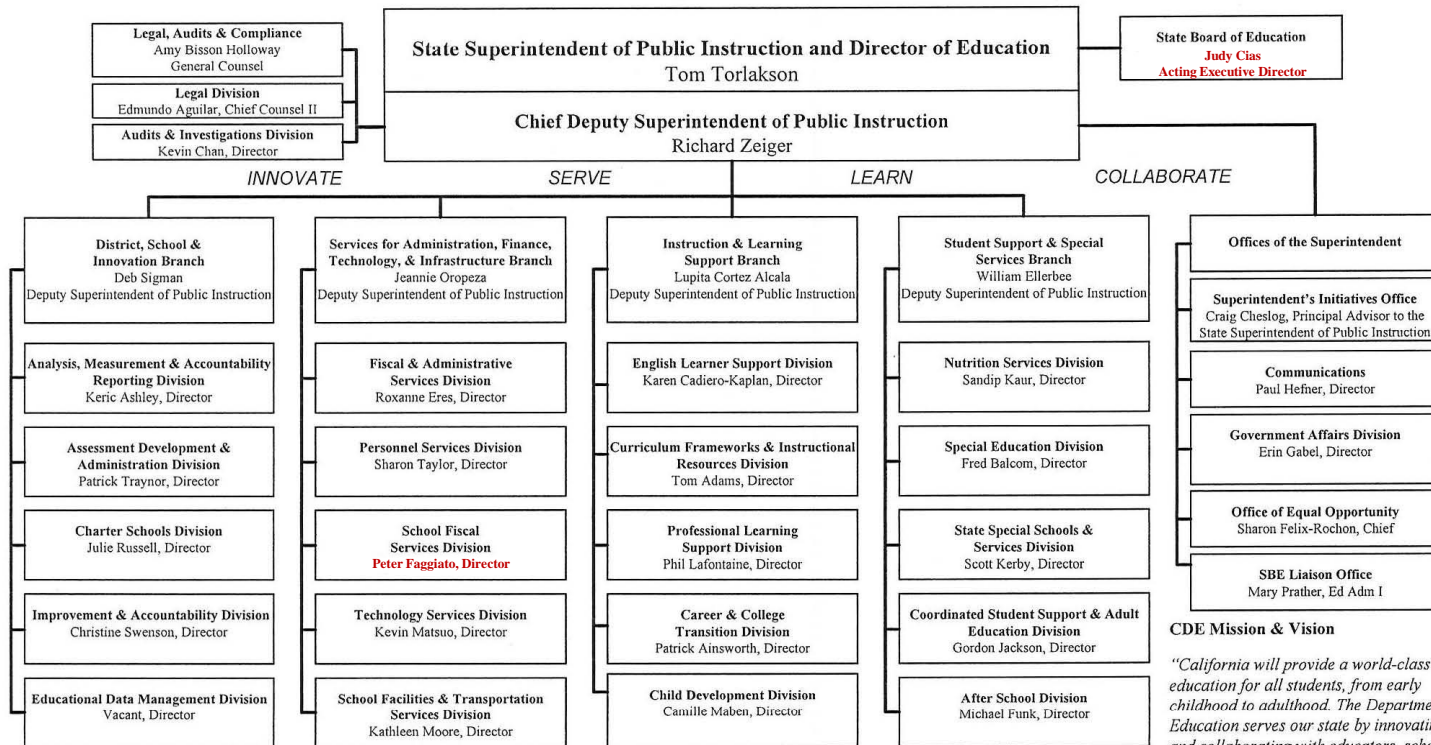
- In the event the District's waiver application is denied (or not considered), the District will need to reconsider the pace of its facilities program moving forward.
 - The need to issue bonds in the approximate amount included in the current plan is clear.
 - As we have discussed, the District might consider moving ahead with its planned 2013 issue by issuing bonds entirely under 2010 Measure D.
 - At that point, the District would need to decide whether to move forward with its facilities program based on; (1) a full-court press regarding a 2012 Measure E waiver; (2) a “max out” strategy around 2010 Measure D; (3) or a soft-landing approach (or some combination of the three).
 - Assuming it issues all remaining 2010 Measure D bonds and depending on tax base growth, the District should not expect to be under the 2.5% bonding capacity limitation for another ten to fifteen years or longer.
 - The possibility of funding projects with interim financings, though certainly not an attractive option, might be explored.

Decision-Making Process

- Official action on the District's request will be taken by the State Board of Education.
 - Bonding capacity waiver applications are evaluated by the School Fiscal Services Division.
 - Recommendations are run through that Division to its Director and then to the Deputy Superintendent of the Services for Administration, Finance, Technology, & Infrastructure Branch.
 - Ultimately, the item comes back to the Waiver Department to be placed on the SBE agenda.
 - Clearly, the current process for bonding capacity waivers is influenced by State policy-makers at the highest levels.
 - The ultimate decisions on this matter will be made in open session by the eleven member State Board of Education.

California Department of Education

- The California Department of Education is governed by an eleven member board and managed by an elected State Superintendent of Public Instruction.



November, 2012

Note: Names in red indicate recent new hires.
Source: California Department of Education.

Lobbying Efforts

- In developing its action plan, the District should consider three strategic elements.
 - What the anticipated result will be if things proceed under their normal course.
 - What parties can influence the course to meet the District's needs.
 - What resources does the District have at its disposal to influence the identified parties.
 - At this point, the District should be watching how things are developing and preparing to respond aggressively, if necessary.

Unique Circumstances

- The District has a strong case to make in terms of the unique circumstances of its case.
 - There is clear public support for the District's bond program which is demonstrated in ways that are unique to this school district.
 - The public support is informed in a way that is unique to the District.
 - The District has operated for many years under a single understanding of how this process works and has been responsible in doing so.
 - If enforced, the law that the District is requesting be waived has disproportionate impact on school districts like West Contra Costa (those with relatively low tax bases given the location of the school district relative to the number of students being served) in a way that might be open to challenge.

Process

- The District may want to consider establishing a process for developing an action plan, sharing emerging information, and adjusting its action plan based on such information.
 - The issue has impacts that are significant and organization-wide.
 - The actions being considered are, in many ways, in unchartered territory.
 - Events that we need to respond to are moving relatively fast.