Office of Christine Lizardi Frazier
Kern County Superintendent of Schools
…advocates for children

District Advisory Services

DISCLOSURE OF NON-VOTER APPROVED DEBT

AB 2197, effective January 1, 2009, amended Sections 17150 and 42133.5 and added Section 17150.1 to the Education Code and changed the reporting requirements for the issuance of non-voter approved debt. In addition, the bill adds other kinds of non-voter approved debt instruments secured by real property to the list of what must be disclosed, including the following:

- Certificates of Participation (COPs)
- Lease purchases (LPs) secured by real property
- Qualified Zone Academy Bonds (QZABs) secured by real property
- Revenue bonds
- Any other debt instrument secured by real property and not subject to voter approval

School districts are required to notify the county superintendent of schools and county auditor at least 30 days prior to the governing board's approval of the issuance of non-voter approved debt instruments secured by real property. The district must provide information necessary to assess the anticipated effect of the debt issuance, including repayment schedules, evidence of the ability to repay, and costs of issuance. Within 15 days of receipt of the information, the county superintendent of schools and the county auditor are authorized to comment publicly to a district's governing board regarding the district's capacity to repay the debt obligation based on the information provided.

Enclosed is the reporting form and instructions to School Districts within Kern County necessary to comply with the Education Code with regard to public disclosure requirements for proposed non-voter approved debt agreements.

This form and supporting documents must be made available to the Kern County Superintendent of Schools at least thirty (30) days prior to the date the governing board will take action on the proposed non-voter approved debt issuance.

Instructions for completing the forms are provided for your information. Please provide repayment schedules, costs of issuance, and a multi-year (three year) financial projection for all funds pledged for debt repayment. The projection should show the revenue stream being committed to repayment of the debt obligation and the calculations on how the revenues are to be generated. If additional explanation of the terms of the agreement is necessary, please include a written narrative explanation.

If you have any questions, please contact us at:
Office of the Kern County Superintendent of Schools
District Advisory Services
1300 17th Street
Bakersfield California 93301-4533
(661) 636-4276
Fax (661) 636-4121

07/26/12

DISCLOSURE OF NON-VOTER APPROVED DEBT LEGAL REFERENCE

Education Code Section 17150 (a) Upon the approval by the governing board of the school district 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), the school district shall notify the county superintendent off schools and the county auditor. The superintendent of the school district shall provide the repayment schedules for that debt obligation and evidence of the ability of the school district to repay that obligation to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) Upon the approval by the county board of education to proceed with the issuance of revenue bonds or to enter into an agreement for financing pursuant to Chapter 18 (commencing with Section 17170), the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide the repayment schedules for that debt obligation and evidence of the ability of the county office of education or school district to repay that obligation, to the Superintendent, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

(c) Prior to delivery of the notice required by subdivision (a) neither the county nor its officers shall have responsibility for the administration of the indebtedness of the school district. Failure to comply with the requirements of this section will not affect the validity of the indebtedness.

17150.1 (a) No later than 30 days before the approval by the governing board of the school district to proceed with the issuance of certificates of participation and other debt instruments that are secured by real property and do not require approval of the voters of the school district, the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide information necessary to assess the anticipated effect of the debt issuance, including the repayment schedules for that debt obligation, evidence of the ability of the school district to repay that obligation, and the issuance costs, to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) No later than 30 days before the approval by the county board of education to proceed with the issuance of certificates of participation and other debt instruments that are secured by real property and do not require approval of the voters of the county, the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide information necessary to assess the anticipated effect of the debt issuance, including the repayment schedules for that debt obligation, the evidence of the ability of the county office of education or school district to repay that obligation, and issuance costs, to the Superintendent, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

42133.5. Regardless of the certification of the budgetary status of a school district or county office of education under subdivision (*l*) of Section 1240 or Section 42131, the proceeds obtained by a school district from the sources listed in subdivisions (a) to (f), inclusive, shall not be used for general operating purposes of the school district.

(a) The sale of a saleback or leaseback agreement, or interests in the agreement.
(b) A debt instrument payable from payments under a saleback or leaseback agreement.
(c) Certificates of participation.
(d) Other debt instruments that meet both of the following criteria:
(A) They are secured by real property.
(B) They do not require the approval of the voters of the school district.

DISCLOSURE OF NON-VOTER APPROVED DEBT GENERAL INSTRUCTIONS

Pursuant to Education Code Section 17150, 17150.1

1) Please submit this form to the Kern County Superintendent of Schools at least thirty (30) days prior to the date the district's governing board will take action on the non-voter approved debt issuance (the initial approval to proceed with the financing).

2) This form is to be used for all new and refunded issuances of non-voter approved debt.

3) Attachments to this form are to include: debt repayment schedule, costs of issuance, evidence of the ability of the school district to repay the obligation, multi-year financial projections for the funds pledged for the repayment, including assumptions used, and the calculations or data analysis to substantiate growth or revenue projections.

Specific Instructions:

1. **Type of Issue**: Indicate the type of debt instrument, i.e. Certificates of Participation (COP), Direct Capital Lease, Land Bank, Revenue Bonds, or any agreement to finance school construction.
2. **Board Approval Date:** The date the board is expected to approve proceeding with the debt issuance.
3. **Amount of Issue:** The total dollar amount the district is borrowing, including any amounts to refund existing debt issuances.
4. **Anticipated Date of Sale:** The date the debt instrument is expected to be purchased by the investor(s).
5. **Interest Rate %:** The expected rates of interest payable on the debt instrument for the term of the issue. If variable rate, indicate what drives variability, expected rate ranges, and the highest rate of interest that can be charged.
6. **Bond Counsel and Financial Advisory/Underwriter**: Provide the company and individual contact person handling your debt financing.
7. **Purpose of the Issue:** Describe the projects to be covered by the debt issuance, i.e., building a multi-purpose room, district match to state school building project, refunding existing debt issuance for lower interest rate.
8. **Pledged Source(s) of Funds for Debt Repayment as Indicated in the Official Statement**: Indicate the sources of the funds the district is expecting to receive to repay this debt obligation as indicated in the official debt disclosure document (O.S.), i.e., state school building project apportionments, developer fees, and revenue limit apportionments. Provide analysis of projections for developer fees and/or calculations of anticipated student attendance growth for revenue limit pledges.