

## **2023-24 Annual Standard Reminders ~ All Districts**

### **Collective Bargaining Disclosure**

SCOE Business requests copies of collective bargaining disclosures 10 days prior to board approval. If any collective bargaining settlements are reached during the current year all districts are being reminded of the public disclosure obligation. An important AB 1200 reporting requirement is the statute for tentative collective bargaining agreements to meet the requirements of Government Code Section 3547.5 and Education Code Sections 42131 and 42142, both of which outline the District's responsibilities for public disclosure and budget revisions for collective bargaining agreements. A three-year analysis must be completed to determine the impact of negotiations in future years. The superintendent and chief business officer must certify that the District can meet the costs incurred under the agreement. The governing board must take formal board action to approve the proposed agreement. **Please note that within 45 days of the settlement, the District must send to SCOE any revisions to the District's current budget necessary to fulfill the terms of the agreement.**

### **Submission of Studies, Reports, Evaluations and/or Audits**

Education Code Sections 42127 and 42127.6 require districts to submit to the County Office any studies, reports, evaluations, or audits done of the district that contain evidence that the district is showing fiscal distress. They also require the County Office to incorporate that information into the analysis of budgets, interim reports, and the District's overall financial condition.

We request that the District submit to this office any such documents commissioned by the District (e.g. reports done by Fiscal Crisis and Management Assistance Team), or by the State Superintendent of Public Instruction and/or a state control agency any time they are received by your District.



### **SB740**

Please note that a SB740 funding determination may be required when a charter school offers instructional time in a non-classroom-based setting. Charter schools that do not submit a request by the due date may not receive a funding determination, and could have their State apportionment associated with its non-classroom-based ADA reduced to zero. SB740 regulations, instructions and form can be found at:

<https://www.cde.ca.gov/sp/ch/nclrbifunddet.asp>

### **Requirements for Debt Management Policy and Practices**

Effective January 1, 2017, (per Senate Bill (SB) 1029, Hertzberg) issuers must certify on the **Report of Proposed Debt Issuance** (<http://www.treasurer.ca.gov/cdiac/reporting.asp>) that they have:

-  Adopted local debt policies concerning the use of debt; and
-  The proposed debt issuance is consistent with those policies.

The issuer's **local debt policies** *must* include (A) through (E), below:

- A. The purposes for which the debt proceeds may be used.
- B. The types of debt that may be issued.
- C. The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable.
- D. Policy goals related to the issuer's planning goals and objectives.
- E. The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

FCMAT has prepared a Fiscal Alert which provides a **sample Debt Management Policy** which is located at <http://fcmat.org/fcmat-fiscal-and-legal-alerts/> .

SB 1029 contains a declaration that state and local agencies should adopt comprehensive written debt management policies pursuant to the recommendation of the Government Finance Officers Association (GFOA). The GFOA is a national association of government finance professionals with a shared mission to promote excellence in state and local government financial management. The GFOA provides **best practices** and a link to the ***Debt Issuance Checklist: Considerations When Issuing Bonds*** at <http://www.gfoa.org/debt-management-policy> (bottom of the webpage).

**California Debt and Investment Advisory Commission's (CDIAC)** website contains the necessary reporting forms and fees which can be found at the website <http://www.treasurer.ca.gov/cdiac/reporting.asp>. CDIAC's guidance regarding SB1029 is located at <http://www.treasurer.ca.gov/cdiac/> by clicking on "Guidance on 1029 Implementation with SB1029" on the left side of the webpage. Some of its guidance is noted below:

**Government Code 8855(i)** requires any issuer of public debt to provide a *Report of Proposed Debt Issuance* to the California Debt Investment and Advisory Commission *no later than 30 days before the sale* of such debt.

**Government Code section 8855(k)** ~ Effective January 1, 2017, state and local issuers are required to submit an **annual debt transparency report** for any issue of debt for which they have submitted a *Report of Final Sale* during the reporting period. The annual debt transparency report is due to CDIAC within seven (7) months of the close of the reporting period, defined as July 1st to June 30th. This provision makes January 31st the effective deadline for submittal of the annual debt transparency report. Debt issued between January 1, 2017 and June 30, 2017, and reported to CDIAC on or after January 21, 2017 will be required to submit an annual debt transparency report no later than January 31, 2018.

Minimum annual debt transparency report information and additional requirements/stipulations apply. Please see the Guidance from CDIAC for more detailed information.

### **Reporting Requirements for Proposed Debt Issuances**

AB 2274 amended Government Code Section 8855 and is effective January 1, 2015. It requires LEAs to notify the California Debt Investment Advisory Commission (CDIAC) of **any proposed debt issuance**, which would include refinancing and other secondary issuances. In addition, the bill established reporting timeframes. No later than 30 days *prior to the sale* of any debt issue, the issuer shall submit a report of the proposed issuance to CDIAC. Not later than 21 days *after the sale* of the debt, the issuer shall submit a report of final sale to CDIAC. Instructions to all of

the requirements that CDIAC needs depending on the type of debt transaction and applicable reporting forms are available at: <http://www.treasurer.ca.gov/cdiac/reporting.asp>

AB 2551 enhances transparency requirements for local bond elections, including Proposition 39 (2000) and two-thirds vote general obligation bonds. The bill requires LEAs attempting to pass local bonds to *submit to their local elections office* the total estimated debt service, including principal and interest, if all bonds are issued, as part of the Tax Rate Statement required pursuant to Elections Code Sections 9400-9401. The aforementioned reporting requirements are applicable to any issuance of debt after AB 2274 adds reporting requirements to debt from bonds already approved by voters. It requires agencies to notify CDIAC of *any* proposed debt issuance, which **would include refinancing and other secondary issuances**. **The provisions of AB 2551 will be required for any local bond elections after January 1, 2015.**

#### **Reporting Requirements for Non-Voter-Approved Debt**

Education Code Section 17150 requires school districts to notify the County Superintendent of Schools and County Auditor at least 30 days prior to the governing boards' approval of the issuance of certificates of participation (COPs) or other non-voter-approved debt secured by real property such as: Lease purchases (LP) secured by real property; Qualified Zone Academy Bonds (QZABs) secured by real property; Revenue bonds; Energy Loans or Bond Anticipation Notes (BANs). Under the new law, the district must provide repayment schedules, evidence of the ability to repay, and costs of issuance as well as information necessary to assess the anticipated effect of the debt issuance. Within 15 days of the receipt of the information, the County Superintendent of Schools and the County Auditor are authorized to comment publicly regarding the district's capacity to repay the debt obligation, based on the information provided.

## **Additional Standard Reminders for School Districts with Qualified or Negative Certifications**

### **Debt Issuance**

The statutory requirements for debt issuance for school districts with qualified or negative interim report certifications are specifically addressed by E.C. Section 42133(a), and read as follows:

**"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.** A school district is deemed to have a qualified or negative certification for purposes of this subdivision if, pursuant to this article, it files that certification or the county superintendent of schools classifies the certification of that fiscal year to be qualified or negative."

E.C. Section 15140 (b) notes that a district that has received a qualified or negative certification in its most recent interim report, may not issue and sell bonds on its own behalf pursuant to this chapter without further action of the board of supervisors or officers of that county or of any other county in which a portion of the school district or community college district is located.

### **Collective Bargaining**

Government Code Section 3540.2 provides added oversight related to the collective bargaining process. Any school district with a Qualified or Negative certification under Education Code Section 42131 **shall allow the county office of education at least ten working days to review and comment on any proposed agreement made between the exclusive representative and the public school employer, or designated representative, before it is ratified.** The school district shall provide the county office with all information relevant to yield an understanding of financial impact of that agreement. The county superintendent shall notify the school district, county board of education, district superintendent, governing board of the school district, and each parent and teacher organization of the district within those 10 days if, in his or her opinion, the agreement would endanger the fiscal well-being of the school district.

Per Government Code 3540.2(d), a school district shall, upon request, provide the county superintendent of schools with all information relevant to provide an understanding of the financial impact of any final collective bargaining agreement reached.