

AMENDED IN SENATE JUNE 20, 2000

AMENDED IN SENATE JUNE 19, 2000

AMENDED IN ASSEMBLY MAY 16, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1908

Introduced by Assembly Member Lempert

(Coauthor: Senator O'Connell)

February 11, 2000

An act to amend Sections 15102, 15106, 35233, and 72533 of, and to add Chapter 1.5 (commencing with Section 15264) to Part 10 of, the Education Code, relating to school bonds.

LEGISLATIVE COUNSEL'S DIGEST

AB 1908, as amended, Lempert. School bonds.

Existing law authorizes the governing board of any school district or community college to order an election and submit to the electors of the district the question of whether the bonds of the district shall be issued and sold to raise money for specified purposes. Existing law generally requires $\frac{2}{3}$ of the votes cast on the proposition of issuing bonds to be in favor of issuing the bonds to pass the measure.

This bill would provide that, contingent upon the passage of the "Smaller Classes, Safer Schools and Financial Accountability Act" at the November 7, 2000, General Election, as an alternative, the governing board of a school district or community college district, may, pursuant to a $\frac{2}{3}$ vote of the governing board, pursue the authorization and

issuance of bonds by a 55% vote of the electorate, at primary or general elections, subject to certain additional requirements.

The bill would require the ballot to be printed with a statement that the governing board will appoint a citizens' oversight committee and conduct annual independent audits to assure that funds are spent only on school and classroom improvements and for no other purposes. The bill would require that after a successful election, the board appoint an independent citizens' oversight committee, as specified. The bill would state that the purpose of the citizens' oversight committee is to inform the public concerning the expenditure of bond revenues.

The bill would authorize, as specified, an action to be maintained to restrain and prevent expenditures of bond funds under certain circumstances.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15102 of the Education Code is
2 amended to read:
3 15102. The total amount of bonds issued pursuant to
4 this chapter and Chapter 1.5 (commencing with Section
5 15264) shall not exceed 1.25 percent of the taxable
6 property of the district as shown by the last equalized
7 assessment of the county or counties in which the district
8 is located. For purposes of this section, the taxable
9 property of a district for any fiscal year shall be calculated
10 to include, but not be limited to, the assessed value of all
11 unitary and operating nonunitary property of the district,
12 which shall be derived by dividing the gross assessed
13 value of the unitary and operating nonunitary property
14 within the district for the 1987-88 fiscal year by the gross
15 assessed value of all unitary and operating nonunitary
16 property within the county in which the district is located
17 for the 1987-88 fiscal year, and multiplying that result by
18 the gross assessed value of all unitary and operating



1 nonunitary property of the county on the last equalized
2 assessment roll.

3 SEC. 2. Section 15106 of the Education Code is
4 amended to read:

5 15106. Any unified school district or community
6 college district may issue bonds that, in aggregation with
7 bonds issued pursuant to Section 15270, may not exceed
8 2.5 percent of the taxable property of the district as shown
9 by the last equalized assessment of the county or counties
10 in which the district is located.

11 In computing the outstanding bonded indebtedness of
12 any unified school district or community college district
13 for all purposes of this section, any outstanding bonds shall
14 be deemed to have been issued for elementary school
15 purposes, high school purposes, and community college
16 purposes, respectively, in the respective amounts that the
17 proceeds of the sale of those outstanding bonds, excluding
18 any premium and accrued interest received on that sale,
19 were or have been allocated by the governing board of
20 the unified school district or community college district
21 to each of those purposes respectively.

22 (a) For the purposes of the State School Building Aid
23 Law of 1952 (Chapter 6 (commencing with Section
24 16000) of Part 10) with respect to applications for
25 apportionments and apportionments filed or made prior
26 to September 15, 1961, and to the repayment thereof,
27 Chapter 6 (commencing with Section 15700) of this part,
28 inclusive, only, any unified school district shall be
29 considered to have a bonding capacity in the amount
30 permitted by law for an elementary school district and a
31 bonding capacity in the amount permitted by law for a
32 high school district.

33 (b) For purposes of this section, the taxable property
34 of a district for any fiscal year shall be calculated to
35 include, but not be limited to, the assessed value of all
36 unitary and operating nonunitary property of the district,
37 which shall be derived by dividing the gross assessed
38 value of the unitary and operating nonunitary property
39 within the district for the 1987–88 fiscal year by the gross
40 assessed value of all unitary and operating nonunitary



1 property within the county in which the district is located
 2 for the 1987–88 fiscal year, and multiplying the result by
 3 the gross assessed value of all unitary and operating
 4 nonunitary property of the county on the last equalized
 5 assessment roll. In the event of the unification of two or
 6 more school districts or community college districts
 7 subsequent to the 1987–88 fiscal year, the assessed value
 8 of all unitary and operating nonunitary property of the
 9 unified district or community college district shall be
 10 deemed to be the total of the assessed value of the taxable
 11 property of each of the unifying districts as that assessed
 12 value would be determined under Section 15102.

13 SEC. 3. Chapter 1.5 (commencing with Section
 14 15264) is added to Part 10 of the Education Code, to read:

15

16 CHAPTER 1.5. STRICT ACCOUNTABILITY IN LOCAL SCHOOL
 17 CONSTRUCTION BONDS ACT OF 2000

18

19

20 Article 1. General Provisions

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22 15264. It is the intent of the Legislature that all of the
 23 following are realized:

24 (a) Vigorous efforts are undertaken to ensure that the
 25 expenditure of bond measures, including those
 26 authorized pursuant to paragraph (3) of subdivision (b)
 27 of Section 1 of Article XIII A of the California
 28 Constitution, are in strict conformity with the law.

29 (b) Taxpayers directly participate in the oversight of
 30 bond expenditures. ~~As such, the members of the oversight~~
 31 ~~committees appointed pursuant to this chapter shall~~
 32 ~~serve as active guardians of the public trust in ensuring~~
 33 ~~the prudent expenditure of taxpayers' money for school~~
 34 ~~construction.~~

35 (c) The members of the oversight committees
 36 appointed pursuant to this chapter promptly alert the
 37 public to any waste or improper expenditure of school
 38 construction bond money.

39 (d) That unauthorized expenditures of school
 40 construction bond revenues are vigorously investigated,



1 prosecuted, and that the courts act swiftly to restrain any
2 improper expenditures.

3 15266. (a) As an alternative to authorizing and
4 issuing bonds pursuant to Chapter 1 (commencing with
5 Section 15100), the governing board of a school district or
6 community college district may decide, pursuant to a
7 two-thirds vote and subject to Section 15100, to pursue the
8 authorization and issuance of bonds pursuant to
9 paragraph (3) of subdivision (b) of Section 1 of Article
10 XIII A of the California Constitution and subdivision (b)
11 of Section 18 of Article XVI of the California Constitution.
12 An election may only be ordered on the question of
13 whether bonds of a school district or community college
14 district shall be issued and sold pursuant to subdivision
15 (b) of Section 18 of Article XVI of the California
16 Constitution at a primary or general election, *a regularly*
17 *scheduled local election, or a statewide special election.*

18 (b) Upon adopting a resolution to incur bonded
19 indebtedness pursuant to subdivision (b) of Section 18 of
20 Article XVI of the California Constitution and after the
21 question has been submitted to the voters, if approved at
22 the election, the bonds shall be issued pursuant to
23 paragraph (3) of subdivision (b) of Section 1 of Article
24 XIII A of the California Constitution and this chapter, and
25 the governing board may not, regardless of the number
26 of votes cast in favor of the bond, subsequently proceed
27 exclusively under Chapter 1 (commencing with Section
28 15100). Where not inconsistent, the provisions of Chapter
29 1 (commencing with Section 15100) shall apply to this
30 chapter.

31 15268. The total amount of bonds issued pursuant to
32 this section and Section 15102 shall not exceed 1.25
33 percent of the taxable property of the district as shown by
34 the last equalized assessment of the county or counties in
35 which the district is located. The tax rate levied to meet
36 the requirements of Section 18 of Article XVI of the
37 California Constitution in the case of indebtedness
38 incurred by a school district pursuant to this chapter, at
39 a single election, shall not exceed thirty dollars (\$30) per
40 one hundred thousand dollars (\$100,000) of taxable



1 property. For purposes of this section, the taxable
2 property of a district for any fiscal year shall be calculated
3 to include, but not be limited to, the assessed value of all
4 unitary and operating nonunitary property of the district,
5 which shall be derived by dividing the gross assessed
6 value of the unitary and operating nonunitary property
7 within the district for the 1987–88 fiscal year by the gross
8 assessed value of all unitary and operating nonunitary
9 property within the county in which the district is located
10 for the 1987–88 fiscal year, and multiplying that result by
11 the gross assessed value of all unitary and operating
12 nonunitary property of the county on the last equalized
13 assessment roll.

14 15270. (a) Notwithstanding Sections 15102 and
15 15268, any unified school district may issue bonds
16 pursuant to this article that, in aggregation with bonds
17 issued pursuant to section 15106, may not exceed 2.5
18 percent of the taxable property of the district as shown by
19 the last equalized assessment of the county or counties in
20 which the district is located. The tax rate levied to meet
21 the requirements of Section 18 of Article XVI of the
22 California Constitution in the case of indebtedness
23 incurred pursuant to this chapter at a single election, by
24 a unified school district, shall not exceed sixty dollars
25 (\$60) per one hundred thousand dollars (\$100,000) of
26 taxable property.

27 (b) Notwithstanding Sections 15102 and 15268, any
28 community college district may issue bonds pursuant to
29 this article that, in aggregation with bonds issued
30 pursuant to Section 15106, may not exceed 2.5 percent of
31 the taxable property of the district as shown by the last
32 equalized assessment of the county or counties in which
33 the district is located. The tax rate levied to meet the
34 requirements of Section 18 of Article XVI of the
35 California Constitution in the case of indebtedness
36 incurred pursuant to this chapter at a single election, by
37 a community college district, shall not exceed ~~fifteen~~
38 ~~dollars—(\$15)~~ *twenty-five dollars* (\$25) per one hundred
39 thousand dollars (\$100,000) of taxable property.



1 (c) In computing the outstanding bonded
2 indebtedness of any unified school district or community
3 college district for all purposes of this section, any
4 outstanding bonds shall be deemed to have been issued
5 for elementary school purposes, high school purposes,
6 and community college purposes, respectively, in the
7 respective amounts that the proceeds of the sale of those
8 outstanding bonds, excluding any premium and accrued
9 interest received on that sale, were or have been
10 allocated by the governing board of the unified school
11 district or community college district to each of those
12 purposes respectively.

13 (d) For purposes of this section, the taxable property
14 of a district for any fiscal year shall be calculated to
15 include, but not be limited to, the assessed value of all
16 unitary and operating nonunitary property of the district,
17 which shall be derived by dividing the gross assessed
18 value of the unitary and operating nonunitary property
19 within the district for the 1987–88 fiscal year by the gross
20 assessed value of all unitary and operating nonunitary
21 property within the county in which the district is located
22 for the 1987–88 fiscal year, and multiplying the result by
23 the gross assessed value of all unitary and operating
24 nonunitary property of the county on the last equalized
25 assessment roll. In the event of the unification of two or
26 more school districts subsequent to the 1987–88 fiscal
27 year, the assessed value of all unitary and operating
28 nonunitary property of the unified district shall be
29 deemed to be the total of the assessed value of the taxable
30 property of each of the unifying districts as that assessed
31 value would be determined under Section 15268.

32 15272. In addition to the ballot requirements of
33 Section 15122 and the ballot provisions of this code
34 applicable to governing board member elections, for
35 bond measures pursuant to this chapter, the ballot shall
36 also be printed with a statement that the board will
37 appoint a citizens' oversight committee and conduct
38 annual independent audits to assure that funds are spent
39 only on school and classroom improvements and for no
40 other purposes.



1 15274. If it appears from the certificate of election
 2 results that 55 percent of the votes cast on the proposition
 3 of issuing bonds pursuant to subdivision (b) of Section 18
 4 of Article XVI of the California Constitution are in favor
 5 of issuing bonds, the governing board shall cause an entry
 6 of that fact to be made upon its minutes. The governing
 7 board shall then certify to the board of supervisors of the
 8 county whose superintendent of schools has jurisdiction
 9 over the district, all proceedings had in the premises. The
 10 county superintendent of schools shall send a copy of the
 11 certificate of election results to the board of supervisors
 12 of the county.

13 15276. Notwithstanding any other provision of law, a
 14 county board of education may not order an election to
 15 determine whether bonds may be issued under this
 16 article to raise funds for a county office of education.

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Article 2. Citizens' Oversight Committee

20 15278. (a) If a bond measure authorized pursuant to
 21 paragraph (3) of subdivision (b) of Section 1 of Article
 22 XIII A of the California Constitution and subdivision (b)
 23 of Section 18 of Article XVI of the California Constitution
 24 is approved, the governing board of the school district or
 25 community college shall establish and appoint members
 26 to an independent citizens' oversight committee,
 27 pursuant to Section 15282, within 60 days of the date that
 28 the governing board enters the election results on its
 29 minutes pursuant to Section 15274.

30 (b) The purpose of the citizens' oversight committee
 31 shall be to inform the public concerning the expenditure
 32 of bond revenues. The citizens' oversight committee shall
 33 actively review and report on the proper expenditure of
 34 taxpayers' money for school construction. The citizens'
 35 oversight committee shall advise the public as to whether
 36 a school district or community college district is in
 37 compliance with the requirements of paragraph (3) of
 38 subdivision (b) of Section 1 of Article XIII A of the
 39 California Constitution. The citizens' oversight



1 committee shall convene to provide oversight for, but not
2 be limited to, both of the following:

3 (1) Ensuring that bond revenues are expended only
4 for the purposes described in paragraph (3) of
5 subdivision (b) of Section 1 of Article XIII A of the
6 California Constitution.

7 (2) Ensuring that, as prohibited by subparagraph (A)
8 of paragraph (3) of subdivision (b) of Section 1 of Article
9 XIII A of the California Constitution, no funds are used
10 for any teacher or administrative salaries or other school
11 operating expenses.

12 (c) In furtherance of its purpose, the citizens'
13 oversight committee may engage in any of the following
14 activities:

15 (1) Receiving and reviewing copies of the annual,
16 independent performance audit required by
17 subparagraph (C) of paragraph (3) of subdivision (b) of
18 Section 1 of Article XIII A of the California Constitution.

19 (2) Receiving and reviewing copies of the annual,
20 independent financial audit required by subparagraph
21 (C) of paragraph (3) of subdivision (b) of Section 1 of
22 Article XIII A of the California Constitution.

23 (3) Inspecting school facilities and grounds to ensure
24 that bond revenues are expended in compliance with the
25 requirements of paragraph (3) of subdivision (b) of
26 Section 1 of Article XIII A of the California Constitution.

27 (4) Receiving and reviewing copies of any deferred
28 maintenance proposals or plans developed by a school
29 district or community college district, including any
30 reports required by Section 17584.1.

31 (5) Reviewing efforts by the school district or
32 community college district to maximize bond revenues
33 by implementing cost-saving measures, including, but
34 not limited to, all of the following:

35 (A) Mechanisms designed to reduce the costs of
36 professional fees.

37 (B) Mechanisms designed to reduce the costs of site
38 preparation.

39 (C) Recommendations regarding the joint use of core
40 facilities.



1 (D) Mechanisms designed to reduce costs by
2 incorporating efficiencies in schoolsite design.

3 (E) Recommendations regarding the use of
4 cost-effective and efficient reusable facility plans.

5 15280. (a) The governing board of the district shall,
6 without expending bond funds, provide the citizens'
7 oversight committee with any necessary technical
8 assistance and shall provide administrative assistance in
9 furtherance of its purpose and sufficient resources to
10 publicize the conclusions of the citizens' oversight
11 committee.

12 (b) All committee proceedings shall be open to the
13 public and notice to the public shall be provided in the
14 same manner as the proceedings of the governing board.
15 The citizens' oversight committee shall issue regular
16 reports on the results of its activities. A report shall be
17 issued at least once a year. Minutes of the proceedings of
18 the citizens' oversight committee and all documents
19 received and reports issued shall be a matter of public
20 record and be made available on an Internet website
21 maintained by the governing board.

22 15282. (a) The citizens' oversight committee shall
23 consist of at least seven members to serve for a term of
24 two years without compensation and for no more than
25 two consecutive terms. While consisting of a minimum of
26 at least seven members, the citizens' oversight
27 committee shall be comprised, as follows:

28 (1) One member shall be active in a business
29 organization representing the business community
30 located within the district.

31 (2) One member shall be active in a senior citizens'
32 organization.

33 (3) One member shall be active in a bona fide
34 taxpayers' organization.

35 (4) For a school district, one member shall be the
36 parent or guardian of a child enrolled in the district. For
37 a community college district, one member shall be a
38 student who is both currently enrolled in the district and
39 active in a community college group, such as student
40 government. The community college student member



1 may, at the discretion of the board, serve up to six months
2 after his or her graduation.

3 (5) For a school district, one member shall be both a
4 parent or guardian of a child enrolled in the district and
5 active in a parent-teacher organization, such as the
6 Parent Teacher Association or schoolsite council. For a
7 community college district, one member shall be active
8 in the support and organization of a community college
9 or the community colleges of the district, such as a
10 member of an advisory council or foundation.

11 (b) No employee or official of the district shall be
12 appointed to the citizens' oversight committee. No
13 vendor, contractor, or consultant of the district shall be
14 appointed to the citizens' oversight committee. Members
15 of the citizens' oversight committee shall, pursuant to
16 Sections 35233 and 72533, abide by the prohibitions
17 contained in Article 4 (commencing with Section 1090)
18 and Article 4.7 (commencing with Section 1125) of
19 Division 4 of Title 1 of the Government Code.

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Article 3. Bond Accountability

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23 15284. (a) An action to obtain an order restraining
24 and preventing any expenditure of funds received by a
25 school district or community college district through the
26 sale of bonds authorized by this chapter pursuant to
27 paragraph (3) of subdivision (b) of Section 1 of Article
28 XIII A of the California Constitution and subdivision (b)
29 of Section 18 of Article XVI of the California Constitution
30 may be maintained against any officer, agent, or other
31 person acting on behalf of, that school district or
32 community college district, by a citizen residing in the
33 school or community college district who is assessed and
34 is liable to pay an ad valorem tax on real property within
35 the school or community college district, or who has paid
36 an ad valorem tax on real property within the school or
37 community college district within one year before the
38 commencement of the action if it appears by the
39 complaint or affidavits that any of the following
40 conditions are present:



1 (1) An expenditure of funds received by a school
2 district or community college district through the sale of
3 bonds authorized by this chapter is for purposes other
4 than those specified in paragraph (3) of subdivision (b)
5 of Section 1 of Article XIII A of the California
6 Constitution.

7 (2) The expenditure is not in compliance with
8 paragraph (3) of subdivision (b) of Section 1 of Article
9 XIII A of the California Constitution.

10 (3) That an expenditure in violation of paragraph (3)
11 of subdivision (b) of Section 1 of Article XIII A of the
12 California Constitution will be made or will continue to
13 be made during the litigation that would produce waste
14 or great or irreparable injury.

15 (4) The governing board of a school district or
16 community college has willfully failed to appoint the
17 citizens' oversight committee in violation of the
18 requirements of Section 15278.

19 (b) An action brought pursuant to this section shall
20 take special precedence over all civil matters on the
21 calendar of the court except those matters granted equal
22 precedence by law.

23 (c) The rights, remedies, or penalties established by
24 this section are cumulative to the rights, remedies, or
25 penalties established under other laws, including
26 subdivision (a) of Section 526 of Chapter 3 of Title 7 of
27 Part 2 of the Code of Civil Procedure.

28 (d) If an order is obtained to restrain and prevent an
29 expenditure of funds pursuant to subdivision (a), a court
30 may award attorneys' fees pursuant to Chapter 6
31 (commencing with Section 1021.5) of Title 14 of Part 2 of
32 the Code of Civil Procedure.

33 (e) The action authorized by this section shall be
34 known as a "School Bond Waste Prevention Action."

35 15288. It is the intent of the Legislature that upon
36 receipt of allegations of waste or misuse of bond funds
37 authorized in this chapter, appropriate law enforcement
38 officials shall expeditiously pursue the investigation and
39 prosecution of any violation of law associated with the
40 expenditure of those funds.



1 SEC. 4. Section 35233 of the Education Code is
2 amended to read:

3 35233. The prohibitions contained in Article 4
4 (commencing with Section 1090) and Article 4.7
5 (commencing with Section 1125) of Division 4 of Title 1
6 of the Government Code are applicable to members of
7 governing boards of school districts and to members of
8 citizens' oversight committees appointed by those
9 governing boards pursuant to Chapter 1.5 (commencing
10 with Section 15264) of Part 10.

11 SEC. 5. Section 72533 of the Education Code is
12 amended to read:

13 72533. The prohibitions contained in Article 4
14 (commencing with Section 1090) and Article 4.7
15 (commencing with Section 1125) of Division 4 of Title 1
16 of the Government Code are applicable to members of
17 governing boards of community college districts and to
18 members of citizens' oversight committees appointed by
19 those governing boards pursuant to Chapter 1.5
20 (commencing with Section 15264) of Part 10.

21 SEC. 6. This act shall only become operative upon the
22 passage of the "Smaller Classes, Safer Schools and
23 Financial Accountability Act" which is contained in a
24 proposition at the November 7, 2000, general election.

