

Best Practices - Debt Limit Waiver Review

Background. Most of the things that BOCs are called upon to do are found in Section 15278 of the Education Code. This legislation took what was included in Proposition 39/2000 and made it part of the statute. It deals with things such as who must be on the BOC, what are its duties, etc. However, that is not the *only* part of the Education Code that has come to apply to BOCs.

A different part of the Education Code, Section 15100, deals with debt limits. This section generally limits debt of a District to 1.25% of Assessed Valuation for elementary or High School, and 2.5% of AV for Unified School Districts. However, the limit can be waived by the State Board of Education (SBE) under Section 33050. If a waiver is granted, the District can take on additional debt, and this is where the BOC comes in. The SBE imposes several procedures on a District seeking a waiver. One of the most important of these is the requirement to consult with appropriate committees. In practice this has come to mean the BOC if there is one impaneled. In this way, the BOC often starts to take on a new statutory role.

The role of a BOC under 33050 is roughly the same as its duties under 15278: the Committee is there to act as the eyes and ears of the public. One thing that is different is that there is an assumption that many citizens do not know that the statutory debt limit is able to be automatically waived on submitting a waiver request. In one recent publication the California Department of Education (CDE) wrote that *“it is CDE’s assumption that the average voter is unaware tax rate levy limits could be changed by the SBE through a waiver process”*.

The statute covering debt limit waivers requires that the BOC be consulted. Further, failing to give the BOC sufficient time to review is grounds for denial of a waiver.

One thing that is important to note is what the role is NOT: the BOC is not empowered to “Approve” the debt limit waiver, or to deny it. Instead, they are to review the waiver application and the circumstances surrounding it, note any opposition to the waiver, look at items that the BOC believes need review in connection with the review, and publish the results of these reviews to the Public, the School Board, and the SBE for inclusion in their deliberations.

Process. Recently, a BOC was involved with a rate waiver request developed the following process.

1. Establish a Rate Waiver Review sub-committee
2. Request input from the public on issues of concern
3. Investigate any issues raised
4. Prepare a report summarizing the issues raised and the BOC’s opinion on those issues in light of the investigation
5. Publish this report on the opinion of the BOC on the issues reviewed to the Public, the SBE, and the District.

Conclusion. The BOC does not have the power to approve or deny a rate waiver request, but it does have a statutorily defined responsibility to participate in the application process, to objectively review any issues of concern raised in the process, and to document and report the results.