

Case No. S266344
IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

STEPHEN K. DAVIS,
Plaintiff and Respondent,

v.

FRESNO UNIFIED SCHOOL DISTRICT, AND
HARRIS CONSTRUCTION CO., INC.,
Defendants and Petitioners.

After a Published Decision by The Court of Appeal
Fifth Appellate District, Case No. F079811
Fresno County Superior Court, Case No. 12CECG03718
The Honorable Kimberly Gaab

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
AMICUS CURIAE BRIEF OF CALIFORNIA SCHOOL BOARDS
ASSOCIATION’S EDUCATION LEGAL ALLIANCE IN SUPPORT OF FRESNO
UNIFIED SCHOOL DISTRICT**

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To the Honorable Chief Justice and Associate Justices of the California Supreme Court:

Pursuant to California Rules of Court, rule 8.252 and California Evidence Code sections 451, 452, and 459, Applicant California School Boards Association's Education Legal Alliance ("CSBA") hereby moves this Court to take judicial notice of the following documents in support of its Amicus Curiae Brief in support of Petitioner Fresno Unified School District, filed concurrently herewith:

- A. Statutes of 1941, Chapter 79, pp. 849-50;
- B. Senate Bill No. 6 (1959) and accompanying Legislative Counsel's Digest;
- C. Statutes of 1959, Chapter 1910, pp. 4480-81;
- D. Statutes of 1961, Chapter 1545, pp. 9974;
- E. Statutes of 1976, Chapter 1010, pp. 2650;
- F. Statutes of 1996, Chapter 277, pp. 1838.

The Fresno Unified School District and Respondent Davis have discussed whether Education Code section 15110 provides for validation of the contract in this case. To the extent the Court wishes to address this issue, CSBA wishes to provide these materials which may assist the Court in interpreting this code section.

This Request is based on the attached Memorandum of Points and Authorities and Declaration of James Traber, the records and files of this Court, and the accompanying proposed order granting this request.

DATED: August 20, 2021

FAGEN FRIEDMAN & FULFROST, LLP

By: /s/ James Traber

James R. Traber

Linna T. Loangkote

Attorney for Amicus Curiae

CALIFORNIA SCHOOL BOARDS

ASSOCIATION'S EDUCATION LEGAL

ALLIANCE

MEMORANDUM OF POINTS & AUTHORITIES

I. INTRODUCTION

The Fresno Unified School District and Respondent Davis have discussed whether Education Code section 15110 provides for validation of the contract in this case. To the extent the Court wishes to address this issue, CSBA wishes to provide the court with legislative documents and historical statutes which may be helpful in interpreting Education Code section 15110.

II. GENERAL PRINCIPLES OF JUDICIAL NOTICE

“Judicial notice is the recognition and acceptance by the court, for use . . . by the court, of the existence of a matter of law or fact that is relevant to an issue in the action without requiring formal proof of the matter.” (*Lockley v. Law Office of Cantrell, et al.* (2001) 91 Cal.App.4th 875, 882.) “The underlying theory of judicial notice is that the matter being judicially noticed is a law or fact that is not reasonably subject to dispute.” (*Ibid.*; see Evid. Code, § 452, subd. (h).)

An amicus curiae may file a request for judicial notice. (*California Correctional Peace Officers Assn v. Schwarzenegger* (2008) 163 Cal.App.4th 802, 822 fn. 6.) A court may take judicial notice of materials that are: (1) specified in California Evidence Code section 452; and (2) relevant to the dispositive questions before the court. (Evid. Code, § 459; *Hughes Electronics Corp. v. Citibank Delaware* (2004) 120 Cal.App.4th 251, 266, fn. 13 [material must be relevant to be subject to judicial notice]; see *San Bernardino County v. Superior Court* (2015) 239 Cal.App.4th 679, 686, fn. 6 [judicial notice on consideration of writ petition].)

The materials specified in Evidence Code section 452 include “[r]egulations and legislative enactments issued by . . . any public entity in the United States;” “[o]fficial acts of the legislative, executive, and judicial departments;” and records “that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (Evid. Code § 452, subs. (b), (c) & (h).)

III. THE LEGISLATIVE HISTORY DOCUMENTS AND HISTORICAL STATUTES ARE JUDICIALLY NOTICEABLE AND RELEVANT

CSBA respectfully submits that this Court should take judicial notice of the documents attached as **Exhibits A through F** to the Declaration of James Traber (“Traber Declaration”).

Evidence Code section 452, subdivisions (b) and (c) provide for judicial notice of “regulations and legislative enactments issued by or under the authority of . . . any public entity” and the legislative departments of any state. The accuracy of this publication of section 5265 *et seq.* may be confirmed by reviewing the Legislature’s online legislation resources, or by reviewing published hard copies. **Exhibits A, and C - F** are prior enactments of the California State Legislature, and are provided to the Court for ease of reference.

Exhibit B is noticeable as legislative history of a state statute (Evid. Code, § 452 subs. (b) & (c); *Morriscal v. Rogers* (2013) 220 Cal.App.4th 438, 453m fn. 15.)

IV. THIS REQUEST COMPLIES WITH RULE 8.252

The exhibits are relevant to the appeal because they have been discussed by Fresno Unified School District and the Respondent in their briefs, and suggest a legislative intent

that the contracts ordering an improvement funded by bond dollars are subject to validation. The matter to be noticed does not relate to proceedings occurring after the order or judgment that is the subject of this appeal. CSBA was not a party to the proceedings below, but does not believe that the exhibits were presented to the trial court or the Court of Appeal.

CONCLUSION

For the reasons discussed above, CSBA respectfully requests this Court take judicial notice of the documents attached as **Exhibits A through F** to the Traber Declaration.

DATED: August 20, 2021

FAGEN FRIEDMAN & FULFROST, LLP

By: /s/ James Traber

James R. Traber

Linna T. Loangkote

Attorney for Amicus Curiae

CALIFORNIA SCHOOL BOARDS

ASSOCIATION'S EDUCATION LEGAL

ALLIANCE

DECLARATION OF JAMES R. TRABER
[Cal. Rules of Court, rule 8.54(a)(2)]

I, James Traber, declare as follows:

1. I am an attorney with Fagen Friedman & Fulfroost, LLP, attorneys for Amicus Curiae California School Boards Association's Education Legal Alliance ("CSBA"). If called as a witness, I could and would competently testify to all facts herein to my personal knowledge, except where stated upon information and belief.

2. Attached hereto as **Exhibit "A"** is a true and correct copy of the relevant pages of Statutes of 1941, Chapter 79, pages 849 and 850 (Former Streets and Highways Code 5265 *et seq.*) which I obtained from the website for the California State Assembly, office of the Chief Clerk at https://clerk.assembly.ca.gov/archive-list?archive_type=statutes.

3. Attached hereto as **Exhibit "B"** is a true and correct copy of the relevant pages of Senate Bill 6 from 1959, including the Legislative Counsel's Digest, which I obtained from the California State Library's website at <https://www.library.ca.gov/law/online-research/>. These documents can be found and verified by clicking the link titled "California Legislative Information"(https://docs.google.com/spreadsheets/d/17KKJAqDRkptT__dk-J_qc4wDcSeVW2hMe-TrsNzrNzI/edit#gid=2105662787), which provides a spreadsheet that includes a link to 1959 California Senate Bills (Volume 1) which includes the attached **Exhibit "B."** **Exhibit "B"** can be found directly at the following link:

https://www.google.com/books/edition/Senate_Bills_Original_and_Amended/fjNNAQAAMAAJ?hl=en&gbpv=1.

4. Attached hereto as **Exhibit “C”** is a true and correct copy of the relevant pages of Statutes of 1959, Chapter 1910, pages. 4480 and 4481 (Former Education Code section 21759) which I obtained from the website for the California State Assembly, office of the Chief Clerk as discussed in item #2 above.

5. Attached hereto as **Exhibit “D”** is a true and correct copy of the relevant pages of Statutes of 1961, Chapter 1545, page 9974 (Former Education Code section 21759), which I obtained from the website for the California State Assembly, office of the Chief Clerk as discussed in item #2 above.

6. Attached hereto as **Exhibit “E”** is a true and correct copy of the relevant pages of Statutes of 1976, Chapter 1010, page 2650, (Former Education Code section 15110), which I obtained from the website for the California State Assembly, office of the Chief Clerk as discussed in item #2 above.

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7. Attached hereto as **Exhibit “F”** is a true and correct copy of the relevant pages of Statutes of 1996, Chapter 277, page 1838, (Former Education Code section 15110), which I obtained from the website for the California State Assembly, office of the Chief Clerk as discussed in item #2 above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 20th day of August, 2021, at Sacramento, California.

/s/ James Traber

James R. Traber

Exhibit A

CHAPTER 10. DETERMINING VALIDITY OF PROCEEDINGS BEFORE
WORK IS COMMENCED

5265. At any time after bids have been received and prior to the date fixed for the beginning of work, the legislative body conducting the proceedings may bring an action in the superior court of the county in which it is situated to determine the validity of such proceedings and the validity of any contract entered or to be entered into pursuant thereto.

Court action
by legislative
body

5266. Any contractor to whom a contract has been awarded may, if he believes that the proceedings are in any respect defective, erroneous or faulty and that a contract entered into pursuant thereto might be invalid, bring such an action to determine the validity of such proceedings, and of such contract.

Court action
by contractor

5267. Such an action shall be in the nature of a proceeding in rem, and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some newspaper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the action. The summons shall contain a general description of the boundaries of the assessment district. Jurisdiction shall be complete within 10 days after the full publication of such summons in the manner herein provided.

Proceedings
in rem

5268. Anyone interested may, at any time before the expiration of said 10 days, appear and by proper proceedings contest the validity of such proceedings and contract or uphold the same.

Appearance

5269. If the contractor brings the action the summons shall be served upon the legislative body and upon the superintendent of streets personally, and they shall have the right to appear and contest the validity of the proceedings and contract, or uphold the same.

Served on
legislative
body

5270. The action shall be speedily tried and judgment rendered declaring the matter so contested either valid or invalid. Either party shall have the right to appeal to the Supreme Court at any time within 30 days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal. The motion for a new trial of any such action must be heard and determined within 10 days from the filing of the notice of intention to move for a new trial.

Trial

Appeal

5271. The court hearing the action, in inquiring into the regularity, legality or correctness of the proceedings and of the contract made or proposed to be made, must disregard any

Immaterial
defects

error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding.

**Pleading and
practice** 5272. All rules of pleadings and practice provided by the Code of Civil Procedure which are not inconsistent with the provisions of this division are applicable to the actions authorized by this chapter. All costs of such actions may be allowed and apportioned between the parties or taxed to the losing party in the discretion of the court.

**Determina-
tion of
validity of
proceedings** 5273. If the validity of the proceedings and of the contract or proposed contract is sustained, the validity of such proceedings or contract shall not thereafter be contested in any action, suit or proceeding, and the judgment entered in the action herein provided for shall be conclusive evidence of the validity of such contract and of all proceedings prior thereto. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

**Effect of
action on
the contract** 5274. If an action is commenced under the provisions of this chapter to determine the validity of any contract or proposed contract, and the contract has not been signed, the contractor shall not be obligated to sign the same until a judgment sustaining the validity of the proceedings and the proposed contract has become final. If the contractor has signed and executed the contract, he shall not be obligated to begin work until a judgment sustaining the validity of the proceedings and contract has become final. If a judgment is entered holding the contract invalid, the contractor shall be discharged and relieved of all obligation under the contract, and he and his sureties shall be discharged and relieved of all obligation upon any bond required by law in connection with such contract.

CHAPTER 11. PERFORMANCE OF THE CONTRACT

**Authority of
superin-
tendent of
streets** 5280. The superintendent of streets is hereby authorized in his official capacity to make all written contracts, and to receive all bonds authorized by this division and to do any other act, either expressly or impliedly required by this division, that pertains to the street department.

Same 5281. He shall fix the time for the commencement, which shall not be more than 15 days from the date of the contract, and for the completion of the work under each contract entered into by him. The work shall be prosecuted with diligence from day to day thereafter to completion.

**Extensions
of time** 5282. He may extend the time fixed for completion of the work from time to time, under the direction of the legislative body. All applications for extensions of time, if in writing,

Exhibit B

Introduced by Senator Farr

January 7, 1959

REFERRED TO COMMITTEE ON JUDICIARY

An act to add Section 7408 to the Education Code, relating to school bond validation actions.

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

1 SECTION 1. Section 7408 is added to the Education Code,
 2 to read:
 3 7408. At any time after the certification to the board of
 4 supervisors, the issuance and sale of the bonds, or the ordering
 5 of the improvement or acquisition, the governing board of the
 6 school district may bring an action in the superior court of
 7 the county whose superintendent has jurisdiction over the dis-
 8 trict to determine the validity of the proceedings and bonds.
 9 Such an action shall be in the nature of a proceeding in rem
 10 and jurisdiction of all parties interested may be had by pub-
 11 lication of summons for at least once a week for three weeks
 12 in some newspaper of general circulation published in the
 13 county where the action is pending, such paper to be desig-
 14 nated by the court having jurisdiction of the action. Jurisdic-
 15 tion shall be complete within 10 days after the publication of
 16 summons in the manner provided herein. Anyone interested
 17 may at any time before the expiration of said 10 days appear
 18 and by proper proceedings contest the validity of such pro-
 19 ceedings and bond issue or uphold the same. The action shall
 20 be speedily tried and judgment rendered declaring the matter
 21 so contested either valid or invalid. Either party shall have
 22 the right to appeal to the Supreme Court at any time within
 23 30 days after the rendition of such judgment, which appeal
 24 must be heard and determined within three months from the

LEGISLATIVE COUNSEL'S DIGEST

S. B. 6 as introduced, Farr (Jud.). School bond validation actions.

Adds Sec. 7408, Ed. C.

Authorizes the governing board of a school district to bring a superior court action to determine the validity of school bonds, and establishes a procedure for bringing the action which is based generally on the procedure authorized by Sections 5265 to 5273, inclusive, of the Streets and Highways Code for determining the validity of certain public improvements.

1 time of taking such appeal. The motion for a new trial of any
2 such action must be heard and determined within 10 days
3 from the filing of the notice of intention to move for a new
4 trial. The court hearing the action, in inquiring into the reg-
5 ularity, legality or correctness of the proceedings and of the
6 contract made or proposed to be made, must disregard any
7 error, irregularity or omission which does not affect the sub-
8 stantial rights of the parties to said action or proceeding. All
9 rules of pleadings and practice provided by the Code of Civil
10 Procedure are applicable to such action. All costs of such ac-
11 tions may be allowed and apportioned between the parties or
12 taxed to the losing party in the discretion of the court. If the
13 validity of the proceedings or bond issue is sustained, the
14 validity of such proceedings or issue shall not thereafter be con-
15 tested in any action, suit or proceeding, and the judgment
16 entered in the action herein provided for shall be conclusive
17 evidence of the validity of such bond issue and of all proceed-
18 ings prior thereto. In such action, all findings, conclusions and
19 determinations of the legislative body which conducted the
20 proceedings shall be conclusive in the absence of actual fraud.

AMENDED IN SENATE JUNE 1, 1959

SENATE BILL

No. 6

Introduced by Senator Farr

January 7, 1959

REFERRED TO COMMITTEE ON JUDICIARY

An act to add Section 7408 to the Education Code 21759 TO THE EDUCATION CODE, AS ENACTED BY THE LEGISLATURE AT ITS 1959 REGULAR SESSION, relating to school bond validation actions.

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

1 SECTION 1. Section 7408 is added to the Education Code
2 21759 is added to the Education Code, as enacted by the Leg-
3 islature at its 1959 Regular Session, to read:
4 7408 21759. At any time after the certification to the board
5 of supervisors, the issuance and sale of the bonds, or the order-
6 ing of the improvement or acquisition, the governing board of
7 the school district may bring an action in the superior court of
8 the county whose superintendent has jurisdiction over the dis-
9 trict to determine the validity of the proceedings and bonds.
10 Such an action shall be in the nature of a proceeding in rem
11 and jurisdiction of all parties interested may be had by pub-
12 lication of summons for at least once a week for three weeks
13 in some newspaper of general circulation published in the
14 county where the action is pending, such paper to be desig-
15 nated by the court having jurisdiction of the action. Jurisdic-
16 tion shall be complete within 10 days after the publication of
17 summons in the manner provided herein. Anyone interested
18 may at any time before the expiration of said 10 days appear
19 and by proper proceedings contest the validity of such pro-
20 ceedings and bond issue or uphold the same. The action shall
21 be speedily tried and judgment rendered declaring the matter
22 so contested either valid or invalid. Either party shall have
23 the right to appeal to the Supreme Court at any time within
24 30 days after the rendition of such judgment, which appeal
25 must be heard and determined within three months from the

1 time of taking such appeal. The motion for a new trial of any
2 such action must be heard and determined within 10 days
3 from the filing of the notice of intention to move for a new
4 trial. The court hearing the action, in inquiring into the reg-
5 ularity, legality or correctness of the proceedings and of the
6 contract made or proposed to be made, must disregard any
7 error, irregularity or omission which does not affect the sub-
8 stantial rights of the parties to said action or proceeding. All
9 rules of pleadings and practice provided by the Code of Civil
10 Procedure are applicable to such action. All costs of such ac-
11 tions may be allowed and apportioned between the parties or
12 taxed to the losing party in the discretion of the court. If the
13 validity of the proceedings or bond issue is sustained, the
14 validity of such proceedings or issue shall not thereafter be con-
15 tected in any action, suit or proceeding, and the judgment
16 entered in the action herein provided for shall be conclusive
17 evidence of the validity of such bond issue and of all proceed-
18 ings prior thereto. In such action, all findings, conclusions and
19 determinations of the legislative body which conducted the
20 proceedings shall be conclusive in the absence of actual fraud.

Exhibit C

CHAPTER 1909

An act making an appropriation for studies and investigations of pollution in the Sacramento River and the San Francisco Bay area.

In effect
September
18, 1959

[Approved by Governor July 16, 1959. Filed with
Secretary of State July 17, 1959.]

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

SECTION 1. The sum of two hundred thirteen thousand dollars (\$213,000) is hereby appropriated from the California Water Fund for expenditure for water pollution studies and investigations in accordance with the following schedule:

(a) One hundred thirty thousand dollars (\$130,000), or so much thereof as may be necessary, to the Department of Water Resources for expenditure by it for studies and investigations of pollution in the Sacramento River.

(b) Eighty-three thousand dollars (\$83,000), or so much thereof as may be necessary, to the University of California for expenditure by it for studies and investigations of pollution in the San Francisco Bay area.

CHAPTER 1910

An act to add Section 21759 to the Education Code, as enacted by the Legislature at its 1959 Regular Session, relating to school bond validation actions.

In effect
September
18, 1959

[Approved by Governor July 16, 1959. Filed with
Secretary of State July 17, 1959.]

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

SECTION 1. Section 21759 is added to the Education Code, as enacted by the Legislature at its 1959 Regular Session, to read:

21759. At any time after the certification to the board of supervisors, the issuance and sale of the bonds, or the ordering of the improvement or acquisition, the governing board of the school district may bring an action in the superior court of the county whose superintendent has jurisdiction over the district to determine the validity of the proceedings and bonds. Such an action shall be in the nature of a proceeding in rem and jurisdiction of all parties interested may be had by publication of summons for at least once a week for three weeks in some newspaper of general circulation published in the county where the action is pending, such paper to be designated by the court having jurisdiction of the action. Jurisdiction shall be complete within 10 days after the publication of summons in the manner provided herein. Anyone interested may at any time before the expiration of said 10 days appear

and by proper proceedings contest the validity of such proceedings and bond issue or uphold the same. The action shall be speedily tried and judgment rendered declaring the matter so contested either valid or invalid. Either party shall have the right to appeal to the Supreme Court at any time within 30 days after the rendition of such judgment, which appeal must be heard and determined within three months from the time of taking such appeal. The motion for a new trial of any such action must be heard and determined within 10 days from the filing of the notice of intention to move for a new trial. The court hearing the action, in inquiring into the regularity, legality or correctness of the proceedings and of the contract made or proposed to be made, must disregard any error, irregularity or omission which does not affect the substantial rights of the parties to said action or proceeding. All rules of pleadings and practice provided by the Code of Civil Procedure are applicable to such action. All costs of such actions may be allowed and apportioned between the parties or taxed to the losing party in the discretion of the court. If the validity of the proceedings or bond issue is sustained, the validity of such proceedings or issue shall not thereafter be contested in any action, suit or proceeding, and the judgment entered in the action herein provided for shall be conclusive evidence of the validity of such bond issue and of all proceedings prior thereto. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

CHAPTER 1911

An act to add Chapter 5.5 (commencing with Section 13480) to Part 3, Division 3, Title 2 of the Government Code, and to amend Section 11555 of said code, relating to the establishment of an economic development agency in the Department of Finance.

[Approved by Governor July 16, 1959 Filed with
Secretary of State July 17, 1959]

In effect
September
18, 1959

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

SECTION 1. Chapter 5.5 (commencing with Section 13480) is added to Part 3 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 5.5. ECONOMIC DEVELOPMENT AGENCY

Article 1. General Provisions

13480. It is hereby declared to be the finding of the Legislature that the maintenance of the economic well-being of the State of California requires affirmative action to ensure the

Legislative
declaration

Exhibit D

CHAPTER 1544

An act to amend Section 52707 and to repeal Section 52708 of the Water Code, relating to validating proceedings.

In effect
September
15, 1961

[Approved by Governor July 12, 1961 Filed with
Secretary of State July 13, 1961.]

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

SECTION 1. Section 52707 of the Water Code is amended to read:

Action to
determine
validity

52707. An action to determine the validity of refunding bonds may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

Repeal

SEC. 2. Section 52708 of said code is repealed.

CHAPTER 1545

An act to amend and renumber Section 21759 of the Education Code, relating to validating proceedings.

In effect
September
15, 1961

[Approved by Governor July 12, 1961 Filed with
Secretary of State July 13, 1961.]

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

SECTION 1. Section 21759 of the Education Code is amended to read:

Action to
determine
validity

21759. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

SEC. 2 Section 21759 of said code is amended and renumbered to read:

Same

21708. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

Effect
Stats 1961,
Ch 1135

SEC 3. Section 2 of this act shall become operative only if Assembly Bill No. 2275 is enacted by the Legislature at its 1961 Regular Session in which case it shall supersede Section 21759 of the Education Code as amended and renumbered by Assembly Bill No. 2275 of the 1961 Regular Session, and Section 1 of this act shall become operative only if Section 2 of this act does not become operative.

Exhibit E

taxes to pay the principal and interest of indebtedness incurred by any component district or for which any territory which has become a part of such bonding district is liable and in which such taxable property is located at the time of the incurring of such indebtedness. It is the intent of the Legislature to provide in this section a special method of computing the limitation of indebtedness of school districts or community college districts irrespective of liability of the area embraced within such school districts for the payment of any bonded indebtedness.

15108. For the purpose of determining the limitation of indebtedness of a school district or community college districts of any type or class under Section 15102 or 15106, that portion of the bonded indebtedness of the district for which another district or territory in another district is liable shall be excluded and shall not be deemed to constitute outstanding bonded indebtedness of the district.

15109. Where an elementary school district and a high school district with a combined average daily attendance of 300,000 or more are governed by the same governing board, and the students in grades seven and eight in the districts are in attendance at high schools maintained by the high school district, the governing board, by resolution filed with the county auditor, may provide that the bond issuance limitations determined under Section 15102 shall be adjusted by reducing the bond issuance limitation of the elementary school district by 1 percent of its total and by augmenting the bond issuance limitation for the high school district by the amount by which that of the elementary district was reduced.

15110. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

15111. (a) The governing board of each school district or community college district shall, within 30 days after the end of each fiscal year, submit to the county superintendent of schools who has jurisdiction over the school district or community college district a report containing the following information, concerning any election held pursuant to Sections 4152, 15120, 15121, and 16058 for the approval of the issuance of bonds or the assumption of any bonded indebtedness or other indebtedness:

(1) The total amount of the bond issue, bonded indebtedness or other indebtedness involved.

(2) The percentage of registered electors of the district who voted at the election.

(3) The results of the election, with the percentage of votes cast for and against the proposition involved.

(b) The county superintendent of schools of each county shall compile the information received under subdivision (a) and within

Exhibit F

voting at an election at which the proposition of assuming the indebtedness is voted upon. Nothing herein contained shall operate to release any property from liability for taxes to pay the principal and interest of indebtedness incurred by any component district or for which any territory which has become a part of the bonding district is liable and in which the taxable property is located at the time of the incurring of the indebtedness. It is the intent of the Legislature to provide in this section a special method of computing the limitation of indebtedness of school districts or community college districts irrespective of liability of the area embraced within the school districts for the payment of any bonded indebtedness.

15108. For the purpose of determining the limitation of indebtedness of a school district or community college districts of any type or class under Section 15102 or 15106, that portion of the bonded indebtedness of the district for which another district or territory in another district is liable shall be excluded and shall not be deemed to constitute outstanding bonded indebtedness of the district.

15109. Where an elementary school district and a high school district with a combined average daily attendance of 300,000 or more are governed by the same governing board, and the pupils in grades seven and eight in the districts are in attendance at high schools maintained by the high school district, the governing board, by resolution filed with the county auditor, may provide that the bond issuance limitations determined under Section 15102 shall be adjusted by reducing the bond issuance limitation of the elementary school district by 1 percent of its total and by augmenting the bond issuance limitation for the high school district by the amount by which that of the elementary district was reduced.

15110. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

15111. The governing board of each school district or community college district shall, within 30 days after the end of each fiscal year, submit to the county superintendent of schools who has jurisdiction over the school district or community college district a report containing the following information, concerning any election held pursuant to Sections 4152, 15120, 15121, and 16058 for the approval of the issuance of bonds or the assumption of any bonded indebtedness or other indebtedness:

(1) The total amount of the bond issue, bonded indebtedness or other indebtedness involved.

(2) The percentage of registered electors of the district who voted at the election.

(3) The results of the election, with the percentage of votes cast for and against the proposition involved.

PROOF OF SERVICE

I am employed in the County of Sacramento. I am over the age of 18 years and not a party to the within above-entitled cause. My business address is 520 Capitol Mall, Suite 400 Sacramento, California 95814, and my business e-mail address is jtraber@f3law.com.

I served a true and correct copy of the **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF AMICUS CURIAE BRIEF OF CALIFORNIA SCHOOL BOARDS ASSOCIATION'S EDUCATION LEGAL ALLIANCE IN SUPPORT OF FRESNO UNIFIED SCHOOL DISTRICT** on the interested parties in this action:

Kevin R. Carlin kcarlin@carlinlawgroup.com	Myron Moskovitz myronmoskovitz@gmail.com
Timothy L. Thompson Mandy L. Jeffcoach tthompson@wtjlaw.com mjeffcoach@wtjlaw.com	Sean M. SeLegue sean.selegue@aporter.com
Charles F. Adams cadams@joneshall.com	Mark L. Creede mlc@lrplaw.net

[X] **(BY ELECTRONIC SERVICE)** On August 20, 2021, I instituted service of the above-listed document(s) by submitting an electronic version via file transfer protocol (FTP) through the upload feature at www.tf3.truefiling.com, to the parties who have registered to receive notifications of service of documents in this case as required by the Court. Upon completion of the transmission of said document, a confirmation of receipt is issued to the filing/serving party confirming receipt from info@truefiling.com for TrueFiling.

Honorable Kimberly Gaab FRESNO COUNTY SUPERIOR COURT 1130 O Street Fresno, CA 93721	FIFTH DISTRICT COURT OF APPEAL 2424 Ventura Street Fresno, CA 93721
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[X] **(BY MAIL)** on August 20, 2021, by placing the sealed envelope with the postage thereon fully prepaid for collection and mailing at our address shown above, on the parties immediately listed above. I am readily familiar with Fagen, Friedman & Fulfrost LLP's business practice for collecting and processing correspondence for mailing with the United States Postal Service the same day.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 20, 2021, at Sacramento, California.

/s/ James Traber

James Traber

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **DAVIS v. FRESNO UNIFIED SCHOOL DISTRICT**

Case Number: **S266344**

Lower Court Case Number: **F079811**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **jtraber@f3law.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
BRIEF	8.20.21 Final Davis II Amicus Curiae Brief
REQUEST FOR JUDICIAL NOTICE	8.20.21 Final RJN iso CSBA Amicus

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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

8/20/2021

Date

/s/James Traber

Signature

Traber, James (248439)

Last Name, First Name (PNum)

Fagen Friedman & Fulfrost LLC

