

Date of Hearing: March 18, 2014

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Das Williams, Chair
AB 1668 (Wieckowski) – As Introduced: February 12, 2014

SUBJECT: Educational facilities: California Educational Facilities Authority.

SUMMARY: Defines the term "bond" as it relates to the California Educational Facilities Authority (CEFA); specifies CEFA has the power to, receive and accept from any source, loans, contributions, or grants for, in aid of, the acquisition, construction, financing or refinancing of a project, in money, property, labor or other things of value; authorizes CEFA to issue notes and bonds for any corporate purpose and bond anticipation notes in anticipation of the sale of the bonds; provides that any provision CEFA may include in a trust agreement or resolution providing for the issuances of bonds, as specified, may also be included in a bond and the provision shall have the same effect; allows CEFA to have options as to where they inscribe statements on their issued bonds; requires all funds received by CEFA to be deemed to be trust funds to be held and applied as specified, whether as proceeds from selling or incurring bonds as revenues; states this measure is urgency measure to take effect immediately; and, makes numerous clarifying and technical changes to existing law. Specifically, this bill:

- 1) Defines the term "bond" to mean bonds, notes, debentures, securities, or other evidences of indebtedness of the CEFA.
- 2) Authorizes CEFA to receive and accept, from any source, loans, contributions, or grants for, or in aid of, the acquisition, construction, financing or refinancing of a project, or any portion of a project, in money, property, labor, or other things of value.
- 3) Authorizes CEFA to issue notes and bonds for corporate purposes and bond anticipation notes in anticipation of the sale of bonds; and, specifies that negotiable bonds and notes shall be and be deemed to be, for all purposes, negotiable instruments, notwithstanding the fact that the negotiable bonds or notes may be payable from a special fund subject only to the provisions of the bonds or notes for registration.
- 4) Specifies that any provision CEFA may include in a trust agreement of or resolution providing for the issuance of bonds may also be included in a bond and the provision shall have the same effect.
- 5) Allows that the mandated statement CEFA must inscribe on all their issued bonds no longer shall be solely contained on the face of the bond.
- 6) Requires that all funds received by CEFA whether as proceeds from selling or incurring bonds, or as revenue, shall be deemed to be trust funds to be held and applied solely as specified.
- 7) States this measure is an urgency measure and, in order to prevent the loss of additional revenue, must go into effect immediately.
- 8) Makes numerous technical and clarifying changes to current law.

EXISTING LAW establishes CEFA to provide higher education institutions, including private colleges, with additional means for specified construction projects (Education Code § 94110 et sec.).

FISCAL EFFECT: Unknown

COMMENTS: Background. CEFA, which is housed in the State Treasurer's Office, was created in 1973 for the purpose of issuing revenue bonds to assist private non-profit postsecondary education institutions in the expansion and construction of educational facilities, in order to expand educational opportunities in California. Because it is authorized to issue tax-exempt bonds, CEFA may provide more favorable financing to such private institutions than might otherwise be obtainable. The law specifically provides that bonds issued by CEFA shall not be a debt, liability, or claim on the faith and credit or the taxing power of the State of California or any of its political subdivisions. The full faith and credit of the participating institution is normally pledged to the payment of the bonds. The CEFA authority consists of 1) the Director of Finance, 2) the Controller, 3) the Treasurer, who serves as chairperson, and 4) two members appointed by the Governor for four year terms, as specified.

Direct or private placement loans. According to the sponsor, State Treasurer Bill Lockyer, direct or private placement loans are becoming more common for financing and refinancing higher educational facilities; however, the economic downturn in 2008-2009 reduced the availability of low cost financing avenues that many colleges and universities received through the municipal bond market. Subsequently, these institutions are now issuing debt in the form of direct loans with private banks (often referred to as private or direct placement loans). These loans provide many of the same benefits to a borrower as issuing a bond, but with lower transaction costs because of avoided costs such as underwriter services, or bond insurance fees. Without these associated costs, private or direct placement loans are an attractive option for many colleges and universities seeking to access low cost financing for the construction of educational facilities.

Need for the bill. CEFA does not have statutory authority to issue direct or private placement loans. As a result, according to the author's office, CEFA has had to turn away business from several private, non-profit colleges and universities. According to the State Treasurer's Office, having to turn away eight borrowers that were interested in CEFA assistance to transact a private placement loan cost CEFA approximately 1.2 million dollars in lost revenue.

The author states, "AB 1668 would give CEFA statutory authority for the issuance of direct or private placement loans. This will enable CEFA to meet the needs of its borrowers in the evolving field of tax-exempt financing."

Expansion of CEFA financing eligibility. In recent history, this committee has heard and passed several bills which have expanded eligibility for CEFA financing, including the following:

- 1) AB 1163 (Brownley, Chapter 281, Statutes of 2011), which changed the definition of a "participating private college" or "participating college" to allow CEFA to act as a conduit issuer of tax exempt bonds for private religious colleges, as specified.

- 2) SB 280 (Scott, Chapter 345, Statutes of 2007), which modified the definition of “participating college” to maintain the eligibility of research organizations that did not grant degrees for CEFA financing, if they had received CEFA financing in the past.
- 3) AB 947 (Liu, Chapter 191, Statutes of 2005), which expanded the definition of a “private college,” for purposes of CEFA financing eligibility, to include nonprofit affiliates, as specified, of nonprofit private or independent degree-granting accredited colleges.
- 4) SB 1624 (Romero, Chapter 1081, Statutes of 2002), which authorized the California Educational Facilities Authority (CEFA) to finance the construction of faculty and staff housing owned by private colleges, as specified, and authorized CEFA to use up to \$2 million of its fund balance, on a one-time basis, to provide grants to private colleges to support academic assistance programs to middle and high school pupils attending schools in low-income areas with low college going rates, as specified.
- 5) AB 1611 (Keeley, Chapter 569, Statutes of 2001), which authorized the CEFA to enter into agreements with nonprofit entities to finance construction costs for student, faculty, and staff housing near the campuses of the University of California, the Hastings College of Law, the California State University, the California Community Colleges, or participating private colleges.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Independent California Colleges and Universities
California State Treasurer, Bill Lockyer (sponsor)

Opposition

None on file.

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