

Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 2571 (Papan) – As Amended March 21, 2024

SUBJECT: School district and community college district bonds: school facilities.

SUMMARY: Establishes a definition of the term “school facilities” as it relates to local school facilities bond elections in school districts and California Community College (CCC) districts and delineates the purposes for which school bonds may be issued. Specifically, **this bill:**

- 1) Authorizes the governing board of a school district or community college district to, when in its judgment it is advisable, and requires, upon a petition of the majority of the qualified electors residing in the school district or community college district, order an election and submit to the electors of the school district or community college district, as applicable, the question whether the bonds of the school district or community college district are required to be issued and sold for the purpose of raising money for the following purposes:
 - a) The acquisition or lease of real property for school facilities, including, but not limited to, the purchasing of school lots;
 - b) The construction or acquisition of school facilities, including, but not limited to, the building or purchasing of school buildings;
 - c) The reconstruction, rehabilitation, or replacement of school facilities, including, but not limited to, the making of alterations or additions to school buildings, other than as may be necessary for current maintenance, operation, or repairs;
 - d) The repairing, restoring, or rebuilding of school facilities, including, but not limited to, a school building, damaged, injured, or destroyed by fire or other public calamity; and
 - e) The supplying of school facilities, including, but not limited to, school buildings and grounds, with furniture, equipment, or apparatus necessary or useful for the operation of the school facilities.
- 2) Defines “school facilities” to mean buildings, facilities, structures, or real property improvements used or operated in conjunction with one or more public schools or community colleges, including, but not limited to, all of the following:
 - a) Classrooms;
 - b) Academic buildings;
 - c) Auditoriums;
 - d) Libraries;
 - e) Laboratories;

- f) Research or training facilities;
 - g) Administrative offices or buildings;
 - h) Health offices or facilities;
 - i) Dormitories;
 - j) Dining halls;
 - k) Student centers or unions;
 - l) Housing for students, faculty, or school or district employees;
 - m) Sports facilities;
 - n) Maintenance, storage, or utility facilities;
 - o) Other related buildings, facilities, structures, or real property improvements used for student instruction, conducting research, or training, or for operating a school facility; and
 - p) All necessary, usual, or useful attendant and related buildings, facilities, structures, or real property improvements, including, but not limited to, streets, parking, and supportive services facilities or structures, required or useful for the operation of a school facility.
- 3) Requires the provisions of this act to be liberally construed to effectuate its purposes.
- 4) States that the provisions of this act are severable. Requires, if any provision of this act or its application is held invalid, that invalidity not affect other provisions or applications that can be given effect without the invalid provision or application.

EXISTING LAW:

- 1) Authorizes the governing board of any school district or community college district to, when in its judgment it is advisable, and requires, upon a petition of the majority of the qualified electors residing in the school district or community college district, order an election and submit to the electors of the school district or community college district, as applicable, the question whether the bonds of the school district or community college district shall be issued and sold for the purpose of raising money for the following purposes:
- a) The purchasing of school lots;
 - b) The building or purchasing of school buildings;
 - c) The making of alterations or additions to the school building or buildings other than as may be necessary for current maintenance, operation, or repairs;

- d) The repairing, restoring, or rebuilding of any school building damaged, injured, or destroyed by fire or other public calamity;
 - e) The supplying of school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature;
 - f) The permanent improvement of the school grounds;
 - g) The refunding of any outstanding valid indebtedness of the school district or community college district, evidenced by bonds, or of state school building aid loans;
 - h) The carrying out of the projects or purposes of sewage and drainage, as specified;
 - i) The purchase of school buses the useful life of which is at least 20 years; and
 - j) The demolition or razing of any school building with the intent to replace it with another school building, whether in the same location or in any other location (Education Code (EC) 15100).
- 2) Requires, to pass a school bond measure, at least two-thirds of the votes cast on the proposition of issuing bonds be in favor of issuing the bond (EC 15124).
- 3) Requires the total amount of bonds issued to not exceed 1.25% of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located (EC 15102).
- 4) Authorizes a unified school district or community college district to issue bonds that, as specified, cannot exceed 2.5% of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located (EC 15106).
- 5) Requires no county, city, town, township, board of education, or school district, to incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at such election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and to provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the indebtedness (California Constitution Article XVI, Section 18(a)).

- 6) Authorizes a school district, community college district, or county office of education (COE) to incur indebtedness in the form of General Obligation (GO) bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities upon approval of 55% of the voters (California Constitution Article XVI, Section 18(b)).
- 7) Authorizes bonded indebtedness incurred by a school district, community college district, or COE for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, if approved by 55% of the voters of the district or county, as appropriate, voting on the proposition. Requires the proposition approved by the voters and resulting in the bonded indebtedness to include all of the following accountability requirements:
 - a) A requirement that the proceeds from the sale of the bonds be used only for specified purposes, and not for any other purpose, including teacher and administrator salaries and other school operating expenses;
 - b) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or COE has evaluated safety, class size reduction, and information technology needs in developing that list;
 - c) A requirement that the school district board, community college board, or COE conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed; and,
 - d) A requirement that the school district board, community college board, or COE conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects (California Constitution Article XII A, Section 1).
- 8) Requires that the number of years the whole or any part of the bonds are to run to not exceed 25 years, from the date of the bonds or the date of any series thereof (EC 15140).
- 9) Specifies, under the Government Code, that a school district or community college district may issue bonds that do not allow for the compounding of interest and that have a maturity greater than 30 years, but not greater than 40 years if the school district or community college district does both of the following:
 - a) Requires, before the sale, the governing board of the school district or community college district to adopt a resolution, as an agenda item at a public meeting, that includes all of the following:
 - i) Express approval of the method of sale;
 - ii) Statement of the reasons for the method of sale selected;
 - iii) Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are used for the sale, unless these individuals have not been selected at the time the resolution is adopted, in

- which case the governing board of the school district or community college district shall disclose their identities at the public meeting occurring after they have been selected;
- iv) Estimates of the costs associated with the bond issuance; and,
 - v) If the sale includes bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, disclosure of the financing term and time of maturity, repayment ratio, and the estimated change in the assessed value of taxable property within the school district or community college district over the term of the bonds.
- b) Requires, if the sale includes bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, the resolution to be publicly noticed on at least two consecutive meeting agendas, first as an information item and second as an action item (EC 15146 (b) and (c)).
 - c) Makes a finding that the useful life of the facility financed with bonds that do not allow for the compounding of interest and that have a maturity greater than 30 years, but not greater than 40 years, equals or exceeds the maturity date of those bonds (Government Code (GC) 53508.6).

FISCAL EFFECT: Unknown

COMMENTS: *Double referral.* This measure passed out of the Assembly Committee on Education on April 10, 2024, with a vote of 6 – 0.

Need for the measure. According to the author, “the crisis in California's housing market isn't just a matter of affordability; it's a threat to the very foundation of our K-12 education system. The alarming turnover rates among teachers and the severe staffing shortages directly stem from this housing crisis, undermining the quality of education our students receive. These challenges hit hardest in low-income communities, exacerbating existing achievement gaps, and perpetuating inequality.”

Further, the author states that, “ensuring that teachers can live close to where they work isn't just a matter of convenience; it's essential for maintaining a stable and qualified teaching workforce. Without sufficient teachers, we can't maintain small class sizes or guarantee the safety and education of our students.”

Lastly, the author contends that, “educational workforce housing has long been recognized as a solution to this problem, yet it remains largely unrealized. AB 2571 represents a crucial step towards bridging this gap, empowering school districts to better meet the educational and developmental needs of all students by providing teachers with the housing support they need. It's time to prioritize the future of our children by ensuring that our educators can afford to live in the communities they serve.”

The CCC. Comprised of 116 campuses (one completely online) and 73 districts, the CCC is the largest higher education system in the State and serves almost 2 million students.

Voter-Approved Bonds. CCC districts can propose general obligation (GO) bonds to voters within their jurisdiction. These bonds are typically authorized through ballot measures, either under Proposition 46 (1986) or Proposition 39 (2000). If approved by voters, property taxes are collected to pay the principal and interest due on the GO bonds each year.

In November 2000, voters passed Proposition 39, a Constitutional Amendment which, in part, give CCC districts the opportunity to seek approval of a local GO bond based on a 55% vote rather than a two-thirds vote, provided that the local bond initiative meets specified accountability measures, including identifying the list of specific school facilities projects that will be funded by bond proceeds and the requirement to conduct an annual independent performance audit and an independent financial audit. Under Proposition 39, CCC districts must demonstrate that the debt from bond issuance can be serviced within their tax rate limitations.

With bond elections, a CCC district must call a Proposition 39 bond election and transit the resolution to the applicable County Registrar of Voters at least 88 days prior to the scheduled election date.

The borrowed funds from these bonds are typically used for construction, modernization, and other capital projects within the CCC system. Projects have included infrastructure upgrades, technology enhancements, sustainability initiatives, and improvement to educational facilities.

Term of bonds. Under current law, the term of local bonds cannot exceed 25 years, while bonds issued under the Government Code cannot exceed 40 years. Proposition 39 authorizes the proceeds from the sale of GO bonds to be used for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities. This bill expands the purposes for which local school bonds may be issued (either by two-thirds or 55% approval), and expands the definition of the term “school facilities” as it relates to the types of facilities that local bond funds may support to include administrative offices or buildings; health offices or facilities; dormitories; dining halls; housing for students, faculty, or school or district employees, and maintenance, storage, or utility facilities.

Concerns. While the Community College Facility Coalition (CCFA), a statewide association composed of community college districts and organizations that support their facility needs and construction plans, including facility planners, architects, contractors, developers, construction managers, financial institutions, attorneys, consultants and more, does not have a formal position on this measure, CCFA expressed the following concerns:

“We do not know what problem AB 2571 is trying to solve. School districts can already use local bonds for the construction of student and workforce housing. They do this by requesting authorization when they place the bond before voters on the ballot. They can identify student/workforce housing as a generally authorized expenditure, a specific project on the Proposition 39 project list, or as receiving a specific amount of funding (such as a \$100 million allocation) from a local bond. We are unaware of circumstances where the current authority has been insufficient to request voter approval for new bonds that include student/workforce housing.

AB 2571 could create unintended consequences. The constitutional language enacted by Proposition 39 (2000) provides schools with flexibility to identify the unique features and specifications of a school facility funded by a local bond. By creating a list of 16 specific

authorized uses, there could be the presumption that omission of an item from that list was intentional, leading to greater confusion over what can and cannot be funded by local bonds, and potentially resulting in more legal challenges.”

Arguments in support. According to the California School Boards Associations (CSBA), sponsors of the measure, “as the state considers the placement of a school bond on the November 2024 ballot, this measure would provide helpful declarations of existing law relating to the definition of a school facility. Often, local educational agencies (LEAs) and community college districts, in anticipation of the placement of a statewide school facilities bond on the ballot, will seek to adopt their own local school bonds to both meet their local needs and leverage statewide bond matching funds to fund and construct critical educational facilities. These declarations are helpful to meet the intent and purpose of existing law, including Proposition 39 – the Smaller Classes, Safer Schools and Financial Accountability Act of 2000.” Further, CSBA states, that, “AB 2571 would help continue the legacy and intent of the state’s public facilities programs and our collective goal for LEAs to recruit and retain a qualified educational workforce and provide students a 21st century learning environment.”

Arguments in opposition. According to the Howard Jarvis Taxpayers Association (HJTA), “this bill [AB 2571] would broaden the specified purposes for which school bonds may be issued and claims to conform Section 15100 of the Education Code to Proposition 39.”

Further, HJTA states, “Prop. 39 has four accountability requirements. The two that are most relevant to AB 2571 are listed here:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.”

Related legislation. AB 247 (Muratsuchi) of the 2023-24 Session authorizes a bond measure of \$14 billion for the construction and modernization of Transitional Kindergarten through community colleges public education facilities on an unspecified 2024 statewide ballot.

SB 28 (Glazer) of the 2023-24 Session would place the Public Preschool, K-12, and College Health and Safety Bond Act on the ballot for the March 2024 statewide primary election.

AB 2295 (Bloom), Chapter 652, Statutes of 2022, authorizes a housing development project to be an allowable use on any real property owned by a local educational agency (LEA), as specified.

AB 3001 (Bauer-Kahan) of the 2019-20 Session, would have revised and recast the specified purposes for which school bonds may be issued by broadening those purposes to include, among others, the acquisition or lease of real property for school facilities, the construction or acquisition of school facilities, the reconstruction, rehabilitation, or replacement of school facilities, the repairing, restoring, or rebuilding of school facilities, and the supplying of school facilities. The bill would have defined “school facility” to mean a building, facility, structure, or real property improvement used or operated in conjunction with one or more public schools or

community colleges, including, but not limited to, classrooms, academic buildings, auditoriums, libraries, laboratories, research or training facilities, administrative offices or buildings, health offices or facilities, dormitories, dining halls, student centers or unions, housing for students, faculty, or school or district employees, sports facilities, maintenance, storage, or utility facilities, other related buildings, facilities, structures, or real property improvements used for student instruction, conducting research, or training, or for operating a school facility, and all necessary, usual, or useful attendant and related buildings, facilities, structures, or real property improvements, including, but not limited to, streets, parking, and supportive services facilities or structures, required or useful for the operation of another school facility. This bill was held in the Assembly Education Committee.

AB 1196 (Harper) of the 2017-18 Session, would have specified that the term of a bond used for the purposes of furnishing and equipping of a classroom, including, but not limited to, electronic equipment, could not exceed 120% of the average reasonably expected economic life of the furnishings and equipment. This bill was subsequently amended out of the jurisdiction of this Committee.

AB 2116 (Gallagher), Chapter 129, Statutes of 2016, specifies that before the governing board of a school district or the governing board of a community college district orders an election to place a general obligation bond on the ballot, the district is required to obtain reasonable and informed projections of assessed property valuations that take into consideration projections of assessed property valuations made by the county assessor.

REGISTERED SUPPORT / OPPOSITION:

Support

California School Boards Association (Sponsor)

Opposition

California Coalition for Adequate School Housing (CASH)
Howard Jarvis Taxpayers Association (HJTA)

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