

Date of Hearing: March 15, 2022

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1602 (McCarty) – As Introduced January 3, 2022

SUBJECT: Student, faculty, and staff housing: California Student Housing Revolving Loan Fund Act of 2022.

SUMMARY: Establishes the California Student Housing Revolving Loan Fund Act of 2022 (the Act) to provide zero-interest loans to qualifying applicants of the University of California (UC), the California State University (CSU), and the California Community Colleges (CCC) for the purpose of constructing affordable student, faculty, and staff housing; establishes the California Student Housing Revolving Fund (the Fund) as a continuously appropriated fund in the State Treasury; and, establishes that the Legislature intends to appropriate, in the annual Budget Act, the sum of \$5 billion, to be deposited in the created Fund. Specifically, **this bill:**

1) Makes all of the following Legislative findings and declarations:

- a) Housing is often the most expensive component of college costs for California students, even more than tuition;
- b) The lack of rental housing is often a significant problem for California communities near college campuses.
- c) The UC, the CSU, and the CCC often lack debt capacity to build enough student housing to meet demand; and,
- d) The COVID-19 pandemic has caused a severe economic recession, and state-funded construction projects can be a tool to help the state's economy to recover.

2) Establishes the Legislature intends for all of the following to occur:

- a) That one-time state funding be used to provide zero-interest loans to public college and university applicants to support affordable student housing projects and faculty and staff housing projects;
- b) That the rates charged to students for housing supported by the Fund (as established by this measure) will be below local market rental rates for comparable housing, also taking into account the costs of utilities, food service, operations, maintenance, and other services included in the rent for student housing;
- c) That, to the extent practical, loan repayments serve as a source of reserve and security for the payment of principal and interest on future revenue bonds, the proceeds of which are to be used for affordable student housing projects and faculty and staff housing projects; and,
- d) That the Legislature intends to appropriate, in the annual Budget Act, the sum of \$5 billion, to be deposited in the Fund.

- 3) Establishes the Fund in the State Treasury to provide zero-interest loans to qualifying college and university applicants for the purpose of constructing affordable student housing and faculty and staff housing.
- 4) Authorizes the State Treasurer to:
 - a) Pledge any or all of the moneys in the Fund as a security for payment of the principal of, and interest on, a particular issuance of bonds by a designated lending authority, as specified;
 - b) As necessary or convenient to the accomplishment of any other purpose of this measure, to divide the Fund into separate accounts or subaccounts;
 - c) Invest moneys in the Fund that are not required for its current needs, including proceeds from the sale of bonds, in eligible securities, as specified, and may include deposit for investment in the Surplus Money Investment Fund, as specified. Except as specified, all interest or other increment resulting from the investment or deposit of moneys from the Fund will be deposited in the Fund. Moneys in the Fund will not be subject to transfer to any other as specified, except to the Surplus Money Investment Fund;
 - d) Maintain, if the Treasurer sells bonds for either authority that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, separate accounts for the investment of bond proceeds and for the investment of earnings on those proceeds; and,
 - e) Use or direct the use of proceeds or earnings, as enumerated in (d) above, to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.
- 5) Requires that each authority must develop a uniform application that includes requests for relevant information, such as project goals, costs, number of students or faculty and staff to be housed, timeline for the project, financial feasibility of the project, and other information deemed necessary for evaluation of creditworthiness and public benefit criteria established by each authority pursuant to this chapter.
- 6) Requires that the applications, as enumerated in (5) above, shall be available by April 1, 2023, in accordance with each authority's existing regulations or any necessary amendments, which shall be undertaken as emergency regulations, if necessary.
- 7) Requires that the initial preliminary applications for projects to be considered shall be submitted to the designated authority by July 1, 2023; and, specifies that the authority, thereafter, may establish subsequent application periods, as necessary.
- 8) Specifies that applications may be submitted to the designated authority by college and university applicants as set forth in the Act, pursuant to the following:
 - a) The California Educational Facilities Authority (CEFA) shall consider applications from university applicants; and,

- b) The California School Finance Authority (CSFA) shall consider applications from college applicants.
- 9) Requires that applications must demonstrate all of the following:
- a) Construction on the project could begin by June 30, 2024, or by the earliest possible date thereafter, as stated in the application;
 - b) The per-bed rate for students will be below local market rental rates for comparable student housing, also taking into account the costs of utilities, food service, operations, maintenance, and other services included in the student housing rent;
 - c) Receipt of a loan from the authority shall result in a public benefit, such as the ability to reduce rents, serve more students, provide additional onsite student support services, or other tangible benefits that would not be practical without receipt of the loan;
 - d) The project will comply with the requirements established by the Act;
 - e) The project will be owned by a participating college or university; and,
 - f) In the event that an authority receives or anticipates receiving more applications than its allocation of state funding can support, the authority may consider any of the following criteria in selecting projects:
 - i) The timeline for construction, with priority given to projects that can begin construction the earliest;
 - ii) The campus' unmet demand for student housing, with priority given to applicants with greater unmet demand for student housing;
 - iii) A local match is available, with priority given to applicants with a local match; and,
 - iv) When considered as a whole, the applications approved pursuant to the Act are representative of various geographical regions of the state and the UC, the CSU, and the CCC.
- 10) Requires that a project funded pursuant to the Act must meet all of the following requirements:
- a) As specified, all work traditionally performed by employees of the college or university applicant shall be performed only by those employees;
 - b) The UC may proceed with capital expenditures for the project only if all work traditionally performed by persons with UC Service Unit (SX) job classifications is performed only by employees of the UC;
 - c) The UC may proceed with capital expenditures for the project only upon certification that all cleaning, maintenance, groundskeeping, food service, or other work traditionally performed by persons with UC SX job classifications, shall be performed only by employees of the UC at each beneficially affected project; and,

- d) The Act, as specified, does not apply to, and shall not restrict the performance of, work done under contract and paid for in whole or in part out of public funds, when the work is either of the following:
 - i) Construction, alteration, demolition, installation, or repair work, including work performed during the design, preconstruction, and postconstruction phases of construction; and,
 - ii) Carpentry, electrical, plumbing, glazing, painting, and other craft work designed to preserve, protect, or keep the project in a safe and continuously usable condition, including repairs, cleaning, and other operations on machinery and other equipment permanently attached to the building or real property as fixtures.
- 11) Requires that for each loan made by an authority, the authority must establish a schedule of payments, the primary source of which may be lease or rent payments for occupancy of the project financed by that loan, and the sum of which shall be calculated to result in full payment of the loan within a reasonable period of time not to exceed 30 years.
- 12) Authorizes CEFA to issue revenue bonds and enter into related agreements, and take all other actions necessary and convenient for the issuance of revenue bonds for university applicants for projects in accordance with the Act and its authorizing statutes, as amended from time to time.
- 13) Specifies that each authority may use amounts deposited in the Fund, including, but not limited to, loan repayments, as a source of reserve and security for the payment of principal and interest on revenue bonds, the proceeds of which are deposited in the Fund or in a designated Fund or account of the authority established for that purpose. The purpose of any such revenue bonds is to augment the Fund.
- 14) Stipulates that notwithstanding any other law, revenue bonds issued under the Act are not and shall not be deemed to constitute a debt or liability of the state, or any political subdivision thereof, and are not and shall not be deemed to be a pledge of the faith and credit of the state, or any political subdivision thereof, other than the authority. Revenue bonds of the authority shall be payable solely from funds provided under the Act.
- 15) Requires that each revenue bond of the authority shall include a statement on the face of the bond that neither the State of California nor the authority is obligated to pay the principal or interest thereon, except from revenues of the authority, and shall also include a statement that neither the faith or credit, nor the taxing power of the State of California, or any political subdivision, is pledged to the payment of the principal or interest of the bonds.
- 16) Stipulates that the issuance of revenue bonds under this chapter shall not directly, indirectly, or contingently obligate the state, or any political subdivision thereof, to levy or pledge any form of taxation, or make any appropriation for their payment.
- 17) Authorizes each authority to adopt, amend, or repeal rules and regulations pursuant to the Act as emergency regulations. The adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare as specified.

- 18) Requires each authority to provide a report to the Department of Finance and the Budget Committees of the Assembly and Senate by March 15, 2024.
- 19) Requires that the report, as enumerated in (18) above, must include, but not necessarily be limited to, all of the following information:
 - a) The number of projects receiving loans;
 - b) The total dollar amount of loans made;
 - c) The dollar amount of the loan provided for each project; and,
 - d) The terms of the loan for each project.
- 20) Stipulates that each authority may charge against the Fund its administrative costs, which cannot exceed 3% of the authority's respective allocation amount or proportion of the Fund, as the Fund may be augmented by revenue bonds over time.
- 21) Establishes the following definitions for purposes of the Act:
 - a) "Allocation" means the portion of the initial Act appropriation allocated to each designated authority to provide loans;
 - b) "Authority" means, for a college applicant, the California School Finance Authority; and, for a university applicant, "authority" means the California Educational Facilities Authority. The meaning of "authority" as used in this chapter depends on the college or university system of which the applicant is a member;
 - c) "Campus" means a community college district, or a campus of the UC or the CSU;
 - d) "College applicant" means a community college district, or the CCC Chancellor's Office on behalf of a community college district;
 - e) "Faculty and staff housing project" means one or more housing facilities to be occupied by faculty or staff of one or more campuses, and owned by a participating college or university;
 - f) "Fund" means the California Student Housing Revolving Loan Fund as established by this measure;
 - g) "Project" means a student housing project or a faculty and staff housing project;
 - h) "Student housing," as applied to a participating nonprofit entity, means a residential unit owned by a participating nonprofit entity and located on real property owned by that entity for use by an individual enrolled at a public college, public university, or participating private college;
 - i) "Student housing project" means one or more housing facilities to be occupied by students of one or more campuses and owned by a participating college or university. Specifies that said facilities are determined to be educational facilities, which also may

include dining, academic and student support service spaces, and other necessary and usual attendant and related facilities and equipment; and,

- j) “University applicant” means a campus of the UC or the CSU, the UC Office of the President of the University on behalf of one or more campuses of the UC, or the CSU Chancellor’s Office on behalf of one or more campuses of the CSU.

22) Makes technical and clarifying changes to existing law.

23) Specifies that the Act is an urgency statute and is necessary to take effect immediately.

EXISTING LAW:

- 1) Establishes the CSFA, comprised of the following members: a) The State Treasurer; b) The Director of the State Department of Finance; and, c) The State Superintendent of Public Instruction. Specifies that each member of CSFA may designate an individual from the member’s department or agency to act for the member and represent the member at all meetings; and, that members of the CSFA or their designees, shall serve without compensation, but may be reimbursed by CSFA for necessary and reasonable expenses incurred in the discharge of their duties (Education Code (EC) Section 17174).
- 2) Provides CSFA the authority to enter into contracts, as specified, and to issue revenue bonds to finance projects for a single or several participating parties, defined to include a community college district that undertakes the financing or refinancing of a project (EC Section 17180, et seq.).
- 3) Creates the Higher Education Student Housing and Capacity Expansion Grant Programs, which, in part, creates two new programs to support campus affordable student housing and campus capacity expansion projects. Appropriates \$500 million one-time General Fund in 2021-22 for student housing projects, and includes legislative intent to provide \$750 million in 2022-23, and \$750 million in 2023-24, for this purpose. Divides the appropriated and proposed funding by providing 50% to CCC, 30% to CSU, and 20% to the UC. Creates a process in which campuses will propose student housing projects by October 2021 for selection in a subsequent budget act. Creates the campus capacity expansion program and includes legislative intent to provide funding for this program in a future budget action (EC, 17200, et. seq.).
- 4) Establishes the CEFA Act, authorizing the CEFA, in part, to develop student housing on or near any campus of the CCC, CSU, or UC through the use of agreements with participating nonprofit entities (EC Section 94110, et seq.).
- 5) Establishes the UC as a public trust to be administered by the Regents of the UC; and, grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services (Article IX, Section (9)(a) of the California Constitution).

- 6) Establishes the CCC, a postsecondary education system consisting of community college districts and the Board of Governors of the CCC (EC Section 70900).
- 7) Requires the Board of Governors of the California Community Colleges to provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges (EC Section 70901).
- 8) Establishes the CSU administered by the Board of Trustees, and provides that the Trustees shall have the full power over the construction and development of any CSU campus and any buildings or other facilities or improvements (EC Section 89030, et seq.).

FISCAL EFFECT: Unknown

COMMENTS: *Urgency clause.* This measure contains an urgency clause and will take effect immediately, in order to: 1) address the growing student, faculty, and staff housing crisis so that the public higher education system can provide affordable housing for its students, faculty, and staff at the earliest possible time; 2) address the significant problem of the lack of rental housing near college campuses; and, 3) help California's economy recover from the COVID-19 pandemic.

Need for the measure. According to the author, "California is facing a housing and college affordability crisis. The demand for student housing is growing, while campuses struggle to build fiscally viable housing at rental rates that students can afford."

The author contends that, "This bill addresses both of these important issues. AB 1602 establishes a \$5 billion self-sustaining fund which will provide zero-interest loans to the UC, CSU, and CCC campuses to construct approximately 25,000 student housing beds at below market rents. This will help existing students thrive by addressing their basic housing needs, and it will allow California's public colleges and universities to enroll more California students by providing new student housing beds."

This measure establishes a \$5 billion California Student Housing Fund, and will provide a zero-interest financing option for the UC, CSU, and CCC to construct approximately 25,000 student housing beds at below market rent.

The author states, "By creating a revolving loan fund, this bill leverages one-time funds to produce an *ongoing*, permanent financing tool that campuses can utilize to build affordable student housing."

Student housing crisis. According to the November 2018 California Homeless Youth Project and Schoolhouse Connection brief, *Supporting California's Homeless & Low-Income College Students: A Practical Guide*, nearly half of students at the CSU and the CCC, and 40% of students at the UC are low-income and struggle to afford the rising cost of attending college.

Further, according to the October 2019 report by the Public Policy Institute of California (PPIC), *Higher Education in California: Making College Affordable*, between 2012 and 2018, the total cost of housing, transportation, and book costs increased by 24%. In 2018-19, housing costs

accounted for 53% of the total cost of attending a CSU, and 45% of the total cost of attending a UC, on average.

The California Student Aid Commission's (CSAC) statewide 2018-19 *Student Expenses and Resources Survey: An Initial Look at the Obstacles Students face Affording Higher Education*, with data from 150,000 college students across the CSU, UC, and CCC showed that 35% of all college students were facing housing insecurity. Further, the data showed that the level of housing insecurity was over 30% across the state, but varied regionally. For instance, the Central Valley (42%) and the Greater Sacramento (41%) regions had the highest rates of housing insecurity.

According to a 2021 report from CSAC, for many students, the COVID-19 pandemic has led to increased housing costs; CSAC found that nearly half of all college students reported increased monthly housing expenses during the pandemic.

Further, according to information from the author's office, survey data from a separate study of community college students revealed that in 2019, 60% of CCC students had experience housing insecurity in the prior year, and 19% had experienced homelessness.

Data suggests that housing insecurity disproportionately impacts some student demographics. Students who are "older" (over 22 years old), Black, Hispanic/Latinx, or have dependents face the greatest housing insecurity. While Hispanic/Latinx students make up the largest percentage of students experiencing homelessness, Black students experience higher rates when normalized by student population. Survey data also shows that housing insecurity negatively affects students' ability to attend and perform well in classes, and it is linked with higher risk of withdrawing or refraining from registering for classes.

Lack of an on-going state fund or financing tools to assist the UC, CSU, and CCC. While the 2021 Budget Act invested \$1.8 billion to grow enrollment at the CSU and UC by more than 15,000 students in the 2022-23 academic year, the investment did not provide any funds for related housing expenses. Enrolling more students without expanding access to affordable housing has a huge potential to exacerbate the existing student housing crisis among our state's college and university students.

Additionally, the budget also included a \$2 billion in one-time grant funding for student housing at CCC, UC, and CSU. This investment is an important first-step, but does not appear to be efficient enough in order to meet the rising demand for affordable student housing to support growing enrollment. For example, 30% of the \$2 billion – or \$600 million is to go to the CSU.

However, it would cost an estimated \$1.8 billion to meet the CSU's reported unmet housing need of 17,700 students. For Fall 2021, CSU reported 13 campuses with waitlists totaling 8,700 students (a 50% increase from 2019), and eight UC campuses report waitlists of over 7,500 students.

According to data provided by the author's office, there is no ongoing funding or financing tools to help California's public colleges and universities meet the growing need for affordable student housing. Recent investments, though impactful, are one-time and insufficient to meet demand. By the October 31, 2021 application deadline for this funding, the Department of Finance had

received 113 applications, totaling \$3.3 billion in funding requests – an excess of \$1.3 billion over the total available funding

Committee comments. According to a November 2021 Legislative Analyst’s Office (LAO) publication, CSU and UC campuses typically finance student housing projects by using revenue bonds to cover project costs (typically paying 5-20% in cash using housing reserves), engaging in public-private partnerships (P3s), or using philanthropic donations.

The LAO found that the CSU campuses primarily use revenue bonds and reserves to finance projects, while the UC uses a mix of bonds, reserves, donors, and P3s. While campuses with longstanding student housing programs and low levels of debt have the ability to build up reserves to finance new facilities, newer campuses, campuses carrying a proportionally high amount of debt, and those with old housing facilities requiring substantial renovation may lack the reserves needed to launch a new housing facility project.

Additionally, the LAO found that, while neither the UC nor the CSU report experiencing debt capacity constraints, individual projects face the challenge of being fiscally viable. The challenge arises from the need to cover operating and debt service costs, while remaining affordable for students.

By providing zero-interest loans to support campuses, this measure provides a financing option that addresses two of the main challenges that campuses face when launching a new housing project: reserves, and debt service costs. This zero-interest financing will support new projects and enable campuses to offer housing to students at a more affordable rate.

However, Committee Staff understands that some stakeholders feel that the P3 structure, as created in the Act, may not give the segments and potential partners, enough authority to continue to enter into P3s.

Moving forward, the author may wish to continue to work with the State Treasurer’s Office, the UC, CSU, CCC, and any other stakeholders involved in P3s.

Prior legislation. AB 1377 (McCarty), as introduced on February 19, 2021, would have established a student housing revolving loan fund to provide loans to UC, CSU, and CCC campuses. Additionally, it would have established a fund for competitive feasibility and planning grants to provide technical assistance to CCCs interested in developing student housing.

However, due to ongoing budget negotiations around student housing, AB 1377 was amended to require the UC and the CSU to develop and regularly update multi-year student housing plans. This version of AB 1337 was enacted, Chapter 571, Statutes of 2021.

AB 2353 (McCarty), of 2020, which was held in this Committee as a result of COVID-19 hearing limits, would have established a feasibility and planning grant fund for CCC campuses.

REGISTERED SUPPORT / OPPOSITION:

Support

California Faculty Association
California School Employees Association

City of Berkeley
Jewish Free Loan Association

Opposition

None on file.

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