

Date of Hearing: April 22, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 75 (O'Donnell) – As Amended March 29, 2021

[Note: This bill was doubled referred to the Assembly Education Committee and has been heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Education finance: school facilities: Kindergarten-Community Colleges Public Education Facilities Bond Act of 2022.

SUMMARY: Places the Kindergarten-Community Colleges Public Education Facilities Bond Act of 2022 on the 2022 statewide ballot, to be operative only if approved by voters at the election. Specifically, **this bill:**

- 1) Enacts the Kindergarten-Community College Public Education Facilities Bond Act of 2022.
- 2) Authorizes an unspecified amount of general obligation K-14 education facilities bond to be placed on an unspecified statewide election in 2022, and allocates the funds as follows:
 - a) An unspecified amount for kindergarten through grade 12 (K-12) allocated to the following programs:
 - i) New Construction;
 - ii) Modernization;
 - iii) Replacement of facilities older than 75 years;
 - iv) Remediation of Lead in Water;
 - v) Charter School Facilities; and,
 - vi) Career Technical Education.
 - b) An unspecified amount for California Community Colleges (CCC) facilities.
- 3) Establishes the 2022 CCC Capital Outlay Bond Fund.
- 4) Authorizes the Higher Education Facilities Finance Committee to create a debt or debts, liability or liabilities, of the State of California for the purpose of providing funds to aid the CCC.
- 5) Stipulates that proceeds from the sale of bonds issued and sold to be used to fund construction on existing CCC campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years, and to provide funds for the payment

of preconstruction costs, including, but not limited to, preliminary plans and working drawings for CCC facilities.

- 6) Designates “board,” for purposes of the State General Obligation Bond Law, as each state agency administering an appropriation of the 2022 Community College Capital Outlay Bond Fund for projects funded.
- 7) Authorizes the board, as designated in (6) above, to request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, as specified. Specifies that the amount of the request may not exceed the amount of the unsold bonds that the Higher Education Facilities Finance Committee, by resolution, has authorized to be sold for the purpose of carrying out the provisions of this measure.
- 8) Authorizes the board, as designated in (6) above, to execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned must be deposited in the fund to be allocated by the board in accordance with this chapter.
- 9) Requires that the proceeds of the bonds issued must be available for the purpose of funding aid to the CCC for the construction on existing or new campuses, and their respective off-campus centers and joint use and intersegmental facilities.
- 10) Requires that all moneys deposited in the 2022 California Community College Capital Outlay Bond Fund that are derived from premium and accrued interest on bonds sold, as specified, must be reserved in the fund and be available for transfer to the General Fund as a credit to expenditures for bond interest, except those amounts derived from premium may be reserved and used to pay the cost of the bond issuance before any transfer to the General Fund.
- 11) Stipulates that these general obligation bonds constitute a binding obligation of the State of California, and pledges the State's full faith and credit for timely payment of principal and interest on the bonds.
- 12) States that the issuance of bonds for CCC projects shall only be for the purpose of funding projects authorized by the Legislature in the annual Budget Act.
- 13) Requires the State Treasurer to sell the bonds authorized by the Higher Education Facilities Finance Committee at any different times necessary to service expenditures required by the apportionments.

EXISTING LAW:

- 1) Stipulates that the Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed \$300,000 unless enactment has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election (California Constitution, Article XVI, Section 1).

- 2) Requires the CCC Chancellor's Office to prepare a five-year capital outlay plan identifying the CCC's statewide needs and priorities (Education Code (EC) Section 67501).
- 3) The Kindergarten Through Community College Public Education Facilities Bond Act of 2016, approved by the voters in November 2016 (Proposition 51), authorized \$9 billion state general obligation bonds for K-12 facilities (\$7 billion) and CCC facilities (\$2 billion) (EC Section 101110, et seq.).
- 4) Requires the Governor to annually submit to the Legislature, in conjunction with the Governor's Budget, a proposed five-year infrastructure plan, which among other things, shall include the instructional and support facilities needs of the CCC (Government Code Section 13102).

FISCAL EFFECT: Unknown

COMMENTS: *Vote threshold.* This measure requires a 2/3 vote of all Members elected to each House of the Legislature.

Background. Since the late 1980s, the Legislature has placed on the ballot and voters have approved bonds for public elementary, secondary, and postsecondary education every two to four years. Overtime, this rate was reduced, bringing us to 2006, when obligation bond, Proposition 1D (AB 127, Núñez and Perata, Chapter 35, Statutes of 2006), was approved by voters in November 2006, authorizing the sale of \$10.4 billion in general obligation bonds of which \$3.087 billion was earmarked for higher education facilities. Of this amount, \$1.5 billion was provided for CCC facilities, \$890 million was provided for the University of California, and \$690 million was provided for the California State University. All Proposition 1D higher education facilities funds have since been depleted.

Ten years would pass before the passage of the next statewide general obligation bond, Proposition 51; approved by voters in November 2016. Proposition 51 authorized a total of \$9 billion in state general obligation bond funds with \$7 billion for K-12 education facilities and \$2 billion for CCC facilities.

To note, of the \$7 billion for K-12 education, \$3 billion was set aside for new construction, \$3 billion for modernization, and \$1 billion for charter schools and vocational education facilities.

Due to the Great Recession and the deterioration of the state's fiscal condition, legislation needed to authorize the education bonds was not enacted. Instead, since 2008, the higher education segments have received capital funding from lease-revenue bonds through the Annual Budget Acts; however, these funds have met less than half of the segments' capital needs. Bond funds, whether lease-revenue or general obligation, are allocated through the budget process in accordance with the segments' five-year capital facility plans.

Furthermore, in November 2012, California voters approved Proposition 39 to close a corporate tax loophole and increase the state's annual corporate tax revenues by as much as \$1.1 billion. Proposition 39 specified that half of the revenue generated from 2013-2018, up to \$550 million, should support energy efficiency and alternative energy projects at public schools, colleges, universities and other public buildings, as well as related public-private partnerships and workforce training.

Lastly, Proposition 13 (AB 48, O'Donnell and Glazer, Chapter 530, Statutes of 2019), placed the \$15 billion Public Preschool, K-12, and College Health and Safety Bond Act of 2020 on the March 2020 statewide ballot. California voters did not adopt Proposition 13 during the Statewide Primary Election on March 3, 2020; the provisions did not take effect.

The chart below depicts the outcomes of the most recent obligation bonds for public elementary, secondary (K-12), and postsecondary (higher education) education facilities:

Ballot	Measure	Amount	% Support
November 1998	Proposition 1A	\$ 9.2 billion (\$6.7 billion K-12 + \$2.5 billion Higher Education)	62.5
November 2002	Proposition 47	\$13.05 billion (\$11.4 billion K-12 + \$1.65 billion Higher Education)	59.1
March 2004	Proposition 55	\$12.3 billion (\$10 billion K-12 + \$2.3 billion Higher Education)	50.9
November 2006	Proposition 1D	\$10.416 billion (\$7.329 K-12 + \$3.087 billion Higher Education)	56.9
November 2016	Proposition 51	\$9 billion (\$7 billion K-12 + \$2 billion CCC)	55.2
March 2020	Proposition 13	\$15 billion (\$9 billion K-12 + \$6 billion Higher Education)	47.0

Purpose of the measure. According to the author, “Funds from the last school bond passed by voters, Proposition 51 in 2016, are exhausted. K-12 local educational agencies and community colleges face billions of dollars of facilities needs.” The author contends that, “There were a number of factors that affected the defeat of Proposition 13 on the March 2020 ballot. AB 75 is a vehicle to address some of those factors and give voters another opportunity to support school facilities bond so that our students can learn in a safe school environment.”

If approved by voters, the proceeds generated by the bond placed on the ballot by this bill will generate unspecified (likely in the billions) amount of matching funds for K-12 and CCC facilities.

CCC Facility Needs. The 2021-22 Five-Year Capital Outlay Plan (Five-Year Plan) for the CCC, as approved by the Board of Governors in August 2020, covers the period from 2021-22 through 2025-26, and totals \$21.2 billion. This amount includes \$8.6 billion for construction of new facilities for enrollment growth and \$12.6 billion for modernization of existing facilities.

In addition to capital facility needs, the CCCs needs that are deferred to future years total \$7.7 billion. This amount includes \$6.2 billion of out-year costs for continuing phases of projects started within the Five-Year Plan period and \$1.5 billion of need are carried over into subsequent plan years, primarily for modernization projects.

Currently, the total unmet facilities needs for the CCCs are approximately \$28.9 billion for the five-year period of the plan. The total facilities needs for the next 10 years, including the \$28.9 billion of unmet capital facility needs identified in the CCCs Five-Year Plan, are approximately \$41.4 billion.

The Five-Year Plan Report specifies that the estimated \$28.9 billion of the CCCs systemwide total unmet facilities needs and costs is conservative. The cost estimates used to determine systemwide needs are potentially understated in the following ways:

- 1) The average includes less expensive space types, while the facilities needed by the California community colleges are projected to include the more expensive space types (e.g., laboratory and library space).
- 2) Site development costs are not included in the cost estimates because it is impossible to determine the average site cost per assignable square foot, as site development costs vary substantially from project to project.
- 3) For the statewide modernization projects, the Chancellor's Office assumes that buildings more than 25 years old will be modernized at 75% of the cost of a new building. Since many CCCs' buildings are more than 30 years old, it is likely that many of the buildings will need to be demolished and replaced at a significantly greater cost rather than if they were to be remodeled.

The state has typically issued general obligation bonds to cover a portion of the cost of community college facility projects; however, the bulk of community college facility costs are covered with locally-approved general obligation bonds. Districts currently must get at least 55% of their voters to approve these local bonds. Since 1998, when the voting threshold for local (K-14) facility bonds was reduced from two-thirds, voters have approved 122 of 142 (86%) of local CCC bond measures, which have authorized \$39.1 billion in bonds for 68 of the 73 community college districts.

Comments in support. According to the CCC Chancellor's Office (CCCCO), "High-quality educational environments play a vital role in fulfilling the mission of the California Community Colleges. For instance, as the largest provider of workforce training in the nation, community colleges prepare students for careers relative to state and local workforce needs for entry-level employment, occupational advancement, and career changes."

The CCCCCO states that, "Facilities are an important part of these job-training programs. For example, buildings with inadequate electrical capacity cannot prepare students for a computer-

based job market, automotive labs with inadequate ventilation cannot be used due to student and staff safety concerns, and science labs with antiquated equipment cannot prepare students for careers in the medical field. AB 75 will help address significant infrastructure needs for the California Community Colleges.”

Committee comments. As currently drafted, this measure does not specify the total amount of the education facilities bond nor does it specify which 2022 statewide election the measure would be on the ballot.

Moving forward, the author may wish to continue to work with the various stakeholder groups in order to provide the bond amount and clarify if the measure would appear on the 2022 statewide primary or general election.

Related legislation. SB 22 (Glazer), of 2021, which is currently on the Senate Appropriations Committee Suspense File, would place the Public Preschool, K–12, and College Health and Safety Bond Act of 2022 on an unspecified statewide election in 2022. The Bond Act would be for \$15 billion.

Many portions of this measure remain in conflict with the measure this Committee will vote on during today’s hearing.

Prior legislation. Several bond measures have been proposed since 2006 to fund higher education facilities. The most recent of these are:

AB 48 (O’Donnell and Glazer), Chapter 530, Statutes of 2019, which was substantially similar to SB 22 (as referenced above), placed the \$15 billion Public Preschool, K-12, and College Health and Safety Bond Act of 2020 on the March 2020 statewide ballot.

California voters did not adopt the measure during the Statewide Primary Election on March 3, 2020; the provisions did not take effect.

AB 13 (Eggman) of 2019, which was held by this Committee, placed the Higher Education Facilities Bond Act of 2020 on the November 3, 2020, Statewide General Election. The measure proposed \$2 billion for University of California (UC) facilities, \$2 billion for California State University (CSU) facilities and \$3 billion for new CSU campuses.

SB 14 (Glazer) of 2019, which died in the Assembly Rules Committee, placed the Higher Education Facilities Bond Act of 2020 on the March 3, 2020 Statewide Primary Election. The measure proposed \$4 billion each for UC and CSU facilities.

AB 2771 (Eggman, et al.) of 2018, which died on the Senate Floor, in part, enacted a \$7 billion general obligation bond for higher education facilities, to be considered by the voters at the November 2018 ballot.

SB 1225 (Glazer and Allen) of 2018, which died on the Assembly Floor, proposed a \$4 billion general obligation bond measure for UC, CSU and Hastings to be placed on the November 2018 statewide ballot.

SB 483 (Glazer and Allen) of 2017, which was held on the Suspense File in the Senate Appropriations Committee, proposed a \$2 billion bond for the November 2018 ballot facilities at UC, CSU, and Hastings.

AB 148 (Holden) of 2015, which was held on the Suspense File in the Assembly Appropriations Committee, would have placed the K–14 School Investment Bond Act of 2016 with unspecified dollar amounts on the November 8, 2016 statewide ballot.

AB 1088 (O'Donnell) of 2015, which was held on the Suspense File in the Assembly Appropriations Committee, authorized an unspecified amount of bonds for school districts, county superintendents of schools, county boards of education, charter schools, the CCC, CSU, Hastings, and UC.

AB 1433 (Gray) of 2015, which was held on the Suspense File in the Assembly Appropriations Committee, would have placed the Recommitment to Higher Education Bond Act of 2016 with unspecified amounts for higher education facilities on the November 8, 2016 Statewide General Election.

SB 114 (Liu) of 2015, which failed passage on the Senate Floor, would have placed the Kindergarten Through Grade 12 Public Education Facilities Bond Act of 2016 with unspecified dollar amounts on the November 8, 2016 ballot.

REGISTERED SUPPORT / OPPOSITION:

Support

Anaheim Union High School District
Association of California Construction Managers
Association of California School Administrators
California Association of School Business Officials (CASBO)
California Association of Suburban School Districts
California Builders Alliance
California Coalition for Adequate School Housing
California Community Colleges Chancellor's Office
California County Superintendents Educational Services Association (CCSESA)
California Federation of Teachers, AFL-CIO
California Retailers Association
California School Boards Association
California School Employees Association
California Teachers Association
Central Valley Education Coalition
City College of San Francisco
Community College Facility Coalition
Corona Norco Unified School District
County School Facilities Consortium
International Brotherhood of Boilermakers, Western States Section
Kern Community College District
Long Beach Unified School District
Los Alamitos Unified School District

Los Angeles County Office of Education
Los Angeles Unified School District
Mt. San Jacinto Community College District
Office of The Riverside County Superintendent of Schools
Peralta Community College District
Riverside County Public K-12 School District Superintendents
Sacramento Regional Builders Exchange
San Bernardino Community College District
San Bernardino County District Advocates for Better Schools (SANDABS)
San Diego Unified School District
San Francisco Unified School District
San Jose-Evergreen Community College District
School Energy Coalition
Small School Districts Association
State Building and Construction Trades Council of California, AFL-CIO
Student Senate for California Community Colleges
Torrance Unified School District
Yuba Community College District

Opposition

None on file.

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