

Date of Hearing: April 24, 2018

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 2771 (Eggman) – As Amended March 23, 2018

**SUBJECT:** Education finance: Higher Education Facilities Bond Act of 2018

**SUMMARY:** Enacts a \$7 billion general obligation bond for higher education facilities, to be considered by the voters at the November 2018 ballot. Specifically, **this bill:**

- 1) Enacts the Higher Education Facilities Bond Act of 2018, which, upon approval by the voters, provides \$7 billion to fund capital outlay projects for the University of California (UC), the Hastings College of the Law (Hastings), and the California State University (CSU).
- 2) 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.
- 3) Specifies that the bond proceeds shall be available for the construction, reconstruction, and remodeling of existing or new facilities, including the construction of buildings and acquisition of related fixtures; the equipping of new, renovated, or reconstructed facilities; funding for payment of preconstruction costs; and the construction or improvement of CSU off-campus facilities approved by the CSU Trustees on or before July 1, 2014, including the acquisition of sites.
- 4) States that the issuance of bonds shall only be for the purpose of funding projects authorized by the Legislature in the annual Budget Act.
- 5) Requires that any request forwarded to the Legislature and the Department of Finance by UC and CSU for funding from this bond measure shall be accompanied by a five-year capital outlay plan.
- 6) States that all of the above shall only take effect upon adoption by the voters, and that the act shall be submitted to the voters at the November 6, 2018 statewide election.

**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 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 UC and CSU. (Government Code Sect. 13102.)

- 3) Authorizes UC to use up to 15% of its General Fund support budget, less the amount required to fund general obligation bond payments and State Public Works Board rental payments, to fund capital outlay projects, either on a pay-as-you-go approach or to pay principal and interest on university-issued revenue bonds. (Education Code (EC) Sect. 92943 et seq.)
- 4) Authorizes CSU to use up to 12% of its General Fund support budget, less the amount required to fund general obligation bond payments and State Public Works Board rental payments, to fund capital outlay projects, either on a pay-as-you-go approach or to pay principal and interest on university-issued revenue bonds. (Education Code (EC) Sect. 89770 et seq.)
- 5) Under the State University Revenue Bond Act of 1947, authorizes the CSU Board of Trustees to construct operate and control certain facilities, including student housing and boarding facilities, and to establish charges for use of such facilities. (EC Sect. 90010 et seq.)
- 6) Under the University of California (UC) Dormitory Revenue Bond Act of 1947, authorizes the UC Board of Regents to construct operate and control certain facilities, including student housing and boarding facilities, and to establish charges for use of such facilities. (EC Sect. 92400 et seq.)
- 7) The Kindergarten-University Public Education Facilities Bond Act of 2006, authorized \$10.4 billion in general obligation bonds, including \$3.1 billion for higher education facilities, of which UC received \$890 million and CSU received \$690 million. (EC Sect. 101000 et seq.)
- 8) 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 California Community College (CCC) facilities (\$2 billion). (EC Sect. 101110 et seq.)

**FISCAL EFFECT:** General Fund costs for debt service payments would be several hundred million dollars annually for at least 30 years.

**COMMENTS:** *Purpose.* The author notes that, while the voters recently approved bonds for K-14 facilities, UC and CSU were not included in that bond measure, yet these systems have multi-billion dollar capital outlay needs and multi-billion dollar deferred maintenance backlogs. Noting that the last general obligation bond to benefit UC and CSU was in 2006, the author believes it is time for the state to invest in this other importance part of our higher education system and its facilities.

*Background.* From the late 1980s through to 2006, the Legislature placed on the ballot and voters approved bonds every two to four years that included support for public higher education facilities. In addition, the Legislature has supplemented this funding by appropriating several billion dollars in lease-revenue bonds for specific projects at UC and CSU (and, to a lesser extent, at the CCC). Over recent years, the responsibility for capital outlay projects has shifted from the state to UC and CSU through the state's annual budget. The segments are now able to use their General Fund allocation to support pay-as-you-go capital outlay projects or to fund revenue bond debt service for projects that they have financed. The expectation is for UC and CSU to prioritize their capital expenditures within their overall operating budgets. The segments

have expressed, however, that they are not adequately funded for their operations currently, let alone at a level that can also support all of their facilities costs.

*Summary of Capital Needs.*

- UC's inventory of capital assets totals approximately 137 million gross square feet in 6,000 buildings. More than half of UC's space is at least 30 years old. UC's capital plan estimates capital needs totaling \$27.6 billion through 2022-23. Of this total, UC indicates that \$10.9 billion constitute projects eligible for state funding. (Excluded from this amount are capital outlays for UC's medical centers and for auxiliary enterprises, such as student housing and parking facilities, which are historically funded with revenue bonds repaid through user fees.) UC indicates that it lacks a fund source for \$5.1 billion in state-supportable projects identified in its plan.

While indicating that it is fulfilling a portion of its funding needs, even for state supportable projects, with private donations and the implementation of public-private partnerships (P3s), as well as through its support budget, UC maintains that it cannot sustain its capital program solely with this approach. UC notes that, while state support for capital outlay, through specific capital appropriations, averaged almost \$500 million between 1996 and 2012, state support since that time has been only \$190 million annually, all of which is a reallocation of operating funds for debt service. According to UC, "Without an infusion of additional funding, the ability to fully implement the capital program is uncertain and in many cases, unlikely. This funding gap highlights the urgency for new State funding. A new State General Obligation Bond would provide much needed resources to support the University's important mission."

- CSU's inventory of capital assets totals approximately 86 million gross square feet in 2,100 buildings. More than half of CSU's space is over 40 years old, and its deferred maintenance backlog exceeds \$2 billion. CSU's most recent five-year plan identifies a funding need \$14.1 billion, consisting of \$8.2 billion for academic facilities and \$5.9 billion for self-supporting facilities (dormitories, parking, etc.).

CSU indicates that the need for campus academic projects and infrastructure is much greater than the available funds. A request to increase the permanent base operating budget by \$15 million was included in the CSU's 2018-19 budget request to the state as a means to finance additional capital outlays. CSU estimates that over \$400 million per year is needed to renew existing academic facilities, provide improvements needed to support the academic program, and address life, safety, and seismic deficiencies.

*Urgency Request.* Given that this measure is proposed for the November 2018 statewide ballot, the author requests that the committee adopt an urgency clause.

*How Will Bond-Funded Projects be Selected?* When general obligation bonds and lease-revenue bonds were the funding sources for UC's and CSU's capital outlay programs, the segments would submit their respective project proposals, based on their determination of systemwide priorities, for inclusion in the Governor's Budget. Each project eventually approved by both the Governor and the Legislature would be included as a separate appropriation in the annual Budget Act.

In conjunction with providing UC and CSU with authority of fund capital outlay projects through their respective support budgets instead of with state bonds, legislation was also enacted to streamline the segments' capital outlay approval process. Under the new process, UC and CSU submit a list of capital projects to the Department of Finance for approval. The segments must continue to submit written documentation to the Legislature – commonly referred to as “capital outlay budget change proposals” – that provides detailed information on each project request (including a description of the proposed project, what problem the project is intended to address, the proposed phases to be funded in the budget year and future years, estimated costs and proposed funding sources, and alternatives considered). Legislative budget subcommittees have an opportunity to review the projects and, by April 1 of each year, signal to the administration whether to approve or reject projects. The Department of Finance, however, makes final project approval decisions, and must do so by April 1.

Upon approval by the voters, AB 2771 authorizes the issuance of the bonds "only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act." Based on this language, it appears that the projects to be funded with the bonds will be considered according to the former capital outlay process, and thus will be appropriately separately as part of the annual Budget Act.

*Erroneous Reference to Student Housing.* Among the findings and declarations in AB 2771 is the statement that "There is an acute need for increased student housing, and the inadequate availability of such housing serves as an obstacle to the ability of students to pursue and complete their degrees." As mentioned above, student housing, along with dining facilities, parking structures, and student unions have traditionally been funded by UC and CSU using revenue bond authority, first established in 1947, with the bonds being paid off with user fee revenues – room rental charges, parking fees, etc. While it is very unlikely that either UC or CSU would request funding from this bond measure to build student housing, as both segments already have an overwhelming need related to academic facilities traditionally funded by state bonds, it would be imprudent to even imply that this bond measure should encompass facilities, like student housing, which enjoy an alternative fund source.

*The author should therefore strike this finding as this bill move forward.*

*Related Legislation/Initiative.* This year's statewide elections already include \$8.1 billion, and potentially \$17 billion in general obligation bond measures for voter consideration. The Legislature has placed two bond measures on the ballots and an initiative bond measure may soon qualify:

- Chapter 852, Statutes of 2017 (SB 5, De Leon) placed a \$4.1 billion general obligation measure bond on the June 2018 statewide ballot to fund parks and water-related projects and habitat conservation.
- Chapter 365, Statutes of 2017 (SB 3, Beall), placed a \$4 billion general obligation bond measure on the November 2018 statewide ballot to fund various affordable housing programs (\$3 billion) and \$1 billion in self-liquidating bonds for veterans' home purchases.

- Water Supply and Water Quality Act of 2018. Signatures have been submitted to county elections officials, and are awaiting verification, for this initiative measure proposing \$8.9 billion in general obligation bonds for water-related infrastructure.

SB 1225 (Glazer), pending in Senate Governance and Finance, proposes a \$4 billion general obligation bond measure for UC, CSU and Hastings to be placed on the November 2018 statewide ballot.

*Prior Legislation.* Several bond measures have been proposed since 2009 to fund higher education facilities. The most recent of these are:

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

AB 1433 (Gray, 2016), which authorized an unspecified of bonds for the UC, CSU, CCC and Hastings, was held on Suspense in the Assembly Appropriations.

AB 1088 (O'Donnell, 2015), which 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, was held on Suspense in Assembly Appropriations.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

None on file.

### **Opposition**

Howard Jarvis Taxpayers Association

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