

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 635 (Low) – As Introduced February 12, 2021

SUBJECT: Postsecondary education: California Educational Facilities Authority.

SUMMARY: Makes changes to the California Educational Facilities Authority (CEFA) Act. Specifically, **this bill:**

- 1) Stipulates that the grant deed restriction of 40 years on real property on which student, faculty, or staff housing is to be located, does *not* apply to a project for student, faculty, or staff housing located on property within the boundary of a campus, or on property located outside the boundary of a campus and owned by the public university, public college, or participating private college.
- 2) Makes a technical change to existing law.

EXISTING LAW: Establishes the CEFA Act and the CEFA to, in part:

- 1) Provide private institutions of higher education within the state with an additional means by which to expand, enlarge, and establish dormitory, academic, and related facilities, to finance those facilities, and to refinance existing facilities; and,
- 2) Enter into agreements with nonprofit entities, as defined, to develop student, faculty, and staff housing on near the campuses of the University of California (UC), the Hastings College of the Law, the California State University (CSU), the California Community Colleges (CCC), or a participating private college, as specified.

The CEFA Act authorizes the CEFA to fund, as specified, and to construct, acquire, or otherwise provide projects for these purposes. The CEFA Act defines “projects” for a participating private college to mean a dormitory, an educational facility, or faculty or staff housing, and defines “projects” for a participating nonprofit entity to mean the construction or acquisition of student housing or faculty and staff housing.

Further, the CEFA Act requires, in part, that a project involving a participating nonprofit entity include and maintain for 40 years, a restriction to the grant deed on the real property on which the student, faculty, or staff housing is to be located, with specified rights for the participating institution and its students, faculty, or staff (Education Code Section 94110, et seq.).

FISCAL EFFECT: Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: *California Educational Facilities Authority.* Established in 1973, the CEFA operates pursuant to the CEFA Act. The CEFA, housed in the California State Treasurer’s Office, was created for issuing revenue bonds to assist private non-profit (independent) institutions of higher education, in the expansion and construction of educational facilities. Because CEFA is authorized to issue tax-exempt bonds, the CEFA may provide more favorable financing to such independent institutions than might otherwise be obtainable.

Existing law specifically provides that bonds issued under the CEFA Act 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.

Presently, CEFA issues tax-exempt conduit revenue bonds and may loan the proceeds to a private college (as defined in law) or nonprofit entity in order to acquire or construct certain projects. A revenue bond guarantees repayment solely from the revenues generated from the project being financed, rather than from a tax. On February 25, 2021, California State Treasurer Fiona Ma announced CEFA's approval of the sale of up to \$68 million in revenue bonds for Chapman University. The proceeds of the bonds will be used by Chapman to refund its prior debt issued through CEFA, as well as to fund the costs of issuance.

Other recent CEFA approved projects include: 1) Loyola Marymount University's (LMU) request to issue up to \$65 million in fixed-rate, tax-exempt bonds. The bond proceeds were used to refund the outstanding CEFA Series 2010A and Series 2015 Bonds. The refunding of these bonds provided LMU with a net present value savings of approximately \$14.4 million. The CEFA approved this project on August 29, 2019; and, 2) Stanford University's request for \$600 million CEFA revenue bond to fund the construction and renovation of on-campus student housing and to refinance prior debt. The CEFA approved this project on February 28, 2019.

The CEFA also helps students finance the cost of attendance through its College Access Tax Credit Fund and has the ability to develop housing through nonprofit public-private partnership (P3) agreements.

Since 1976, the CEFA has issued 379 bonds in a cumulative amount of \$14 billion for the benefit of 59 colleges and universities. Over the last ten years, the CEFA has provided funding for ten independent colleges and universities to build over 43 residence halls.

To note, the existing CEFA Act contains a requirement for projects financed through a P3 structure to include and maintain for 40 years, a grant deed on the property that would contain a number of restrictions including the following: (1) give the college or university the right to purchase the property; (2) ensure that students, faculty, or staff have right of first refusal to housing units; (3) require that at least 50 percent of students residing in the housing unit meet criteria for need-based financial assistance; and, (4) require that the project adhere to public contract requirements.

Purpose of this measure. According to the author, many universities are using P3s to address student housing needs and to replace outdated educational facilities while keeping their own funds for educational purposes. The author states that, "This is especially true given that the COVID-19 pandemic has negatively affected college and university bottom lines. We're seeing the need for more financing options to help our public colleges and universities extend their dollars."

The author contends that this measure would remove constraints that are currently imposed on certain P3 financings through the Authority, but not through other joint-powers authorities (JPAs), thus making it easier for colleges and universities to utilize this structure through CEFA (which benefits from greater oversight and transparency than JPAs). The author notes that many University of California campuses have financed student housing projects through JPAs. The

author states, “If these grant deed restrictions were limited only to off campus projects on land not owned by a university, more institutions would be able to use CEFA as the conduit bond issuer to facilitate P3 bond financings.” The author further states that, “By reforming and modernizing the CEFA Act, California’s public colleges and universities can more easily access funding that is subject to state oversight to build educational facilities, especially housing for students, faculty, and staff. As the COVID-19 pandemic continues to strain schools’ budgets, this bill offers our public universities an additional financing tool for much needed infrastructure projects, all while spurring development and easing the housing crisis.”

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

- 1) AB 2484 (Low) of 2020, which was held at the request of the author in the Assembly Appropriations Committee, sought to change to the CEFA Act to enable public colleges and universities to use the CEFA bonding authority for student, faculty, or staff housing projects. The measure also broadened the allowable range of projects that could use CEFA’s authority to include any type of educational facility.
- 2) AB 1668 (Wieckowski), Chapter 154, Statutes of 2014, which allowed the CEFA to accept loan proceeds or issue other evidences of indebtedness necessary to allow for private placement loans.
- 3) 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.
- 4) 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.
- 5) 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.
- 6) SB 1624 (Romero), Chapter 1081, Statutes of 2002, which authorized the 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.
- 7) 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 & Universities
California State Treasurer (Sponsor)
University of California

Opposition

None on file.

Analysis Prepared by: Jeanice Warden / HIGHER ED. / (916) 319-3960