

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 3228 (Burke) – As Amended March 22, 2018

SUBJECT: School facilities: surplus real property: proceeds to pay emergency apportionment loan

SUMMARY: Authorizes, until July 1, 2023, a school district that receives an emergency apportionment and has an outstanding balance on its emergency apportionment loan to sell or lease surplus real property, together with any personal property located on the real property, owned by the school district and use the proceeds from the sale or lease to service the debt on the emergency apportionment loan or to reduce or retire the emergency apportionment loan. Specifies that the sale of real property is not subject to the provisions governing priorities for sale of surplus property. Specifies that a school district that uses the proceeds from the sale or lease of surplus real property for the purpose specified by this bill shall not be eligible for financial hardship assistance in the state school facilities bond program.

EXISTING LAW:

- 1) Requires that emergency loans requested by a school district in fiscal crisis be provided by legislative appropriation. (Education Code (EC) Section 41320.2)
- 2) Requires, upon a district's acceptance of an emergency loan exceeding 200 percent of a district's recommended reserve, that the Superintendent of Public Instruction (SPI) assumes all the legal rights, duties and powers of the district governing board, authorizes the SPI to appoint an administrator to act on his or her behalf, and requires that the district governing board become advisory to the administrator. (EC Section 41326)
- 3) Expresses the intent of the Legislature to have the community involved before decisions are made about school closure or the use of surplus space, thus avoiding community conflict and assuring building use that is compatible with the community's needs and desires. (EC Section 17387)
- 4) Requires funds from the sale of surplus property to be used for capital outlay or for costs of maintenance of school district property that the local governing board determines will not recur within a five-year period. (EC Section 17462)
- 5) Authorizes proceeds from the sale or lease with the option to purchase to be deposited in the general fund if the school district governing board and the State Allocation Board (SAB) have determined that the district has no anticipated need for additional sites or building construction for the ten-year period following the sale or lease with option to purchase, and the district has no major deferred maintenance requirements. Authorizes proceeds from the sale or lease with option to purchase of school district property to be used for one-time expenditures, and may not be used for ongoing expenditures including, but not limited to, salaries and other general operating expenses. (EC Section 17462)

FISCAL EFFECT: Unknown

COMMENTS: This bill authorizes, until July 1, 2023, a school district that has received an emergency apportionment and has an outstanding balance to sell or lease surplus real property, and use the proceeds from the sale or lease to service the debt on the emergency loan or to reduce or retire the emergency apportionment loan.

Background on school district emergency loans: AB 1200, Chapter 1213, Statutes of 1991, established a process that delineates the duties and responsibilities of both the state and the school district when emergency loans need to be granted to school districts due to insolvency. Once an emergency loan is made to a school district, the SPI appoints an individual as the administrator over the district. The state appointed administrator effectively functions as both the district superintendent and the district governing board; the district governing board stays in place, but is authorized to act only in an advisory manner. Due to the nature of the issues facing districts in this situation, as well as the large state interest in the form of the outstanding emergency loan, state-appointed administrators are charged with returning the district to fiscal health and generally stay in place for a number of years. There is an existing process in statute that triggers a transitional return of powers to the local governing board; however, even after the full return of powers to the board a state presence, in the form of a state-appointed trustee with stay and rescind powers, is kept in the district until the emergency loan is fully repaid.

According to the California Department of Education (CDE), the following districts have received emergency loans:

District	Year Authorized	Loan	Amount Paid by District	Pay Off Date
Inglewood USD	2012	\$29,000,000	\$5,495,952	November 2033
South Monterey County Joint Union High (formerly King City Joint Union High)	2009	\$13,000,000	\$7,708,369	October 2028
Vallejo City USD	2004	\$60,000,000	\$43,896,904	January 2024 (I-bank) August 2024 (General Fund)
Oakland USD	2003	\$100,000,000	\$77,511,409	January 2023 (I-bank) June 2026 (General Fund)
West Fresno ESD	2003	\$1,300,000	\$1,425,773	December 2010
Emery USD	2001	\$1,300,000	\$1,742,501	June 2011
Compton USD	1993	\$19,951,259	\$24,358,061	June 2001
Coachella Valley USD	1992	\$7,300,000	\$9,271,830	December 2001
W. Contra Costa USD	1990	\$28,525,000	\$47,688,620	May 2012

There are four districts under current state oversight, one of which, Inglewood Unified School District (USD), has an administrator, while the other three, Oakland USD, South Monterey County Joint Union High School District (formerly King City Joint Union High), and Vallejo City USD, have appointed trustees.

Background on use of proceeds from the sale of surplus property. Existing law requires school districts to establish routine facilities accounts and deferred maintenance accounts, and requires proceeds from the sale of surplus property to stay in capital facilities or maintenance funds to ensure that districts protect and maintain their facilities. There is one exception in existing law that authorizes the proceeds from the sale of surplus property to be deposited into the general fund for one-time expenditures. As a condition for using funds for one-time general fund purposes, a district must show that it has no need for additional sites or building construction for a ten-year period following the sale of the property and may not apply for state bond funds during the ten-year period. The district may apply for funds after five years if the SAB, the appointed body that administers state education bond funds, determines that the district demonstrates enrollment growth or a need for additional sites it could not have anticipated.

Prior authorizations. All four school districts under state oversight received prior authority to sell surplus property and use the proceeds to pay state loans. All four of the authorizations have expired. This bill is similar to the provisions in prior authorizations except that this bill provides general authorization to any school district under receivership and has a loan balance, whereas prior authorizations have been specific to a school district. All of the authorizations allow a school district to not comply with existing law specifying how surplus property is to be sold, to whom the property must be offered for sale, and where the funds must be deposited and used. The authorizations do not prohibit a school district from applying for future state bond funds under the School Facility Program, but prohibit the districts from receiving up to 100 percent of the cost of a project due to financial hardship.

Authority exercised? According to the CDE, Oakland USD and Inglewood USD did not exercise the authority. Vallejo USD have sold and leased property to pay state loans. This bill is sponsored by the SPI and not the school districts. It is unknown whether the four school districts have surplus property or have plans to sell surplus property in order to pay state loans.

Need for facilities? State law and policy direct proceeds from the sale of surplus property to be used for facilities purposes and prohibits uses for general fund purposes. In determining whether a district has needs for new schools, it may be helpful to review the district's enrollment pattern. Of the four districts, Inglewood USD is the only district that appears to be declining. The other three districts have seen incremental increases in enrollment over the last four years. It is not known what these four districts' needs are for modernization of their existing facilities.

Committee amendments: Staff recommends specifying the districts for which the authority to sell surplus property and use the proceeds to service, reduce or retire state loans: Inglewood USD, Oakland USD, South Monterey County Joint Union High School District, and Vallejo City USD.

Arguments in support. The SPI states, "These districts are balancing between paying back the loan and keeping schools operating, which depletes critical financial resources that could otherwise be used in the classroom to support student learning and achievement. By allowing

these districts to lease or sell surplus property, AB 3228 is providing them with other options to raise money to repay the loan and minimize the impact on the classroom.”

Previous legislation. The following bills were all similar bills giving authority to individual districts over specified time periods to sell or lease surplus property and use the proceeds to retire or reduce state loan debt:

SB 512 (Committee on Education), Chapter 677, Statutes of 2005, extended Oakland USD’s authority from June 30, 2005 to June 30, 2007.

AB 1948 (Evans), Chapter 636, Statutes of 2008, extended Vallejo City USD’s authority from June 1, 2004 to July 1, 2010.

SB 130 (Denham), Chapter 20, Statutes of 2009, authorized a state loan for King City Joint Union High School District, and authorized the district to sell surplus property between June 1, 2009 and June 30, 2012.

AB 1874 (Evans), Chapter 147, Statutes of 2010, extended Vallejo City USD’s authority to June 30, 2015.

AB 677 (Skinner), Chapter 164, Statutes of 2011, extended Oakland USD’s authority from January 1, 2012 to June 30, 2016.

SB 533 (Wright), Chapter 325, Statutes of 2012, authorized a state loan for the Inglewood USD and authorized the district to sell surplus property between September 1, 2012 and June 30, 2015.

AB 1726 (Bonta), introduced in 2014, would have extended Oakland USD’s authority, from June 30, 2016 to June 30, 2020. The bill was held by the author in the Assembly Education Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

State Superintendent of Public Instruction Tom Torlakson (sponsor)
Oakland Unified School District

Opposition

None on file

Analysis Prepared by: Sophia Kwong Kim / ED. / (916) 319-2087