

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 48 (O'Donnell) – As Amended April 1, 2019

[Note: This bill is doubled referred to the Assembly Higher Education Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Education finance: school facilities: Kindergarten-Community Colleges Public Education Facilities Bond Acts of 2020 and 2022

SUMMARY: Places the Kindergarten-Community Colleges Public Education Facilities Bond Acts on the statewide 2020 primary and 2022 general elections, to be operative only if approved by voters at the statewide elections. Specifically, **this bill:**

- 1) Establishes the 2020 and 2022 State School Facilities Funds and authorizes the State Allocation Board (SAB) to apportion funds to school districts from funds transferred to the 2020 and 2022 State School Facilities Funds from any source for the purposes specified in the School Facility Program (SFP).
- 2) Authorizes an unspecified amount of general obligation (G.O.) school facilities bond to be placed on the March 3, 2020 statewide primary election and specifies the funds to be allocated 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) Joint Use;
 - v) Remediation of Lead in Water;
 - vi) Charter School Facilities; and
 - vii) Career Technical Education (CTE).
 - b) An unspecified amount for California Community Colleges (CCC) facilities.
- 3) Establishes a program allowing school districts to receive New Construction grant levels to demolish and construct a new building on an existing schoolsite for buildings that are at least 75 years old if the school district provides a cost-benefit analysis that indicates the total cost to modernize the building is at least 50 percent of the current replacement cost.
- 4) Modifies eligibility for financial hardship by increasing the total bonding capacity from below \$5 million to below \$10 million.
- 5) Authorizes the SAB to provide interim housing assistance, including, but not limited to, the leasing or acquisition of portable classrooms, to school districts and county offices of education (COE) impacted by a natural disaster for which the Governor has declared a state of emergency.

- a) Specifies that the allocated funds shall supplement funding from insurance or any other local, state, or federal government disaster assistance.
 - b) Authorizes school districts and COEs to retain savings from a project for use for other high priority capital outlay purposes.
 - c) Specifies that grants provided shall not affect the applicant's eligibility for any other program in the SFP.
- 6) Modifies the joint-use program as follows:
- a) Adds preschool facility, wellness center and theater as eligible projects.
 - b) Strikes teacher education facility as an eligible project.
 - c) Strikes an obsolete provision.
 - d) Authorizes the SAB to adopt regulations to allow ongoing operational and staffing contributions of the joint use partner to be considered in the required local matching share.
- 7) Establishes the Testing and Remediation of Lead Levels of Water at Schoolsites program as follows:
- a) Requires the SAB to provide a grant to test for lead in water fountains and faucets used for drinking or preparing food on schoolsites serving kindergarten or any of grades 1 to 12, inclusive, and for the remediation of any water fountain or faucet with lead levels in excess of 15 parts per billion.
 - b) Requires the school district applying for funds to do the following:
 - i) Test lead levels in all water fountains and faucets on the schoolsite.
 - ii) Provide the test results to the Office of Public School Construction (OPSC) and the school district's local community water system.
 - c) Authorizes a school district to request a grant for the replacement of a water fountain or faucet if the test results indicate lead levels for that water fountain or faucet exceed 15 parts per billion.
 - d) Requires additional testing upon replacement of water fountains or faucets to ensure that lead levels have fallen below 15 parts per billion.
 - e) Authorizes the SAB to do the following:
 - i) Establish funding cycles for allocation of funds. If funds are available at the conclusion of the funding cycles, authorizes the SAB to adopt regulations to provide grants to replace any pipes or fixtures that are contributing to the elevated lead levels if lead levels do not fall below 15 parts per billion after additional testing has been performed.
 - ii) Consider setting a maximum amount on the grant to be provided for testing and remediation.
- 8) Establishes assistance to small school districts as follows:
- a) Defines "small school districts" as a school district with average daily attendance (ADA) of less than 2,500.
 - b) Authorizes a small school district to receive a design apportionment from funds made available for this purpose.
 - c) Authorizes a small school district to apply to the SAB for a preliminary apportionment and have up to five years to convert to an apportionment.

- 9) Authorizes an unspecified amount of G.O. school facilities bond to be placed on the November 8, 2022 statewide general election. Specifies that allocation of funds shall be pursuant to the SFP as it reads on an unspecified date in 2022.
- 10) Establishes the 2020 and 2022 California Community College Capital Outlay Bond Funds and authorizes the deposit of funds from the proceeds of bonds issued and sold to be deposited into the funds for the purposes of construction; renovation and reconstruction of CCC facilities; site acquisition; the equipping of new, renovated or reconstructed facilities; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for CCC facilities.

EXISTING LAW:

- 1) Requires, under the Leroy F. Greene School Facilities Act of 1998, the SAB to allocate to applicant school districts prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.
- 2) Provides that a school district's ongoing eligibility for new construction funding is determined by making calculations related to certain factors, including, but not limited to, enrollment projections by utilizing a cohort survival enrollment projection system, the number of students that may be adequately housed in the existing school building capacity of the district, and increases or decreases in enrollment resulting from receipt of funding from the Year-Round School Grant Program.
- 3) Provides that a school district is eligible to receive an apportionment for the modernization of a permanent school building that is more than 25 years old or a portable classroom that is at least 20 years old. A school district is eligible to receive an additional apportionment for modernization of a permanent school building every 25 years after the date of the previous apportionment or a portable classroom every 20 years after the previous apportionment.

FISCAL EFFECT: Unknown

COMMENTS: *Impact of school facilities on student learning.* Studies have found a positive relationship between condition of school facilities and student achievement. For example, a 2017 report by the California Policy Lab analyzing the impact of newly constructed schools on student achievement in the Los Angeles Unified School District found significant student improvements in standardized test scores, attendance rates, and student effort following attendance at a new school facility.

According to the California Department of Education (CDE), facility condition, design and utilization affect student and staff attendance, retention of teachers, student disruptions, time teachers and students spend on instruction/learning activities, curriculum offerings, teacher and student time in school (school calendar), participation by staff and students in extra-curricular activities, parent visits, and extent of local school program innovations.

Background on SFP. The construction and rehabilitation of public kindergarten through grade 12 (K-12) facilities are funded by a combination of state and local G.O. bonds, developer's fees and local assessments such as Mello Roos community facilities districts.

State bond funds are allocated pursuant to the SFP and administered by the OPSC under the direction of the SAB, a ten member body comprised of the Department of Finance, the Director of the Department of General Services, the State Superintendent of Public Instruction, three Senators, three Assemblymembers, and a Governor’s appointee. Under the SFP, the New Construction program requires a 50% match from local educational agencies (LEAs), unless the LEA qualifies for financial hardship, which pays up to 100% of project costs. Modernization funds are awarded at 60% with a 40% match. Since the inception of the SFP in 1998, voters have approved \$54 billion in state G.O. bonds for K-12 schools.

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

The last education bond on the statewide ballot, Proposition 51, was placed on the ballot through an initiative, and was passed by voters on the November 2016 ballot. Proposition 51 provided \$9 billion for K-12 and CCC facilities through the following allocations:

1) \$7 billion for K-12 facilities allocated as follows:

- a) \$3 billion for new construction projects.
- b) \$3 billion for modernization projects.
- c) \$500 million for CTE facilities.
- d) \$500 million for charter school facilities.

2) \$2 billion for CCC facilities.

Facilities Need. The CDE estimates that approximately 30% of the state’s K-12 classrooms are at least 50 years old and 10% are 70 years old. In addition to health and safety and normal wear and tear, schools need to be updated to meet 21st century educational needs and environmental efficiencies.

Researchers estimate billions of dollars in K-12 new construction and modernization facilities needs while community colleges have a projected \$30 billion need over five years. Proposition 51's K-12 allocations for new construction funds have been depleted since September 2018 while modernization funds were fully allocated in February 2019. According to the OPSC, \$261 million in new construction applications and \$49 million in modernization applications have been submitted beyond Proposition 51 funding availability thus far.

This bill establishes two bonds to be submitted to voters on the Primary 2020 and General 2022 statewide ballots. This is not the first bill to contain two bond proposals. AB 16 (Hertzberg), Chapter 33, Statutes of 2002, placed the November 2002 and March 2004 bonds on the ballots, both of which were passed by voters. The author states that due to depletion of Proposition 51 funds and in order to enable school districts to continue their facilities plans, it is prudent to establish two bonds.

In addition to funds for new construction, modernization, CTE and charter facilities, this bill establishes several new programs:

Replacement of 75 year old facilities. Under the SFP, districts are eligible for modernization funds if a permanent building is 25 years old and a portable building is 20 years old. A district receiving funds due to a health and safety problem (facility hardship) can receive the higher new construction dollar levels for a modernization project if it is determined that the cost to mitigate the health and safety threat is greater than 50 percent of the cost of replacement. This bill establishes a program to allow buildings at least 75 years old to receive the higher new construction funds to enable a district to demolish and replace the building rather than rehabilitate a building that may have excessive repairs while not meeting 21st century educational needs.

Testing and Remediation of Lead Levels of Water at Schoolsites. Research shows that long-term exposure to high levels of lead can cause irreversible damage to the brain, red blood cells, and kidneys. Exposure at low levels of lead can cause low IQ, hearing impairment, reduced attention span, and poor classroom performance. The most prevalent sources of lead in drinking water are from pipes, fixtures, and associated hardware from which the lead can leach.

AB 746 (Gonzalez), Chapter 746, Statutes of 2017, requires a community water system that serves a schoolsite with a building constructed before January 2010 to test for lead in up to five drinking water sources of the schoolsite by July 1, 2019. According to the State Water Resources Control Board, 5,260 schools have been tested with approximately two percent of drinking fountains sampled found with lead levels that exceed the federal United States Environmental Protection Agency (US EPA) recommended level of 15 parts per billion.

This bill provides an unspecified amount of funding for testing and replacement of water fountains and faucets. The bill requires a school district that receives funds to test all sources of water for drinking and cooking at a schoolsite and replace any fountain or faucet with lead levels in excess of the recommended level by the US EPA. The bill requires retesting following replacement of drinking fountains or faucets to ensure lead levels are below 15 parts per billion. The SAB is authorized to develop regulations to allocate funds to replace pipes or fixtures if funds remain after the established funding cycles have been completed. According to the author, this program is necessary because AB 746 only yielded testing on approximately half of the

10,000 schools in California and testing was only done on a handful (up to five) of drinking water sources at each schoolsite tested.

With recent testing by community water systems and a \$10 million allocation from the 2016-17 budget that provided grants to LEAs to improve access to and the quality of drinking water in schools, the author may wish to consider excluding from testing drinking water sources that have already been tested and fountains and faucets already replaced, establishing a priority for funding for schoolsites that have not been tested or are located in areas with higher risk for contamination, and requiring testing only buildings built before 2010 consistent with the requirement in AB 746. Lead was banned in construction of new schools beginning 1993.

Small School Districts Assistance. Small school districts, defined as those with 2500 or fewer ADA, face additional challenges in navigating the school construction and facility funding processes. Small school districts may not have facility staff. In many districts, facilities may be handled by the district superintendent, who may also be the principal of a school. Over the last couple of years, the SAB has seen increasing number of school districts appealing denial of funds due to various errors and challenges. This bill proposes to assist small school districts by providing advance funding for design and providing small school districts with an opportunity to reserve eligible funds and extra time (up to five years) to develop the project, including receiving necessary approvals from various agencies. This is similar to the extended time given to charter schools. The bill also expresses the Legislature's intent to establish a technical assistance office to provide guidance to small school districts.

Many small school districts are eligible for financial hardship assistance, which provides up to 100 percent of funding to school districts that are unable to provide their local match. Eligibility is based on a number of factors, including the school district's debt level is at 60 percent of bonding capacity or the district's total bonding capacity is less than \$5 million. These factors have not been adjusted for over 18 years. This bill adjusts total bonding capacity from \$5 million to \$10 million, based on construction cost indices used to adjust grant levels over the last 18 years.

The author may wish to make a technical correction in the definition of small school districts, changing "2,500" to "2,501" to include a school district with 2,500 ADA.

Disaster Assistance. The state has experienced the most devastating wildfires over the last couple of years. According to the CDE, the main and most immediate need following a disaster is finding temporary housing of students. Insurance and federal funds will cover repair and replacement of buildings. This bill authorizes the SAB to provide interim housing in the form of portables in districts affected by a disaster, upon a declaration of emergency by the Governor. This includes a district where the disaster occurred and a district that may temporarily house students from a neighboring district, such as that occurred in the Paradise fire.

Joint Use. This bill proposes to provide funding for the joint use program. The 2006 bond provided \$29 million for this purpose. School districts may partner with another governmental agency, such as a city; a public higher education institution, such as community college or state university; or a nonprofit organization approved by the SAB. Authorized projects include multipurpose room, gymnasium, child care, library, or teacher education facility. This bill adds preschool, wellness center, and theater, and strikes teacher education facility. Joint use partners

are expected to provide at least 25 percent of project costs. This bill authorizes the SAB to develop regulations to count costs for operation and staffing towards the 25 percent match.

Arguments in support. The author states, “The condition of a school sets the tone for the school day. Students will not take school seriously if their school is dilapidated, dirty, and in need of repair. The School Facility Program has been a strong private public partnership between the state, local school districts, and developers. This bill represents the state’s contribution and commitment to ensure that students are housed in safe environments conducive for learning. The state’s success depends on student success.”

Related legislation. AB 13 (Eggman), pending in the Assembly Higher Education Committee, would place the Higher Education Facilities Bond Act of 2020 on the November 3, 2020 statewide general election. The bill proposes \$2 billion for University of California (UC) facilities, \$2 billion for California State University (CSU) facilities, and \$3 billion for a new CSU campus.

SB 14 (Glazer), pending in the Senate Appropriations Committee, would place the Higher Education Facilities Bond Act of 2020 on the March 3, 2020 statewide primary election. The bill proposes \$4 billion for UC and \$4 billion for CSU facilities.

Prior legislation. AB 1088 (O’Donnell) would have placed the Kindergarten-University Public Education Facilities Bond Act on an unspecified ballot. The author held the bill in the Assembly Appropriations Committee in 2015.

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

AB 1433 (Gray) 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. The bill was held in the Assembly Appropriations Committee suspense file in 2015.

SB 114 (Liu) 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. The bill failed passage on the Senate Floor in 2015.

AB 2235 (Buchanan) would have authorized the Kindergarten-University Public Education Facilities Bond Act of 2014 to provide for the issuance of \$4.3 billion in G.O. bonds for construction and modernization of school facilities, to become effective only if approved by voters at the November 4, 2014, statewide general election. The bill also made changes to the SFP. The bill was held on the Senate Floor by the author in 2014.

AB 41 (Buchanan), introduced in 2013, expresses the Legislature's intent to place a Kindergarten-University facilities bond on the 2014 ballot. The bill was held by the author in the Assembly Education Committee.

SB 45 (Corbett), introduced in 2013, expresses the Legislature's intent to place a Kindergarten-University facilities bond on the next statewide general election. The bill was held by the author in the Senate Rules Committee.

SB 301 (Liu), introduced in 2013, expresses the Legislature's intent to place a Kindergarten-University facilities bond on the 2014 ballot. The bill was held by the author in the Senate Rules Committee.

AB 331 (Brownley), introduced in 2011, expressed the Legislature's intent to place a Kindergarten-University facilities bond on the 2012 ballot. The bill was held in the Assembly Appropriations Committee in 2012.

AB 822 (Block), introduced in 2011, would have placed a higher education facilities bond on the November 2012 ballot. The bill was held in the Assembly Appropriations Committee in 2012.

AB 220 (Brownley), introduced in 2009, would have placed a \$6.1 billion Kindergarten-University facilities bond on the November 2010 ballot. The bill was held in the Senate Appropriations Committee.

SB 271 (Ducheny), introduced in 2009, would have placed an \$8.6 billion higher education facilities bond on the November 2010 ballot. The bill was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Advancement Project
Association of California Construction Managers
Association of California School Administrators
Atascadero Unified School District
Borrego Springs USD
California Association of School Business Officials
California Association of Suburban School Districts
California Building Industry Association
California Federation of Teachers
California Manufacturers & Technology Association
California Retired Teachers Association
California School Boards Association
California Teachers Association
Cardiff School District
Central Valley Education Coalition
Clovis Unified School District
Coalition For Adequate School Housing
Coast Unified School District
Community College Facility Coalition
Construction Employers' Association
Corona Norco Unified School District
County School Facilities Consortium
Del Norte County Unified School District
DLR Group
East Whittier City School District
Fallbrook Union High School District
Ferndale Unified School District
Firebaugh-Las Deltas Unified School District

Fresno County Superintendent Of Schools
Fullerton Joint Union High School District
Glendora Unified School District
Grossmont Union High School District
Hemet Unified School District
HMC Architects
Jurupa Unified School District
Kern High School District
Keyes Union School District
Liberty Union High School District
Livermore Valley Joint Unified School District
Long Beach Unified School District
Maple School District
Maricopa Unified School District
Mariposa County Unified School District
Oak Park Unified School District
Oceanside Unified School District
Orcutt Union School District
Palm Springs Unified School District
PBK Architects
Placeworks
Rancho Santa Fe School District
Riverside County Superintendent of Schools
Riverside Unified School District
Sacramento County Office of Education
San Bernardino County District Advocates for Better Schools
San Diego County Office of Education
San Francisco Unified School District
San Luis Coastal Unified School District
Santa Ana Unified School District
Santa Cruz City Schools
Santee School District
School Energy Coalition
School Facilities Manufacturers' Association
SGH Architects
Small School Districts Association
Student Senate For California Community Colleges
Sundale Union Elementary School District
Temecula Valley Unified School District
TLCD Architecture
Vallecitos School District
Vista Environmental Consulting
William S. Hart Union High School District
Yolo County Office of Education
ZFA Structural Engineers

Opposition

None on file

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