
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 882
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Version: May 20, 2015
Urgency: No
Consultant: Kathleen Chavira
Hearing Date: June 17, 2015
Fiscal: No

Subject: School bonds: term of bonds: furnishing and equipping classrooms

NOTE: This bill has been referred to the Committee on Education and the Committee on Governance and Finance. A "do pass" motion should include referral to the Committee on Governance and Finance.

SUMMARY

This bill prohibits the term of a bond used for purposes of furnishing and equipping classrooms, including but not limited to purchasing electronic equipment, from exceeding 120 percent of the average reasonably expected economic life of the furnishings and equipment.

BACKGROUND

Current law, under the Education Code authorizes school districts and community college districts to issue bonds with a maximum interest rate of 8 percent and a maximum maturity of 25 years. (Education Code § 15100, § 15140-15150)

Existing law also authorizes any city, county, city and county, school district, community college district, or special district to issue general obligation bonds, secured by the levy of ad valorem taxes, and establishes a process for such issuances under the Government Code. Among other things, the Government code authorizes the issuance of bonds with a maximum interest rate of 12 percent and a maximum maturity of 40 years. (Government Code § 53506-53509-5, § 53531)

ANALYSIS

This bill:

- 1) Modifies Education Code provisions establishing the authority to issue bonds for a maximum of 25 years to prohibit the term of a bond used for purposes of furnishing and equipping classrooms, including but not limited to purchasing electronic equipment, from exceeding 120 percent of the average reasonably expected economic life of the furnishings and equipment.
- 2) Modifies Government Code provisions establishing the authority to issue bonds for a maximum of 40 years to prohibit the term of a bond used for purposes of furnishing and equipping classrooms, including but not limited to purchasing electronic equipment, from exceeding 120 percent of the average reasonably expected economic life of the furnishings and equipment.

STAFF COMMENTS

- 1) ***Need for the bill?*** The author is concerned that bonds for buildings are not differentiated from bonds for furnishing and equipping facilities, which may include electronic equipment. It appears that the author is concerned that, with the passage of Proposition 39 in 2000 and the ability of school and community college districts to gain approval of general obligation bonds with a 55 percent vote, the potential for districts to use long term bonds for purchases of furniture and equipment with short term life-spans has increased. In particular the author cites concerns about the use of these funds to purchase portable electronic technology such as iPads or tablets. This bill would require the term of the bond to more directly align with the economic life span of the furniture and equipment it is used to purchase, and establishes a standard for making this determination based upon some elements of federal law.
- 2) ***Related Legislative Counsel Opinion.*** Proposition 39 specifically required the use of bonds authorized under its provisions “for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities.” Amid concerns about the use of these bond funds for the purchase of portable technology equipment by school districts, Legislative Counsel was asked to opine whether a school district could use bond proceeds to purchase portable technological devices, such as laptops and electronic tablets. In an April 2014 written confirmation of its oral opinion (#1330160), Legislative Counsel notes that while portable electronic devices such as the iPads were not in existence when Proposition 39 was passed, they are evolved from desktop computers and as such, they believe a court would construe Proposition 39 to authorize the purchase of portable electronic devices, as long as they were intended for use in a manner closely connected to classroom instruction at a school facility. In summary, it is Legislative Counsel’s opinion that Proposition 39 proceeds may be used to purchase portable technological devices, such as laptops and electronic tablets, for use in a manner that is similar to the use of desktop computers and that is closely connected to classroom instruction at a school facility.
- 3) ***Beyond federal law requirements.*** Federal law establishes various definitions for the purpose of meeting Internal Revenue Service requirements for tax exempt government bond issuances. Among these are conditions which must be met regarding the term of the bonds issued. Federal regulations generally require that portions of an issue used to finance or refinance capital projects must have a “weighted average maturity” that does not exceed 120 percent of the average reasonably expected economic life of the financed capital projects. The provisions of this bill are therefore similar, but not identical to the federal tax code provisions.

According to community college and school districts, bond programs are typically issued for a variety of purposes all at once, with varying maturities over the life of the program and with a mix of short-term and long-term issuances. As currently drafted it is unclear what effect the inclusion of furniture and equipment as a component of a bond issuance would have on a district’s overall bond program. Because the bill goes beyond the federal law requirements, the bill may have the unintended consequence of requiring the structuring of long-term obligation bond programs in a manner that increases the costs of bond issuances to the taxpayer. Additionally, it is unclear whether such a statutory restriction is necessary since at least one school

district reports that it has balanced the need to acquire technology assets with shorter life spans, and the interest of taxpayers, by issuing bonds with maturities of 1 to 3 years for the acquisition of technology.

Since federal law already requires the alignment of the term and the economic life of furniture and equipment, and no examples of school districts failing to comply with these requirements were provided to the committee, it is unclear whether the provisions of this bill are necessary. However, if it is the desire of the committee to implement a state standard for the use of bond funds to purchase furniture and equipment, **staff recommends** the bill be amended on 2 and on page 4 to strike:

~~the term of a bond used for the purposes of furnishing and equipping classrooms, including, but not limited to, purchasing electronic equipment, shall not exceed 120 percent of the average reasonably expected economic life of the furnishings and equipment.~~

And to instead insert:

“bond issues used to finance projects that include the furnishing and equipping of classrooms, including, but not limited to purchasing electronic equipment, shall have a weighted average maturity that does not exceed 120 percent of the average reasonably expected economic life of the financed project.”

SUPPORT

None received.

OPPOSITION

Coalition for Adequate School Housing
Community College Facility Coalition
San Diego Unified School District

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