
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 3228 **Hearing Date:** June 20, 2018
Author: Burke
Version: May 1, 2018
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

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

SUMMARY

This bill authorizes four specified school districts currently under state receivership to bypass existing priorities for sale of surplus property and use the proceeds from the sale or lease of surplus property towards the outstanding balance on the district's state emergency apportionment loan.

BACKGROUND

Existing law:

- 1) Requires that emergency loans requested by a school district in fiscal crisis be provided by legislative appropriation.
- 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.
- 3) Establishes a mandatory process for school districts seeking to sell or lease surplus property. Specifically, school districts must:
 - a) Identify surplus property and convene an advisory committee to develop a district-wide policy and hold hearings on the use of surplus property.
 - b) Declare publically their intent to sell or lease surplus property, with the governing board considering the advisory committee's recommendation that the property be declared surplus and declaring its intent to dispose of the property in a resolution.
 - c) Until June 30, 2016, offer to sell or lease real property to any charter school that has submitted a written request to the school district to be notified of surplus property offered for sale or lease by the school district and that meets certain other criteria.

- d) For property subject to the Naylor Act (property that has been used entirely or partially for outdoor recreational or playground purposes), offer the property to the following entities in order of priority:
 - i) Until June 30, 2016, a requesting charter school.
 - ii) Any city within which the land is located.
 - iii) Any park or recreation district within which the land is located.
 - iv) Any regional park authority in the area where the land is located.
 - v) Any county within which the land may be situated.
- e) For sale or lease with option to purchase, offer the property to the following entities in order of priority:
 - i) Until June 30, 2016, a requesting charter school.
 - ii) To any park or recreation department of the city or county, any regional park authority having jurisdiction within the area, and to the State Resources Agency or any agency that may succeed to its powers.
 - iii) In writing, to the Director of General Services, the Regents of the University of California, the Trustees of the California State University, the county and city in which the property is situated.
 - iv) By public notice, to any public housing authority in the county in which the property is situated, and to any public district, public authority, public agency, public corporation, or any other political subdivision in the state, to the federal government, and to nonprofit charitable corporations, as specified.
- 4) Generally requires school district proceeds from the sale of property to be used for capital outlay costs and proceeds from the lease of property with an option to purchase to be used for routine restricted maintenance. In addition, proceeds from the sale or lease with option to purchase may be used for one-time general fund purposes if the school district governing board and the State Allocation Board determines that the district has no anticipated need for additional sites or building construction for the next ten years, and the district has no major deferred maintenance.
- 5) Establishes the School Facility Program under which the state provides general obligation bond funding for various school construction projects.
- 6) Authorizes the State Allocation Board to establish a program that requires a local educational agency that sells real property to return any state funds that were provided to purchase or improve the property if the real property was purchased or improved within 10 years before the real property is sold, and if the property is

not sold to a charter school, school district, county office of education, or an agency that will use the property exclusively for the delivery of child care and development services. (EC § 17462.3)

- 7) Until January 1, 2016, authorized school districts to deposit the proceeds from the sale of surplus property purchased entirely with local funds into the general fund of the school district and authorized the school district to use the proceeds for any one-time general fund purpose.

ANALYSIS

This bill:

- 1) 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.
- 2) Specifies that the sale of real property is not subject to the provisions governing priorities for sale of surplus property.
- 3) 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.
- 4) Applies only to the Inglewood Unified School District, the Oakland Unified School District, the Vallejo City Unified School District, and the South Monterey County Joint Union High School District.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “AB 3228 recognizes that school districts in California that received an emergency loan from the State during fiscal crises must bear the cost of repaying the State for principal and interest on their loans, which depletes critical financial resources that could otherwise be used in the classroom to support student learning and achievement.

This bill also recognizes that districts under State receivership continue to have school construction needs that must be addressed for the students they serve. Finally, this bill recognizes the value of school district capital assets as one of the largest assets they own.”

- 2) ***Emergency apportionment loans for school districts.*** 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.

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.

- 3) ***Restrictions on use of property sale or lease proceeds.*** 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.
- 4) ***These districts have been given this authority previously.*** 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.
- 5) ***Concerns raised by charter school advocates.*** Charter advocates have raised concerns that this bill could be interpreted as alleviating school districts from their existing requirement to make school facilities available to charter schools operating within their district. If it is the desire of the Committee to pass this measure, ***staff recommends*** amending the bill to clarify that nothing in the bill shall be interpreted to change the obligation of school districts to house pupils

in accordance with Section 47614 and no pupils or programs housed in accordance with Section 47614 shall be displaced as a result of the bill.

6) ***Previous legislation.***

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

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

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

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

SUPPORT

State Superintendent of Public Instruction (sponsor)
Inglewood Unified School District
Los Angeles County Office of Education
Oakland Unified School District

OPPOSITION

Charter Schools Development Center

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