

1988

1988 School Facilities Bond Act

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Official Title and Summary Prepared by the Attorney General

1988 SCHOOL FACILITIES BOND ACT. This act provides for a bond issue of eight hundred million dollars (\$800,000,000) to provide capital outlay for construction or improvement of public schools.

Final Vote Cast by the Legislature on SB 22 (Proposition 79)

Assembly: Ayes 70
Noes 1

Senate: Ayes 33
Noes 0

Analysis by the Legislative Analyst

Background

The State School Building Lease-Purchase Program provides most of the money used by local public school districts to construct, reconstruct, or modernize school facilities. In order to receive money under this program, school districts must (1) meet specified eligibility requirements, and (2) contribute matching funds, based on the maximum amount of fees which they are allowed to collect from developers, as discussed below.

School districts also may raise funds for school facilities construction and reconstruction in three other ways. These are:

1. **The Mello-Roos Community Facilities Act of 1982.** Since January 1, 1983, school districts have been authorized to form special "community facilities" districts. Subject to the approval of two-thirds of the voters, these special districts can sell bonds to raise revenue to build new, or rehabilitate existing, school facilities. The bonds are paid off by a tax levied upon the real property located within the special district.
2. **Local General Obligation Bonds.** School districts are generally authorized to incur bonded indebtedness for school facilities construction purposes, subject to a two-thirds voter approval. However, only majority voter approval is required for bonds issued for the purpose of repairing, reconstructing, or replacing public school buildings determined to be structurally unsafe for school use.
3. **Developer Fees.** Since January 1, 1987, school districts have been authorized to impose developer fees. The maximum fee is currently \$1.53 per square foot on new and other construction of residential buildings, and 25 cents per square foot on new construction of commercial or industrial buildings. These fees can be used only for construction or reconstruction of school facilities.

School Facilities Funding Needs. The total number of additional school facilities needed to meet current enrollment in the state is not known. As of May 25, 1988, however, applications submitted by school districts for state funding of new school construction projects totaled approximately \$2.9 billion. In addition, applications for state funding to reconstruct or modernize school facilities totaled approximately \$1.1 billion. At the time this analysis was written, June 1988, there was \$800 million in state money available to fund these requests.

Proposal

This measure authorizes the state to sell \$800 million in general obligation bonds to pay for (1) the construction, reconstruction, or modernization of elementary and secondary school facilities through the State School Building Lease-Purchase Program, (2) abatement of hazardous asbestos in school facilities, and (3) air-conditioning equipment and insulation materials for year-round schools. General obligation bonds are backed by the state, meaning that the state will use its taxing power to assure that enough money is available to pay off the bonds. The state would use General Fund revenues to pay the principal and interest costs of the bonds. General Fund revenues come primarily from the state corporate and personal income taxes and the state sales tax.

At least \$580 million raised from the bond sales would be used for the construction of *new* school facilities.

The remaining \$220 million would be allocated initially as follows:

- \$100 million could be used for the reconstruction or modernization of *existing* school facilities.
- \$100 million could be used for the identification, assessment, and abatement of hazardous asbestos materials.
- \$20 million could be used to buy and install air-conditioning equipment and insulation materials for eligible school districts with year-round school programs.

If any of these allocations exceed the amount necessary for these purposes, the extra amount may be used for any of the above purposes, including new construction.

Fiscal Effect

This measure will have a fiscal effect whether it is approved or rejected by the voters.

A. Fiscal Effect if *Approved* by the Voters

- **Direct Costs of Paying Off the Bonds.** For these types of bonds, the state typically would make principal and interest payments from the state's General Fund over a period of about 20 years. If all of the bonds were sold at an interest rate of 7.5 percent, the cost would be about \$1.4 billion to pay off both the principal (\$800 million) and interest (about \$630 million). The average payment for principal and interest would be about \$70 million per year.

- **Borrowing Costs for Other Bonds.** By increasing the amount which the state borrows, this measure may cause the state and local governments to pay more under other bond programs. These costs cannot be estimated.
- **State Revenues.** The people who buy these bonds are not required to pay state income tax on the interest they earn. Therefore, if California taxpayers buy these bonds instead of making taxable investments, the state would collect less taxes. This loss of revenue cannot be estimated.

- **Local Matching Contribution Would Be Eliminated.** If this measure is not approved by the voters, existing law provides for termination of the requirement that matching contributions be made by school districts participating in the State School Building Lease-Purchase Program. The loss of local matching funds would result either in (1) fewer schools being constructed under this program, or (2) potential, unknown additional state cost to replace the local matching funds, if the same level of school construction is maintained.

Text of Proposed Law

This law proposed by Senate Bill 22 (Statutes of 1988, Ch. 42) is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

This proposed law adds sections to the Education Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Chapter 21.9 (commencing with Section 17698) is added to Part 10 of the Education Code, to read:

CHAPTER 21.9. 1988 SCHOOL FACILITIES BOND ACT

17698. This chapter may be cited as the 1988 School Facilities Bond Act.

17698.10. *The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law included in this chapter as though set out in full in this chapter. All references in this chapter to "herein" shall be deemed to refer both to this chapter and that law.*

17698.15. *As used in this chapter, and for the purposes of this chapter as used in the State General Obligation Bond Law, the following words shall have the following meanings:*

(a) "Committee" means the State School Building Finance Committee created by Section 15909.

(b) "Board" means the State Allocation Board.

(c) "Fund" means the State School Building Lease-Purchase Fund.

17698.20. *For the purpose of creating a fund to provide aid to school districts of the state in accordance with the provisions of the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700)), the purposes authorized under Section 17698.96, and of all acts amendatory thereof and supplementary thereto, and to provide funds to repay any money advanced or loaned to the State School Building Lease-Purchase Fund under any act of the Legislature, together with interest provided for in that act, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code, the committee shall be and is hereby authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of eight hundred million dollars (\$800,000,000), not including the amount of any refunding bonds issued in accordance with Section 17698.93, in the manner provided herein, but not in excess thereof.*

17698.25. *All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.*

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on the bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue, to do and perform each and every act which shall be necessary to collect the additional sum.

On the several dates of maturity of the principal and interest in each fiscal year, there shall be transferred to the General Fund in the State

Treasury, all of the money in the fund exclusive of funds transferred pursuant to subdivision (f) of Section 6217 of the Public Resources Code, not in excess of the principal of and interest on the bonds then due and payable, except as herein provided for the prior redemption of the bonds, and, in the event the money so returned on the dates of maturity is less than the principal and interest then due and payable, then the balance remaining unpaid shall be returned to the General Fund in the State Treasury out of the fund as soon thereafter as it shall become available.

17698.30. *All money deposited in the fund under Section 17732 and pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code shall be available only for transfer to the General Fund, as provided in Section 17698.25. When transferred to the General Fund, the money shall be applied as a reimbursement of the General Fund on account of principal and interest due and payable or paid from the General Fund on the earliest issue of school building bonds for which the General Fund has not been fully reimbursed by the transfer of funds.*

17698.35. *There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, an amount that will equal the following:*

(a) *The sum annually as will be necessary to pay the principal of and the interest on the bonds issued and sold pursuant to the provisions of this chapter, as the principal and interest become due and payable.*

(b) *The sum as is necessary to carry out Section 17698.40, which sum is appropriated without regard to fiscal years.*

17698.40. *For the purposes of carrying out the provisions of this chapter, the Director of Finance may, by written order, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which the committee has by resolution authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund to be allocated by the board in accordance with this chapter. Any moneys made available under this section to the board shall be returned by the board to the General Fund, together with interest at the rate paid on moneys in the Pooled Money Investment Account, for moneys received from the sale of bonds sold for the purpose of carrying out this chapter.*

17698.50. *Upon request of the board from time to time, supported by a statement of the apportionments made and to be made under Chapter 22 (commencing with Section 17700), the committee shall determine whether or not it is necessary or desirable to issue any bonds authorized under this chapter in order to fund the apportionments, and, if so, the amount of bonds to be issued and sold. The entire amount authorized by this chapter shall become available for apportionment on December 1, 1988. The Treasurer shall sell the bonds so determined at such different times as necessary to service expenditures required by the apportionments.*

17698.55. *The board may request the Pooled Money Investment Board for a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, and may execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. The loan shall be deposited in the fund for the purpose of carrying out the provisions of this chapter. The amount of the loan shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purposes of this chapter.*

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Argument in Favor of Proposition 79

California voters have another opportunity—without raising taxes—to continue the work of meeting the state's school facilities crisis by approving this companion measure to Proposition 75 enacted by the voters in June.

California is facing a severe and growing problem in providing adequate, safe and modern public school facilities for our children. Some public schools are already overcrowded. Over 140,000 new students are entering California public schools each year. California must add 300 new classrooms each month to house these students, reduce existing overcrowding and prevent double sessions.

Our public schools are also aging. Well over half of our schools are 25 years old or older. Roofs, heating systems, electrical systems and other structural repairs are needed to ensure the safety of existing facilities and protect our investment in school buildings.

In addition, many of California's 7,000 schools contain

asbestos. Asbestos is a major health hazard. Our teachers and children spend 6 to 8 hours a day in these schools. The asbestos hazard must be corrected to protect their health.

Funding for school construction in California is a partnership between local communities and the state. Using bonds to pay for schools is a safe and financially sound California tradition. Your "YES" vote on Proposition 79 will not raise taxes! Your "YES" vote will fulfill the state's commitment to safe schools and will help to relieve overcrowding in rapidly growing districts.

Your "YES" vote on Proposition 79 will help build new schools, repair old facilities and reduce the school asbestos health hazard.

Please join us in voting "YES" on Proposition 79.

GEORGE DEUKMEJIAN

Governor

MARIAN BERGESON

State Senator, 37th District

JACKIE SPEIER

Member of the Assembly, 19th District

Rebuttal to Argument in Favor of Proposition 79

Asbestos causes cancer. Overcrowding prevents learning, incites classroom misbehavior that culminates in discourteous spectacles at graduation ceremonies, and creates an inviting atmosphere for gang violence that makes the mind-numbing consumption of drugs an understandable—though deplorable—habit.

These conditions are outrageous! Yet educators and our Governor refuse to release children from unsafe schools despite State Department of Education figures that show *facility needs will NOT be met during the next five years even with approval of these bond issues at each election.*

Does someone have a secret plan for restoring lost years to children's lives? Declaring that public schools *might* be good *someday* only denies opportunity to children who need quality education *now*.

A recent (Los Angeles) Times Mirror poll revealed that by a significant margin voters favor a voucher plan giving

all parents a *choice* between public and private schools. When public schools do not educate students, *wh interest is served by forcing pupils to attend them?*

Instead of increasing bonded debt to trap more children in an environment of failure, frustration, and fear, we should offer parents a *choice*. Available education funds average almost \$4,700 per student. That is enough to buy quality schooling.

Who benefits from the intellectual and financial waste produced by compulsory assignment to government schools? Children don't. But tenured, tax-supported, unionized, bureaucratically protected, politically powerful educators do. And we ignore the consequences.

Send politicians a message to free children from an unproductive school monopoly. Please vote NO.

ROGER MAGYAR

State Director, Parents CARE

Argument Against Proposition 79

1) Five months ago we charged \$2 billion worth of purchases. This election we are being urged to sign for \$3 billion more. Did the bank place a limit on our credit card, or can we just go on imitating the carefree spenders in Washington, D.C.?

2) Why should taxpayers STATEWIDE pay the costs of constructing LOCAL schools? In June of 1986, voters approved a proposition that allows local communities to authorize bonds for new school construction.

If taxpayers in local communities are not willing to tax themselves to build schools, why do our legislators and Governor insist that someone else should pay for it?

Overburdened members of the middle class and senior citizens living in retirement should not be obligated to provide schools in distant parts of the state. They should only have to pay their fair share of costs for *local* schools.

This proposition does not assure construction money for schools in YOUR community. It raises funds for communities SOMEWHERE in the state. Sacramento decides where "somewhere" is.

3) There is a better and much less expensive way to rescue children from overcrowded conditions.

If public educators are so concerned about the damage suffered by students who are forced to endure crowded classrooms, instead of demanding more money for their education empire, why don't they allow parents to take a child's share of education money and search elsewhere for less crowded schools?

We pay an enormous cost for maintaining the public school monopoly. A 1986 Gallup Poll reported that 27% of

public school parents said that with \$600 in aid they would remove their children from public school and send them to private school.

If one out of four pupils accepted \$600 to stop using a service that costs many times that amount, taxpayers could save at least \$3 billion *every year!!* And that is just the beginning.

(a) Those transfers mean we no longer have crowded public school classes: so, we save *billions* more in construction costs (and bonded indebtedness). (b) Class size decreases. (c) A portion of the billions saved can be used to enrich programs for those in public schools or to increase transfer opportunities for children from low-income families. (d) The remainder can be used for highway construction, facilities to increase our water supplies, or lower taxes.

Sound far-fetched? Only if you listen to the public education empire. Children trapped in crowded classrooms give educators the perfect excuse to demand more money from taxpayers. The system is bad for children, but it works very well for tenured educators. Those students provide enough tax-funded ransom each year to maintain almost half a million school employees.

A vote against this bond issue records your support for fiscal restraint, local control of education, and greater opportunity for students now held in the grip of an insulated school bureaucracy. It is time for us to approach education more intelligently instead of more expensively. Please vote NO.

ROGER MAGYAR
State Director, Parents CARE

Rebuttal to Argument Against Proposition 79

- A "yes" vote on Proposition 79 will *not* raise taxes.
- Over 1 million new pupils will enroll in California public schools over the next six years, swelling kindergarten through grade 12 enrollments to 5,500,000.
- Proposition 79 will help your community to build new schools, repair old schools or remove hazardous asbestos.
- School districts are prohibited by law from using lottery funds for construction. Lottery funds are being used as the voters intended: to improve classroom instruction.
- Proposition 79 ensures the most cost-effective use of taxpayers' dollars for building schools. Proposition 79 uses the same financing mechanism preferred by private industry to fund its building and maintenance projects.
- Local school communities are doing their part to pay for new classrooms but cannot possibly meet the need alone. A "yes" vote on Proposition 79 continues the successful state/local partnership that has helped build schools throughout California for generations.
- Everyone benefits from an efficient and effective public education system. Our investment in public schools promotes a healthy economic future for all Californians.
- Using bonds to build schools for the next generation of Californians is a fair deal for taxpayers. Vote YES on Proposition 79.

GEORGE DEUKMEJIAN
Governor

BILL HONIG
State Superintendent of Public Instruction

MARIAN BERGESON
State Senator, 37th District

Proposition 79: Text of Proposed Law

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17698.60. In computing the net interest cost under Section 16754 of the Government Code, interest shall be computed from the date of the bonds or the last preceding interest payment date, whichever is latest, to the respective maturity dates of the bonds then offered for sale at the coupon rate or rates specified in the bid, the computation to be made on a 360-day-year basis.

17698.70. The committee may authorize the Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the Treasurer.

17698.80. All proceeds from the sale of the bonds herein authorized deposited in the fund, as provided in Section 16757 of the Government Code, except those derived from premium and accrued interest, shall be available for the purpose herein provided, but shall not be available for transfer to the General Fund pursuant to Section 17698.25 to pay principal and interest on bonds.

17698.90. With respect to the proceeds of bonds authorized by this chapter, all provisions of Chapter 22 (commencing with Section 17700) shall apply.

17698.93. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance and sale or exchange of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. The approval by the electors of this state of the issuance and sale of bonds under this chapter includes approval of the issuance and sale or

exchange of any bonds issued to refund either those bonds or any previously issued refunding bonds.

17698.95. Out of the first money realized from the sale of bonds under this chapter, there shall be repaid any moneys advanced or loaned to the State School Building Lease-Purchase Fund under a: of the Legislature, together with interest provided for in that act.

17698.96. (a) Of the proceeds from the sale of bonds pursuant to this chapter:

(1) Not more than one hundred million dollars (\$100,000,000) may be used for the reconstruction or modernization of facilities within the meaning of Chapter 22 (commencing with Section 17700).

(2) Not more than twenty million dollars (\$20,000,000) may be used for the purchase and installation of air-conditioning equipment and insulation materials pursuant to Section 42250.1.

(3) Not more than one hundred million dollars (\$100,000,000) may be used for the identification, assessment, and abatement of hazardous asbestos in school facilities.

(b) Notwithstanding subdivision (a), in the event the board determines at any time that the maximum amount made available pursuant to any of the paragraphs in that subdivision exceeds the amount necessary to fund the qualified recipients of the apportionment authorized under that paragraph, the board may expend any portion of that excess for the construction of new school facilities pursuant to Chapter 22 (commencing with Section 17700) or for any one or more of the purposes described in subdivision (a).

Proposition 80: Text of Proposed Law

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has by resolution authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

7411. Any bonds issued and sold pursuant to this chapter may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of bonds shall include the approval of the issuance of any bonds issued to refund any bonds originally issued or any

previously issued refunding bonds.

7412. All proceeds from the sale of bonds, except those derived from premiums and accrued interest, shall be available for the purpose provided in Section 7406 but shall not be available for transfer to the General Fund to pay the principal of and interest on bonds. The money in the fund may be expended only as herein provided.

7413. Money in the fund may only be expended pursuant to appropriations by the Legislature.

7414. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is subject to the limitations imposed by that article.

Proposition 81: Text of Proposed Law

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(3) An agreement by the public agency, (A) to proceed expeditiously with, and complete, the project, (B) to commence operation of the project upon completion thereof, and to properly operate and maintain the project in accordance with the applicable provisions of law, (C) to apply for, and make reasonable efforts to secure, federal assistance for the project, (D) to secure approval of the department and of the State Department of Health Services before applying for federal assistance in order to maximize and best utilize the amounts of that assistance available, and (E) to provide for payment of the public agency's share of the cost of the project, if any.

14013. Applications for loans and grants under this chapter shall be made to the department in the form and with the supporting material as prescribed by the department.

14014. The department shall prepare an annual report on all grant commitments made, or grant contracts entered into, pursuant to this chapter. The report shall be filed with the Legislature, if it is in session or, if it is not in session, with the Joint Rules Committee. The report shall be filed on or before January 31 of each year for grant commitments made, or grant contracts entered into, by the department during the previous calendar year.

14015. (a) Loans and grants may be made only for projects for domestic water systems. The State Department of Health Services may make reasonable allowance for future water supply needs and may provide for additional capacity when excessive costs would be incurred by later enlargement. The loans and grants may be made for all, or any part, of the cost of constructing, improving, or rehabilitating any system when, in the judgment of the State Department of Health Services, improvement or rehabilitation is necessary to provide pure, wholesome, and potable water in adequate quantity at sufficient pressure for health, cleanliness, and other domestic purposes. The State Department of Health Services shall determine and notify applicants of eligibility of components requested to be included in the proposed project. The department shall use this determination as a basis for disbursing funds. No single public agency shall receive grants pursuant to this chapter totaling more than four hundred thousand dollars (\$400,000). Loans may be made to provide for the purchase of a water system or the purchase of watershed lands. No loan to an individual supplier shall exceed the sum of five million dollars (\$5,000,000), unless

the Legislature by an act raises the limit specified in this section.

(b) Upon receipt of an application for a grant or loan pursuant to this chapter, the department shall propose to the applicant improvements to the applicant's water development, distribution, and utilization system which will conserve water in a cost-effective manner. These improvements may include, but need not be limited to, leak detection and repair programs, valve repair and replacement, meter calibration and replacement, physical improvements to achieve corrosion control, distribution and installation of water conservation devices and fixtures, and other capital improvements which can be demonstrated to conserve water in a cost-effective manner. The department and applicant may agree to include these capital improvements in the grant or loan. Failure by the applicant to include water conservation capital improvements in the grant or loan application shall not be sufficient cause for the department to refuse to make the grant or loan.

14016. An application for a grant pursuant to this chapter shall not be approved by the department, unless the State Department of Health Services determines that the public agency is otherwise unable to meet minimum safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

No grant shall be made by the department except upon approval by the State Department of Health Services of project plans submitted by the applicant and upon written approval by the State Department of Health Services that the proposed project is consistent with Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

14017. First priority for grants shall be granted to public agencies having immediate health related problems, as certified by the State Department of Health Services. Additional high priority shall be granted to projects to correct immediate problems, as opposed to grants for construction of projects to meet future growth needs.

14018. First priority for loans shall be given to suppliers with the most critical public health problems. Priority for loans shall also be given to suppliers which have a lesser capability to reasonably finance system improvements.

14019. Preliminary design work, including a cost estimate for the project, shall be completed before a loan or grant is awarded. Operation and maintenance costs shall be the responsibility of the supplier and may not be considered as part of the project cost. Costs for planning and