1990

1990 School Facilities Bond Act

123 1990 School Facilities Bond Act

Official Title and Summary

1990 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 173 (Proposition 123)

Assembly:	Ayes 70	Senate:	Ayes 30
	Noes 0		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 buildings and related facilities. In order to receive money under this program, school districts must (1) meet certain eligibility requirements and (2) contribute matching funds. School districts can provide their matching funds from any revenue source available to them. The amount of the required match, however, is based on the maximum amount of fees which school districts can collect from developers (as discussed below) during a certain time period. In recent years, the local match has paid for about 5 percent of the total cost of projects funded through the state program.

In addition to obtaining money from the state, school districts may also raise funds for school buildings in two other ways. These are:

1. **Local General Obligation Bonds.** School districts are generally authorized to sell bonds to finance school construction projects, with the approval of two-thirds of their voters. However, if the bonds will be used to repair or replace public school buildings that are structurally unsafe for school use, districts need approval from only a majority of their voters. School districts are also authorized to form "special districts" within their boundaries and sell school construction bonds, subject to the approval of two-thirds of the voters within the special district. In all of these cases, the bonds are paid off by a tax levied upon the real property located within the school district or the special district.
2. **Developer Fees.** School districts are authorized to impose developer fees on new construction. Currently, the maximum fee is $1.56 per square foot on residential buildings, and 26 cents per square foot on commercial or industrial buildings. These fees can be used only for construction and reconstruction of school buildings.

School Building Needs. The total number of additional school buildings needed to meet current and projected enrollment in the state is not known. As of January 1990, however, applications submitted by school districts for state funding of new school buildings totaled approximately $4.1 billion. In addition, applications for state funding to reconstruct or modernize school buildings totaled approximately $1.5 billion. At the time this analysis was written, March 1990, there was about $75 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 a[nd] secondary school buildings under the State Sch[ool] Building Lease-Purchase Program and (2) other school facility projects. General obligation bonds are backed by the state, meaning that the state is obligated to pay the principal and interest costs on these bonds. General Fund revenues would be used to pay these costs. These revenues come primarily from the state corporate and personal income taxes and the state sales tax. (An overview of the state's bond debt is presented at the end of the arguments section of this ballot pamphlet.)

The money raised from the bond sales would be distributed to school districts by the State Allocation Board. The board is a seven-member body composed of four members of the Legislature, two directors of state departments, and the Superintendent of Public Instruction. This measure requires the board to use the bond proceeds as follows:

- At least $500 million would be used for the construction of *new* school buildings.
- No more than $260 million could be used for (1) the reconstruction or modernization of ***existing*** school buildings, (2) school construction projects in small school districts that may not otherwise receive funding under the state building program because of their small size, (3) abatement of hazardous asbestos in school buildings, (4) purchase of portable classrooms, and/or (5) funding of child care facilities.
- No more than $40 million could be used to purc[hase] and install air conditioning equipment and insulati[on] materials in certain "year-round" schools.

Fiscal Effect

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 authorized by this measure are 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.

Text of Proposed Law

This law proposed by Senate Bill 173 (Statutes of 1990, Ch. 24) 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 21.4 (commencing with Section 17660) is added to Part 10 of the Education Code, to read:

CHAPTER 21.4. 1990 SCHOOL FACILITIES BOND ACT

Article 1. General Provisions

17660. This chapter shall be known and may be cited as the 1990 School Facilities Bond Act.

17660.10. As used in this chapter, the following terms have the following meanings:

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

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

Article 2. Program Provisions

17660.15. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the fund.

17660.20. (a) All moneys deposited in the fund shall be available to provide aid to school districts of the state in accordance with the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700)), the purposes authorized under Section 17660.30, and all acts amendatory thereof and supplementary thereto, 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 reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

(b) Only those statutes, regulations, guidelines, and other laws in effect on or before March 11, 1990, shall apply to the allocation of moneys made available under this chapter for the purposes of Chapter 22 (commencing with Section 17700).

17660.30. (a) Of the proceeds from the sale of bonds pursuant to this chapter, not more than two hundred sixty million dollars ($260,000,000) may be used for one or more of the following purposes:

(1) Project funding for applicant districts under Chapter 22 (commencing with Section 17700) that are eligible for that funding, but that lack funding priority due to the size of pupil enrollment in the district.

(2) The identification, assessment, or abatement of hazardous asbestos in school facilities, pursuant to either Chapter 22 (commencing with Section 17700) or Section 39619.6.

(3) The acquisition of portable classrooms for use in accordance with Chapter 25 (commencing with Section 17785).

(4) The reconstruction or modernization of facilities within the meaning of Chapter 22 (commencing with Section 17700).

(5) The funding of child care facilities pursuant to Section 8477.

(b) Of the proceeds from the sale of bonds pursuant to this chapter, forty million dollars ($40,000,000) shall be used for the purchase and installation of air-conditioning equipment and insulation materials, and related costs, pursuant to Section 42250.1 for schools operated on a year-round multitrack schedule in a manner that increases school capacity and reduces or eliminates the district's need for the construction of additional classroom space.

(c) Notwithstanding subdivision (b), in the event the board determines that the amount made available under that subdivision exceeds the amount necessary to fund the qualified recipients of the apportionment authorized under that subdivision, as indicated by those applications for that funding received by the board on or before June 30, 1991, the board may expend any portion of that excess for any one or more of the purposes described in subdivision (a).

Article 3. Fiscal Provisions

17660.40. Bonds in the total amount of eight hundred million dollars ($800,000,000), exclusive of refunding bonds, or so much thereof as is necessary, may be issued and sold to provide funds to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation 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 of, and interest on, the bonds as the principal and interest become due and payable.

17660.45. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in 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), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the "board."

17660.50. Upon request of the board from time to time, supported by a statement of the apportionments made and to be made for the purposes described in Section 17660.20, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to provide funds for the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to provide funds for those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

17660.53. 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.

17660.55. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is 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 is necessary to collect that additional sum.

17660.60. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

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

(b) The sum which is necessary to carry out the provisions of Section 17660.70, appropriated without regard to fiscal years.

17660.65. Notwithstanding any other provision of this chapter, or of 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), if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond

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123 1990 School Facilities Bond Act

Argument in Favor of Proposition 123

1.6 MILLION NEW STUDENTS IN THE NEXT TEN YEARS

Over the next 10 years, *approximately 160,000 new students will enter the California public school system each year.* Despite efforts to maximize the use of many existing school buildings, many more new schools must be built to keep pace with the growing number of students in our state.

TREMENDOUS NEED FOR NEW SCHOOLS

We also need additional funding to replace or refurbish old school buildings. One out of every three school buildings in California is more than 30 years old. Many of these buildings need to be rehabilitated to provided an adequate learning environment.

WHERE WILL THE MONEY COME FROM?

All of the school construction bond funds previously approved by voters have been allocated. Yet there is still a long line of school districts which need to build more facilities. Despite the state's aggressive school construction program and efforts by many local districts to raise revenue for new construction, we must do more to address this important need. *SCHOOL DISTRICTS ARE NOT ALLOWED TO USE LOTTERY FUNDS FOR SCHOOL CONSTRUCTION.*

YOUR YES VOTE ON PROPOSITION 123

- Will provide new schools for our students
- Will help to improve the quality of education our young people are receiving
- Will help supply our students with safe, earthquake-resistant buildings
- Will provide schools in our rapidly growing major cities and rural communities
- Will provide funds to modernize many old, existing facilities
- May prevent additional overcrowding

OUR CHILDREN DESERVE AN ADEQUATE LEARNING ENVIRONMENT

Proposition 123 is an $800 million bond issue which will help us to house the annual increase of 160,000 new students, take care of emergency school construction, and replace many old, unsafe schools.

PLEASE JOIN US IN VOTING YES ON PROPOSITION 123

GEORGE DEUKMEJIAN
Governor, State of California

BILL HONIG
State Superintendent of Public Instruction

LEROY F. GREENE
State Senator, 6th District

Rebuttal to Argument in Favor of Proposition 123

Bond financing is the most expensive way to pay for school buildings. The Legislature could spend the $800 million in this year's budget, but instead asks your approval to pay not only the $800 million, but an additional $600 million in interest over a 20-year period.

Since the Gann spending limit was passed in 1979, politicians have turned to bonds each year to pay for programs they believe the public will support—like schools and jails. Meanwhile, they feel free to spend billions on other state programs that could be run more efficiently by the private sector. They will keep doing it—as long as voters keep putting more into the "checking account."

Politicians act like bond money is Monopoly play money—that it's just created out of thin air and can be used to buy whatever they want without California ever going broke. Just as in the Monopoly game, however, once we overspend and lose our credit, we are wiped out. One needs only to look at the example New York City set in the 1970s to realize that bond defaults are a real possibility.

We urge you to send a message to the politicans that bond financing is not the way to pay for school construction. Let's take away the Legislature's credit card for a while by voting NO on Proposition 123 and NO on all the other bond measures on this ballot.

ROY SHIMP
Teacher, Merced Union High School District
Chairman, Merced County Central Committee, Libertarian Party of California

TED BROWN
Member, State Executive Committee, Libertarian Party of California

ROBERT GEHL
Retired Teacher, South San Francisco Unified School District

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Argument Against Proposition 123

Proposition 123 asks for $800 million for elementary and high schools. The Libertarian Party of California is opposed to this bond measure and urges you to vote NO.

You the voters approved $800 million for the same purpose in June 1988, only two years ago. You the voters approved *another* $800 million in November 1988, just five months later. What are the politicians doing with all this money?

Speaking of money, did you know that over half of California's bloated $53 billion budget already goes to the schools? Voters passed Proposition 98 in November 1988 mandating the first 40% of the budget to be spent for education. So why are our pockets being picked at every election to finance what the state budget can already take care of?

Taxpayers already fork over income taxes, sales taxes, and property taxes to finance schools and other government programs. Now we are asked to put ourselves in debt another $800 million. ENOUGH IS ENOUGH!

The politicians say that bonds are a painless means of financing. Using a credit card to buy a compact disc player or airline tickets is "painless," too—until you get the bill in the mail. Californians will be stuck paying interest on these bonds for 20 years—not a very nice gift for our children.

The government school system seems incapable of preparing children for adult life. Students are either dropping out, or graduating from high school functionally illiterate. These young people are ill-prepared to support themselves or get ahead in life. Granted, the schools are not entirely to blame for students not getting a good education. But they don't seem to be offering a program that is attractive or inspiring to our youth.

Public schools are a government monopoly, free from the hard competition of the marketplace. Administrators (of which there are far too many) and teachers lack incentives to demand excellence. Most parents who can possibly afford it are fleeing to private schools for quality education for their kids—despite the fact that they pay high property and state taxes for government schools.

Instead of throwing $800 million more into the vast morass of the California public education system, let's look at some alternatives to the status quo.

We support tuition tax credits for the entire amount of private school tuition. While detractors say this would doom the public school system, they are just admitting that the present system is a failure, and that large numbers of parents would gladly take their children out of these schools if given a choice. The right to choose one's school has proved a popular one within the Los Angeles district; tax credits are a logical extension of this choice.

If you think the government schools are doing an outstanding job, vote to give them $800 million more of your money. But if you don't, and you want an alternative to the state education system, VOTE NO on Proposition 123.

ROY SHIMP
Teacher, Merced Union High School District
Chairman, Merced County Central Committee, Libertarian Party of California

TED BROWN
Member, State Executive Committee, Libertarian Party of California

ROBERT GEIL
Retired Teacher, South San Francisco Unified School District

Rebuttal to Argument Against Proposition 123

GOVERNOR GEORGE DEUKMEJIAN SUPPORTS PROPOSITION 123

Why?

Because over 1.6 million NEW students will enter California schools by the end of the decade. We need more schools to house this tremendous influx of students.

OLD SCHOOLS MUST BE REPAIRED

In addition to adequate *new space,* we need to replace or refurbish old schools, many of which are not earthquake safe and lack adequate heating or air conditioning.

AND, CONTRARY TO WHAT SOME BELIEVE, SCHOOL DISTRICTS CANNOT USE LOTTERY REVENUES FOR SCHOOL CONSTRUCTION.

SCHOOLS ARE AN INVESTMENT IN *OUR FUTURE*

Overcrowded and makeshift classrooms threaten the quality of our children's education. Schools are an investment in the future of our entire state.

MUCH-NEEDED SCHOOLS BUILT *WITHOUT RAISING TAXES*

Passage of Prop. 123 conforms to the letter and spirit of the Gann spending limit and provides needed revenue *without raising taxes.*

OUR KIDS CAN'T AFFORD TO WAIT

There is still a long list of school districts which desperately need adequate space for their growing K–12 population. Proposition 123 provides some of these dollars so schools can give their new and existing students an adequate learning environment.

Without passage of 123 the crisis in school facilities will only get worse, and cost more. That's why the PTA; Senator Ed Davis, former Los Angeles Police Chief; and State Schools Superintendent Bill Honig have all joined Governor Deukmejian in a bipartisan coalition supporting Proposition 123.

VOTE YES FOR OUR KIDS

VOTE YES FOR SCHOOLS

VOTE YES ON PROP. 123

DOROTHY LEONARD
President, California PTA

LARRY McCARTHY
President, California Taxpayers' Association

HOWARD L. OWENS
President, Congress of California Seniors

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subdivision (c) of Section 8878.111 in accordance with this chapter.

8878.120. Notwithstanding any provision of this chapter or the State General Obligation Bond Law set forth in Chapter 4 (commencing with Section 16720) of Part 3 of Division 4, if the Treasurer sells bonds pursuant to this chapter the interest on which is intended to be excluded from gross income for federal tax purposes, the Treasurer shall be authorized to maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds, and the Treasurer shall be authorized to use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

8878.121. Notwithstanding anything in the State General Obligation Bond Law, the maximum maturity of any bonds authorized by this chapter shall not exceed 20 years from the date of each respective series. The maturity of each series shall be calculated from the date of each series.

8878.122. All moneys deposited in the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 pursuant to any provision of law requiring repayments to the state which are financed by the proceeds of bonds authorized by this chapter shall be available for transfer to the General Fund. When transferred to the General Fund, that money shall be applied as a reimbursement to the General Fund on account of principal and interest on the bonds which has been paid from the General Fund.

Article 6. Miscellaneous Provisions

8878.123. The administrative provisions of Article 3 (commencing with Section 8878.60) and Article 4 (commencing with Section 8878.95) may be amended by statute without submission to the voters.

8878.124. Charges incurred by the Attorney General in protecting the state's interest in the grant funds under this chapter shall be payable from proceeds of bond sales for the purposes of this chapter. These charges shall not be paid from funds allocated for administrative purposes, but shall be treated as a program expense not to exceed one hundred fifty thousand dollars ($150,000).

8878.125. (a) The proceeds from the sale of the bonds pursuant to this act shall not replace or supplant funds available from the Federal Emergency Management Agency (FEMA). If funds are received from FEMA for costs applied for under this chapter, then proceeds from the fund shall not be allocated, or if already allocated, then the fund shall be reimbursed for any ineligible amount.

(b) No allocations shall be made from the fund for local buildings or facilities which qualified for state or federal assistance under the Natural Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680)) for retrofitting, reconstruction, repair, replacement, or relocation of structures damaged by a disaster until the Office of Emergency Services determines either: (1) that reasonable efforts have been made to secure other state and federal funds, or (2) that the other sources of funding are insufficient to make the necessary seismic improvements. Similarly, no such allocations from the fund shall be made for state buildings or facilities unless the Department of Finance determines either: (1) the responsible agency has made reasonable efforts to secure other state and federal funds, or (2) that the other sources of funding are insufficient to correct state buildings or facilities which are seismically unsafe or suffer from other safety deficiencies.

8878.126. (a) No local government building or facility that is listed or is eligible for listing on the National Register of Historic Places or listed on any officially sponsored state or local register or inventory of historic places, may be demolished, destroyed, or significantly altered, except for restoration to preserve or enhance its historical value, unless the local government finds that the structure presents a clear and imminent threat to the public of bodily harm or of damage to adjacent property which threat cannot be mitigated by isolation or other measures less damaging than removal, or unless the State Office of Historic Preservation determines, pursuant to subdivision (b), that the structure may be demolished, destroyed, or significantly altered.

(b) Any local government may apply to the State Office of Historic Preservation for its determination as to whether a structure meeting the description set forth in subdivision (a) shall be demolished, destroyed, or significantly altered. That determination shall be based upon the extent of damage to the structure, the structure's historic significance, and any other factor deemed by the State Office of Historic Preservation to be relevant. In making that determination, the State Office of Historic Preservation shall consider the recommendation of a team selected by the State Office of Historic Preservation composed of three residents with historic preservation expertise who reside in the affected county.

Proposition 123: Text of Proposed Law

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proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

17660.70. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, together with interest at the rate paid on moneys in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this chapter.

17660.75. All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

17660.80. The bonds may be refunded 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, which is a part of the State General Obligation Bond Law. The approval by the electors of the state of the issuance and sale of bonds under this chapter includes approval of any bonds issued to refund either those bonds or any previously issued refunding bonds.

17660.85. 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 not subject to the limitations imposed by that article.