DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 06/21/2012
POSITION: Oppose

BILL NUMBER: AB 2164
AUTHOR: Dickinson, Roger

BILL SUMMARY: Community Colleges: Reimbursement for Capital Outlay Costs

Current poilicy is for the Governor to request and the Legislature to appropriate capital outlay funds for the California Community Colleges (CCC) capital outlay projects that receive state funds, typically general obligation (GO) bond funds. If state funds are appropriated, the State Public Works Board (SPWB) and Department of Finance (Finance) must provide oversight and approval of the capital outlay projects. Current law affirms state agencies, including CCC, may only expend a capital outlay appropriation on acquisition, equipment or minor capital outlay projects, and funding for preliminary plans, surveys, or studies before Finance and the SPWB have approved preliminary plans for a project.

This bill allows community college districts to incur costs for state funded capital outlay projects once they have demonstrated to the CCC Board of Governors (BOG) they have sufficient local funds to fully pay for a project without creating a fiscal hardship to the district and the BOG notifies the district that future reimbursement is not guaranteed. This would be before a state appropriation is made or other oversight processes are followed. Further, the bill allows local districts to receive reimbursement for expenditures incurred from state GO bonds not yet approved by the electorate, after the BOG approves a CCC project, and after a state appropriation is made and other oversight processes are followed. Further, the bill states that the CCC district would be subject to the Legislature's determination of the appropriate scope and cost of the project when it is appropriated. The bill would require a GO bond measure to reimburse these expenditures be passed by December 31, 2014, and provides one year for CCC districts to be reimbursed for expenses incurred before the provisions of this bill sunset on January 1, 2016.

FISCAL SUMMARY

This bill could result in the CCC districts spending close to a billion dollars on projects for which they would expect to be repaid in 2015 from a GO bond measure. The annual debt service on a billion dollars is approximately $70 million.

Further, this bill could have the following effects:

- Without Administration, legislative, SPWB, and Finance oversight, as is the current process to contol project cost, project costs could increase due to expanding scope and no cost restrictions.
- Would create a General Fund pressure and potentially have a greater impact on future state debt service costs not currently anticipated. Further, it may increase the total amount required to be sold in GO bond sales in 2015 by having a backlog of reimbursable costs. Due to market conditions at the time the bonds would need to be sold or other competing GO bond acts that require bond proceeds at that time, the state may not be able to sell all of the required bonds during this period.
- This bill provides a "blank check" for CCC districts to fund projects and then creates pressure to approve project scopes and fund projects that are on an "unfunded reimbursement list" rather than based on critical need.

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Governor's Office:	By:	Date:	Position Approved_______
			Position Disapproved

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FISCAL SUMMARY (continued)

- It would enable CCC districts with local bond funds to gain priority in state reimbursement funds by starting projects that CCC districts without discretionary local funds could not, rather than looking at statewide critical need.

COMMENTS

The Department of Finance is opposed to the bill for the following reasons:

- This bill would shift the approval of scope, cost, and schedule for each CCC project that would receive state funds from the Administration and Legislature to the CCC district.
- Creates an unfunded list of CCC projects that would be authorized by an agency other than the Legislature, and would create an expectation of future state funding.
- It would penalize CCC districts that do not have local funds to build capital outlay projects and later have its costs reimbursed by the state.
- It would create pressure to put forth a GO bond measure by the November 2014 election as the bill requires reimbursement to come from a bond approved no later than December 2014.
- This bill does not address a process by which projects would move forward, if not complete at the time state funds are appropriated. The SPWB and Finance roles are to ensure the legislative scope, cost and schedule of the project are followed. This oversight is essentially removed by projects being implemented before any legislative determinations are made.
- Presumably the CCC districts that would utilize this bill would use local GO bonds to fund projects. According to tax counsel, the state GO bonds would have to be sold as taxable because of the repayment of the local GO bonds, and therefore, further increases debt service amount.

The purpose of this bill is to enable the CCC to plan for the receipt of state GO bond funds to continue capital improvement projects that would normally be eligible for available state funds because the last GO bond authorized by the electorate was in 2006 and those bonds are virtually gone. The CCC for the last three years has had fewer than 10 projects instead of the typical 60 to 80 capital outlay projects annually. CCC districts refrain from constructing infrastructure projects that could be eligible for available state funds to stretch available local funds as far as possible.

ANALYSIS

1. Programmatic Analysis

   Currently the CCC districts annually submit capital outlay project proposals to the BOG to apply for state funding. Those the BOG approves are forwarded to Finance for review and potential inclusion in the Governor's Budget, and eventually, if approved by the Legislature, in the annual Budget Act. Those projects appropriated in the annual Budget Act are required to follow Government Code (GC) Section 13332.11 which outlines the SPWB and Finance oversight. Section 13332.11 provides direction on when the appropriated funds can be expended, the stages of the project where SPWB and Finance approval are required, and provides SPWB and Finance authority to make adjustments to

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the project scope and cost, which were established with the Budget Act appropriation and summarized in the Supplemental Report Language.

This bill amends GC Section 13332.11 by adding subsection (c). The language in subsections (a) and (b) are intended to provide authority for project activities prior to having preliminary plans approved. The added language in (c) (1) is out of context and in essence precludes the ability of the Administration, Legislature, SPWB, and Finance to provide oversight and protection of state funds. This bill would enable CCC districts to proceed with the design of projects before the Administration or the Legislature has approved them and without the oversight of the SPWB or Finance.

- There are over 80 projects that have been approved by the CCC BOG that the CCC districts could begin and be eligible for reimbursement without any state involvement in determining project scope and cost. The state has not passed a statewide education bond since 2006 and all of those bond funds are committed. This measure would enable districts with local funds to start projects prior to passage of a GO bond measure or an appropriation, and the project would be eligible for reimbursement of these costs if a GO bond measure is passed before December 2014.
- This bill would encourage local districts with local funds to start projects. Current law does not prohibit CCC districts from using local funds to address projects, as they see fit. CCC districts are able to determine scope and cost without state oversight for projects without state funding.
- This bill would penalize CCC districts that do not have the ability to expend local funds or to cover the state portion of a capital outlay project. However, in order to seek state funds for a project, the CCC district may not begin design of a project until after the Legislature has approved the scope and cost through a budget appropriation.
- Under this bill, projects would no longer move forward based on critical need, but rather based on the ability for a CCC district to fund a project because it has the funds to do so.
- The cost sharing aspect of the CCC project approval process is not addressed. Currently, districts who demonstrate an ability to contribute toward a project receive favorable rankings within their project formula ranking system. In 1999 the BOG adopted criteria for prioritizing capital outlay projects via a Voluntary Local Contribution factor which emphasizes a "least cost to the state." This measure prohibits that ability by not having language that determines the amount or percentage of reimbursement the state would have to repay based on the "least cost to the state" criteria.
- This bill has the potential to remove the electorate's choice to fund projects, by including language that provides reimbursement for costs incurred for capital outlay projects already funded from local funds.

2. Fiscal Analysis

The primary state funding source for CCC capital outlay projects has been GO bonds over the last decade. The CCC portion of the GO bond measures since 1998 are as follows: $833 million (1998); $745.9 million (2002); $920 million (2004); and $1,507 million (2006). Since 2002 the amount of GO bonds allocated to CCC in the higher education bond measure has grown. In 1998 the higher education bond measure split the funds equally among the three higher education segments. In 2002 and 2004, the measures provided 45 and 40 percent, respectively, to CCC. While in 2006 the

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measure provided 50 percent to CCC. For the past two years funding of projects has been greatly restricted because the GO bonds are fully committed.

The total of the first two years of appropriations for the 2004 and 2006 bond funds were $863 million and $960 million, respectively. The 2006 bond fund appropriations were five percent higher than the 2004 bond funds. Assuming a similar level of spending as those appropriations and a five percent growth, we could expect approximately $951 million of project costs would be awaiting reimbursement by the CCC districts in the spring of 2015. Further, this billion, if a GO bond measure is approved by the voters in 2014 and appropriated by Legislature, would need to be sold in 2015. The annual debt service on this billion would roughly be $70 million assuming a taxable rate of 6% over 30 years. According to tax counsel, the state bonds would more than likely need to be issued as taxable bonds as the bond proceeds wold be reimbursing local GO bonds expenditures, thus the Internal Revenue Service would see the local GO bond proceeds as expended on the projects and the state GO bond proceeds would be expended where the CCC districts decide to apply them (non-project costs).

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) 2012-2013	FC	2013-2014	FC	2014-2015	Fund Code
6870/Comm College	CO	No		----- See Fiscal Summary -----					0795

Fund Code	Title
0795	Pending New Select Bond Fund