

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1611

Introduced by Assembly Member Keeley

February 23, 2001

An act to add Chapter 5.5 (commencing with Section 50645) to Part 2 of Division 31 of the Health and Safety Code, relating to ~~student housing, and making an appropriation therefor.~~ *higher education housing.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1611, as amended, Keeley. ~~Student Higher education housing:~~ Affordable ~~Student Higher Education Housing Program.~~

Existing law establishes various housing programs under the administration of the Department of Housing and Community Development.

Existing law establishes the various segments of the public higher education system in the state. These segments include the University of California, which is administered by the Regents of the University of California, ~~and~~ the California State University, which is administered by the Trustees of the California State University, *and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges.*

This bill would establish the Affordable ~~Student Higher Education Housing Program~~ under the administration of the Department of Housing and Community Development. The bill would ~~charge~~ *delegate* to the department ~~with~~ the responsibility of allocating the moneys deposited in the ~~continuously appropriated Affordable Student Higher~~

Education Housing Fund, as established by the bill, as appropriated by the Legislature to finance the construction of student and faculty housing on or near the campuses of the University of California and, the California State University, and the California Community Colleges, as specified.

The bill would authorize the department to develop and adopt procedures for the processing and consideration of applications from eligible nonprofit and for-profit entities for the funding of student and faculty housing projects that are located on or near campuses or satellite centers of the University of California or, the California State University, or the California Community Colleges. The bill would authorize the department to make 55-year forgivable loans, as specified, to these entities. The bill would further authorize the department to develop and adopt criteria for the review, approval, and prioritization of these applications.

The bill would authorize the department to issue revenue bonds in an amount sufficient to produce \$250,000,000 in revenue. The bill would require that all revenues payable to the department through issuance of the bonds would be deposited in the fund for the purposes of the bill. ~~The bill would thereby make an appropriation.~~

Vote: ~~2/3~~ majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5.5 (commencing with Section 50645)
 2 is added to Part 2 of Division 31 of the Health and Safety Code,
 3 to read:

4
 5 CHAPTER 5.5. AFFORDABLE ~~STUDENT~~-HIGHER EDUCATION
 6 HOUSING PROGRAM

7
 8
 9 Article 1. General Provisions

10
 11 50645. (a) The Legislature finds and declares that there is a
 12 serious shortage of affordable housing that is available to students
 13 and faculty on or adjacent to the campuses of the University of
 14 California and, the California State University, and the
 15 California Community Colleges.



1 (b) It is, therefore, the intent of the Legislature to enact this
2 chapter in order to establish the means of funding the needed
3 student *and faculty* housing through the establishment of the
4 Affordable ~~Student~~ *Higher Education* Housing Fund.

5 (c) As used in this chapter, “fund” means the Affordable
6 ~~Student~~ *Higher Education* Housing Fund established by Section
7 50645.3.

8 50645.1. The department is authorized to develop and adopt
9 procedures for the processing and consideration of applications
10 from entities that meet the standards set forth in Section 50645.5
11 for the funding of student ~~housing projects~~ *or faculty housing*
12 *projects on or near campuses of the University of California or the*
13 ~~California State University, the California State University, or the~~
14 *California Community Colleges*. The department is authorized to
15 develop and adopt criteria for the review, approval, and
16 prioritization of these applications.

17 50645.3. The Affordable ~~Student~~ *Higher Education* Housing
18 Fund is hereby established. ~~Notwithstanding Section 13340 of the~~
19 ~~Government Code, all moneys deposited in the fund are~~
20 ~~continuously appropriated for expenditure, without regard to~~
21 ~~fiscal years, to the~~ *Upon appropriation by the Legislature, the*
22 *moneys deposited in the fund shall be available to the department*
23 *for the purposes of this chapter.*

24 50645.5. (a) The department shall make 55-year forgivable
25 loans available to entities that are nonprofit entities within the
26 meaning of paragraph (3) of subsection (c) of Section 501 of Title
27 26 of the United States Code and to for-profit entities which, as
28 developers or builders, work in collaboration with eligible
29 nonprofit entities that would be owners of the proposed student *or*
30 *faculty* housing. These loans may be in an amount equal to 30
31 percent of the allowable costs of constructing a student *or faculty*
32 housing project, or 30 percent of the allowable cost of
33 reconstructing or converting an existing building for student *or*
34 *faculty* housing purposes.

35 (b) In order to qualify for a loan, a nonprofit entity or a
36 for-profit entity, working in conjunction with a nonprofit entity,
37 shall do all of the following:

38 (1) Demonstrate that the proposed project is within a five-mile
39 radius of a boundary of a campus or a satellite center of the
40 University of California ~~or the California State University, the~~



1 *California State University, or the California Community*
2 *Colleges.* Upon approval by the chancellor, in the case of a campus
3 of the University of California, or the president, in the case of a
4 campus of the California State University *or of the California*
5 *Community Colleges,* and certification by that official that
6 alternative sites are not available within a five-mile radius of a
7 boundary of the campus, the nonprofit entity may request approval
8 for projects that exceed the five-mile radius, provided that the
9 project is near a mass transit destination and the time required to
10 commute from campus to the transit destination, as estimated by
11 the chancellor, if it is a campus of the University of California, or
12 the president, if it is a campus of the California State University
13 *or of the California Community Colleges,* typically does not
14 exceed 30 minutes.

15 (2) Obtain approval for the project from the chancellor, if it is
16 a campus of the University of California, or the president, if it is
17 a campus of the California State University *or of the California*
18 *Community Colleges,* of the affected campus that verifies the
19 willingness of the campus to comply with any monitoring
20 requirements prescribed by the department and certification that
21 the vacancy rate for the prior year in campus-owned student *or*
22 *faculty* housing units did not exceed 5 percent.

23 (3) Agree to add a restriction to the grant deed on the real
24 property on which the student *or faculty* housing is to be located
25 that gives the University of California ~~or the California State~~
26 ~~University,~~ *the California State University, or the California*
27 *Community Colleges* the right, but not the obligation, to purchase
28 that real property at fair market value.

29 (c) In order to qualify annually for loan forgiveness under this
30 chapter, a participating entity shall do all of the following:

31 (1) Demonstrate that students *or faculty* of the affected campus
32 have first right of refusal to all available units.

33 (2) Demonstrate that campus ~~faculty and~~ employees have first
34 right of refusal for all units not otherwise requested by students *or*
35 *faculty.*

36 (3) Demonstrate that at least 90 percent of the units are
37 currently occupied by students *or faculty.*

38 (4) Obtain documented compliance with these requirements of
39 the affected campus from the chancellor's office, in the case of a
40 University of California campus, or the president's office, in the



1 case of a ~~California State University campus~~ *campus of the*
2 *California State University or of the California Community*
3 *Colleges.*

4 50645.6. (a) Compliance with the requirements for loan
5 forgiveness set forth in Section 50645.5 shall be monitored by the
6 chancellor’s office, in the case of a campus of the University of
7 California, or the president’s office, in the case of a campus of the
8 California State University *or of the California Community*
9 *Colleges*, in accordance with rules and regulations established by
10 the department.

11 (b) A campus shall be required to annually submit the findings
12 it makes pursuant to subdivision (a) to the department and to each
13 nonprofit or for-profit entity providing housing for the students *or*
14 *faculty* of that campus pursuant to this chapter.

15 (c) A campus shall be authorized to charge participating
16 entities a fee, not to exceed the amount needed to recover the costs
17 of developing and submitting the required compliance findings
18 under this section to the department and the participating entities.

19 50645.7. When determining the percentage of the total
20 amount that will be allocated for the construction of student
21 ~~housing at campuses of the University of California or the~~
22 ~~California State University~~ *or faculty housing on or near*
23 *campuses of the University of California, the California State*
24 *University, or the California Community Colleges*, the department
25 shall take into consideration the percentage of students *and faculty*
26 *for which* the universities have historically attempted to provide
27 ~~student housing for~~ *housing*, and the projected increases in
28 full-time equivalent students that will seek student housing, at
29 these ~~universities~~ campuses from the 2001–02 academic year to
30 the 2009–10 academic year, inclusive.

31 50645.9. Individual applications for available funds shall be
32 prioritized in accordance with guidelines developed by the
33 department pursuant to Section 50645.1.

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Article 2. Bonds

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37 50647. (a) The department may issue taxable or tax-exempt
38 revenue bonds in amounts sufficient to produce up to two hundred
39 fifty million dollars (\$250,000,000) in revenue. The department



1 shall deposit the proceeds from the bonds into the fund or use the
2 proceeds to refund bonds previously issued under this section.

3 (b) Except as may be provided in the governing documents
4 with respect to bond anticipation notes, each of the bonds issued
5 under this article shall, ~~as~~ and to the extent provided in the
6 governing documents, be payable from, and secured by, all or a
7 portion of the revenues in the fund and the assets of the fund, to the
8 extent pledged by the department for those purposes.
9 Notwithstanding that the bonds may be payable from a special
10 fund, the bonds shall be, and shall be deemed to be for all purposes,
11 negotiable instruments, subject only to the provisions of the bonds
12 for registration.

13 (c) Bonds issued under this article shall not be deemed to
14 constitute a debt or liability of the state or of any political
15 subdivision thereof, other than the fund, or a pledge of the faith and
16 credit of the state or of any political subdivision, but shall be
17 payable solely from the fund and the assets of the fund, to the
18 extent the revenues and assets are pledged by the department for
19 those purposes, the revenues of the fund, and the security provided
20 by the fund. All bonds issued under this article shall contain on the
21 face of the bonds a statement to the same effect.

22 (d) If investment of the fund fails at any time to produce
23 sufficient revenues, the department shall take corrective action,
24 including, but not necessarily limited to, suspending all lending,
25 and shall notify the appropriate fiscal and policy committees of the
26 Legislature.

27 (e) The revenue bonds may be issued as serial bonds, term
28 bonds, or the department, in its discretion, may issue bonds of both
29 types. The issuance shall be in accordance with the indenture, trust
30 agreement, or resolution relating to the revenue bonds, which shall
31 provide all of the following:

32 (1) The date or dates of the bonds.

33 (2) The date or dates upon which the bonds will mature, not to
34 exceed 40 years from their respective dates.

35 (3) The interest rate or rates, or methods of determining the
36 interest rate or rates, of the bonds.

37 (4) When the bonds are payable.

38 (5) The denominations of the bonds.

39 (6) The form of the bonds, which shall be either bearer or
40 registered.



- 1 (7) The registration privileges of the bonds.
- 2 (8) The manner in which the bonds are to be executed.
- 3 (9) The place or places at which the bonds shall be payable in
4 lawful money of the United States of America.
- 5 (10) The terms of redemption of the bonds.
- 6 (f) After giving due consideration to the recommendations of
7 the department, the revenue bonds shall be sold by the Treasurer
8 pursuant to Chapter 9 (commencing with Section 5700) of
9 Division 6 of Title 1 of the Government Code at either a public or
10 private sale. The revenue bonds may be sold at, above, or below
11 the par value of the bonds.
- 12 (g) Pending the preparation of the definitive bonds, the
13 department may issue interim receipts or certificates or temporary
14 bonds, which shall be exchanged for the definitive bonds.
- 15 (h) Any resolution authorizing the issuance of any revenue
16 bonds, or any issue of revenue bonds, may include any of the
17 following provisions:
 - 18 (1) Provisions pledging all or any part of the proceeds of the
19 bonds or revenue of a project or loan or a group of projects or loans.
 - 20 (2) Provisions concerning the replacement of mutilated,
21 destroyed, stolen, or lost bonds.
 - 22 (3) Provisions specifying insurance to be maintained on the
23 project and the authorized uses of the proceeds of the insurance.
 - 24 (4) Covenants against the mortgaging or otherwise
25 encumbering, selling, leasing, pledging, placing a charge upon, or
26 otherwise disposing of, the project prior to the payment of the
27 bonds issued to finance the project.
 - 28 (5) Provisions specifying the events of default, terms upon
29 which the bonds may be declared due before maturity, and the
30 terms upon which the declaration and its consequences may be
31 waived.
 - 32 (6) The rights, liabilities, powers, and duties arising upon the
33 breach of any covenants, conditions, or obligations.
 - 34 (7) Vesting of the right to enforce covenants in a trustee.
 - 35 (8) The terms upon which all or any percentage of the
36 bondholders may enforce covenants or duties.
 - 37 (9) Procedures for amending the terms of the resolution, with
38 or without the consent of the holders of a specified number of
39 bonds.



1 (10) Provision for any other acts or things deemed necessary,
2 convenient, or desirable by the department to secure the bonds or
3 improve their marketability.

4 (i) The validity of the authorization and issuance of any bond
5 issue shall not be affected by proceedings for the acquisition,
6 construction, or improvement of any project, or by contracts
7 relating to those proceedings. Any resolution authorizing the
8 issuance of any revenue bonds may provide authorization for the
9 bonds to bear a statement certifying that they are issued pursuant
10 to this chapter. Bonds bearing that statement shall be conclusively
11 deemed valid and issued in conformity with this chapter.
12 Reference on the face of the bonds to the resolution by its date of
13 adoption shall incorporate the provisions of the resolution and of
14 this article into the terms of the bonds.

15 (j) Personnel of the department or any person executing the
16 revenue bonds shall not incur personal liability on the bonds, nor
17 shall these persons incur personal liability or accountability by
18 reason of the issuance of the revenue bonds.

19 (k) The department may, out of any funds available for that
20 purpose, purchase revenue bonds issued pursuant to this section.
21 The department may hold, pledge, cancel, or resell any bonds
22 purchased under the authority of this article, subject to, and in
23 accordance with, agreements with bondholders.

24 (l) The investment by the Treasurer of bond proceeds and other
25 funds within the control of the department shall be limited to those
26 securities eligible under Section 16430 of the Government Code.

27 (m) The department may enter into any agreements or
28 contracts, execute any instruments, and any other act or thing
29 necessary, convenient, or desirable for the department to carry out
30 any express power granted the department pursuant to this article.

31 (n) The department and the Treasurer shall report annually to
32 the Legislature on all aspects of the revenue bond program set forth
33 in this article.

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