

## Assembly Bill No. 1286

### CHAPTER 554

An act to amend and repeal Sections 81383 and 81384 of, and to add and repeal Section 81384.5 of, the Education Code, relating to community college district property.

[Approved by Governor September 28, 2006. Filed with  
Secretary of State September 28, 2006.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1286, Evans. Community college districts: property: sale or lease.

(1) Existing law authorizes the governing board of any community college district to sell or lease, under specified conditions, real property, as defined, that the community college district owns. Existing law requires state and local agencies, including community college districts, to comply with specified requirements prior to the disposal of surplus land. Existing law excludes from provisions governing the construction of community college facilities and the disposal of property owned by community college districts certain transactions involving the sale or lease of property owned by a community college district if the proceeds of these transactions are expended for capital outlay purposes relating to qualified community college facilities, as defined, and if the district complies with other specified conditions. Existing law includes as one of the specified conditions a requirement that the community college district shall authorize the chancellor and Controller to withhold from its annual apportionment the amount of funds necessary to satisfy its annual payment obligation under the sale contract or lease, including authorization to withhold this amount and specify the amount to be withheld. Existing law states that this authorization shall have precedence over other expenditure obligations of the community college district.

This bill would require the authorization to have precedence over other expenditure obligations of the community college district, with the exception of any obligations the community college district has incurred through the State Public Works Board's issuance of lease revenue bonds under specified provisions of existing law, which shall be met first. The bill would also specify that these provisions, including the provision that certain transactions are excluded from provisions governing the construction of community college facilities and the disposal of property owned by a community college district if specified requirements of existing law are met, would be repealed as of January 1, 2009.

(2) Existing law provides that various requirements relating to the sale or lease of public school property are not applicable to the sale or lease of community college district real property in certain circumstances,

including situations in which a district sells and simultaneously repurchases the same property (sale-sale back) or in which a district leases and simultaneously leases back the same property (lease-lease back).

This bill would require the Chancellor of the California Community Colleges to submit a report, on or before April 1, 2008, to the Legislature and the Governor relating to the impact of authorizing the sale-sale back or lease-lease back of energy efficient community college facilities and the extent to which these options have been used by community college districts.

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

SECTION 1. Section 81383 of the Education Code is amended to read:

81383. (a) Notwithstanding Section 81360, the sale by the governing board of any community college district of any real property belonging to the community college district, or the lease by that governing board, for a term not exceeding 99 years, of any real property, together with any personal property located thereon, belonging to the community college district shall not be subject to Part 49 (commencing with Section 81000) or to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, if all of the following conditions are met:

(1) The property is sold or leased to another local governmental agency, or to a nonprofit corporation that is organized for the purpose of assisting one or more local governmental agencies in obtaining financing for a qualified community college facility.

(2) (A) In the case of the sale of community college district property pursuant to this section, the community college district, as part of that same sale transaction, simultaneously repurchases the same property that is the subject of the transaction.

(B) In the case of the lease of community college district property pursuant to this section, the community college district, as part of that same lease transaction, simultaneously leases back, for a term that is not substantially less than the term of that lease, the same property that is the subject of the transaction.

(3) The financing proceeds obtained by the community college district pursuant to any transaction described in this section are expended solely for capital outlay purposes relating to a qualified community college facility, including the acquisition of real property for intended use as a site for a qualified community college facility and the design, planning, acquisition, construction, reconstruction, and renovation of qualified community college facilities.

(4) For purposes of this section and Section 81384, the term “qualified community college facility” means real and personal property, improvements, and related facilities that are determined in a resolution of

the governing board of the community college district to satisfy each of the following requirements:

(A) The facilities will (i) assist the community college district in reducing energy and resource consumption while creating a safer and healthier learning environment and (ii) operate as energy and resource efficient buildings by taking cost-effective measures similar to those described in the Green Building Action Plan promulgated by the Governor for facilities owned, funded, or leased by the state.

(B) The facilities are affordable for the community college district as set forth in estimated annual summary budgets of the community college district that include the estimated costs of financing the facilities during the estimated duration of the financing, demonstrating that the reasonably anticipated expenditures during each fiscal year shall not exceed the reasonably anticipated revenues for that fiscal year.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 2. Section 81384 of the Education Code is amended to read:

81384. (a) When a community college district enters into a sale or lease of community college district property pursuant to Section 81383, the community college district shall, as a part of the sale contract or lease, authorize the chancellor and Controller to withhold from its annual apportionment the amount of funds necessary to satisfy its annual payment obligation under the sale contract or lease. The agreement shall include authorization to withhold this amount, and specify the amount to be withheld. The authorization shall have precedence over other expenditure obligations of the community college district, except for any obligations the community college district has incurred through the State Public Works Board's issuance of lease-revenue bonds, pursuant to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3 of Title 2 of the Government Code), which shall be met first. The chancellor, directly or through his or her agent, shall certify the amounts, by district, to the Controller. The Controller shall withhold the amount so reported for each community college district and shall, acting on behalf of each community college district, transfer the appropriate amount from Section B of the State School Fund to or upon the order of the issuer of bonds (or the lender on short-term loans) for the purpose of payment of the debt service obligation for the bonds (or short-term loan) sold for capital outlay purposes relating to a qualified community college facility pursuant to Section 81383. Only the annual apportionments of those community college districts that have authorized the chancellor and the Controller to act pursuant to this section shall be affected by this section, and the annual apportionments of all other community college districts in the state shall remain unchanged. For purposes of this section, short-term loans shall include, but are not limited to, loans made by the Pooled Money Investment Board pursuant to Section

16312 of the Government Code in connection with the financing of a qualified community college facility.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 3. Section 81384.5 is added to the Education Code, to read:

81384.5. (a) On or before April 1, 2008, the chancellor shall submit a report, in writing, to the Legislature and the Governor regarding both of the following:

(1) The impact of authorizing the sale-sale back or lease-lease back of energy efficient community college facilities.

(2) The extent to which the options described in paragraph (1) have been used by community college districts.

(b) The report required by this section shall be completed by the chancellor's office using its existing resources.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.