

Senate Bill No. 855

Passed the Senate September 4, 2007

Secretary of the Senate

Passed the Assembly August 30, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 90011, 90012, 90013, 90014, 90016, 90027, 90040, 90047, and 90073 of the Education Code, relating to the California State University.

LEGISLATIVE COUNSEL'S DIGEST

SB 855, Ridley-Thomas. California State University: State University Revenue Bond Act of 1947.

(1) Existing law establishes the California State University and its various campuses under the administration of the Trustees of the California State University. The existing State University Revenue Bond Act of 1947 authorizes the trustees, among other things, to utilize the proceeds of various fees, rents, or other charges, including fees relating to the construction of student body centers, parking and other transportation facilities, and student health facilities, and fees charged for extension programs and other self-supporting instructional programs, as a revenue source to repay bonds issued by the trustees to fund the construction of these facilities. The proceeds of these fees, rents, and other charges are continuously appropriated to the trustees for their respective purposes.

This bill would amend the definitions of “bonds” and “revenue bonds” under the act to include commercial paper notes issued by the trustees.

The bill would authorize the trustees to loan or advance proceeds of revenue bonds or revenue bond anticipation notes to any person or state or local governmental entity, and to enter into loan agreements, leases, installment purchase agreements, conditional sales contracts, and similar financing instruments with the recipient of the loan or advance.

(2) Existing law requires the trustees to determine the interest rate, and to pay the interest, on an annual or semiannual basis, on revenue bond anticipation notes and revenue bonds issued under the act.

The bill would authorize the trustees to set the interest at a fixed or variable rate on revenue bond anticipation notes in the time,

form, and manner set forth in the indenture for the notes, rather than annually or semiannually.

(3) Existing law authorizes the trustees to fix, prescribe, and collect rates, rentals, or other charges in connection with the services and facilities furnished from a project acquired, constructed, or purchased from part or all of the proceeds of the bonds issued under the act, sufficient to pay the principal of and interest on the bonds as they become due.

The bill would authorize the trustees to also use revenues securing bonds for this purpose.

(4) This bill would require the trustees to report to the Director of Finance, the Legislative Analyst, and to the chairpersons of the appropriate policy and fiscal committees of the Legislature on the specific actions taken to implement this bill and an assessment of the costs and benefits of those actions. The bill would request the Legislative Analyst to review and comment on this report as part of its annual analysis of the Budget Bill.

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

SECTION 1. Section 90011 of the Education Code is amended to read:

90011. (a) The following terms wherever used or referred to in this article, or in any indenture entered into pursuant to this article, shall have the following meanings, respectively, unless a different meaning appears from the context:

(1) “Board” means the Trustees of the California State University.

(2) “Bonds” or “revenue bonds” means the written evidence of any obligation, other than revenue bond anticipation notes, issued by the board, payment of which is secured by a pledge of revenues or any part of revenues, as provided in this article, in order to obtain funds with which to carry out the purposes of this article, irrespective of the form of the obligations.

(3) The “holder of bonds” or “bondholder” or any similar term means any person who shall be the bearer of any outstanding revenue bond or bond registered to bearer or not registered or the registered owner of any outstanding revenue bond or bond that shall at the time be registered other than to the bearer.

(4) “Indenture” means an agreement entered into by the board pursuant to which revenue bonds are issued, regardless of whether the agreement is expressed in the form of a resolution of the board or by other instrument.

(5) “Notes” and “revenue bond anticipation notes” mean the written evidence of any obligation, including commercial paper notes, issued by the board, pursuant to Section 90013, in anticipation of the sale of revenue bonds, for the purpose of obtaining funds to carry out the purposes of this article.

(6) “Person” includes any individual, firm, corporation, association, copartnership, trust, business trust, receiver, trustee, or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district, or any agency thereof or of this state.

(7) “Project” means any one or more dormitories or other housing facilities, boarding facilities, student union or activity facilities, vehicle parking facilities, alternative transportation programs, or any other auxiliary or supplementary facilities for individual or group accommodation, owned or operated or authorized to be acquired, constructed, furnished, equipped, and operated by the board for use by students, faculty members, or other employees of any one or more campuses of the California State University, or a combination of those facilities, which may include facilities already completed and facilities authorized for future completion, or any other facilities designated by the board as a project in providing for the issuance of revenue bonds or notes.

(8) “Revenues” mean and include any and all fees, rates, rentals, and other charges received or receivable in connection with, and any and all other incomes and receipts of whatever kind and character derived by, the board from the operation of, or arising from, a project, including any revenue that may have been, or may be, impounded or deposited in any fund in the State Treasury created by this article or in any other fund or account pursuant to law for the security of any notes or bonds issued hereunder, or for the purpose of providing for the payment thereof, or the interest thereon.

(9) “State university” and “campus of the California State University” means any of the institutions included within the California State University, as listed in Section 89001.

(b) As used in this article:

- (1) The present tense includes the past and future tenses, and the future tense includes the present tense.
- (2) The masculine gender includes the feminine and neuter.
- (3) The singular number includes the plural, and the plural includes the singular.
- (4) “Shall” is mandatory, and “may” is permissive.

SEC. 2. Section 90012 of the Education Code is amended to read:

90012. The board, for the purposes of this article, has power and is hereby authorized, in addition to and amplification of all other powers conferred upon the board by the Constitution of the State of California or by any statute of the State of California:

(a) To acquire, subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code), by grant, purchase, gift, devise, or lease, and to hold and use, any real or personal property necessary, convenient, or useful for the carrying on of any of its powers pursuant to this article.

(b) To construct, operate, and control any project.

(c) To fix rates, rents, or other charges for the use of any project acquired, constructed, equipped, furnished, operated or maintained by the board, or for services rendered in connection therewith, and to alter, change, or modify the same at its pleasure, subject to any contractual obligation that may be entered into by the board with respect to the fixing of rates, rents, or charges.

(d) To enter into covenants to increase rates or charges from time to time as may be necessary pursuant to any contract or agreement with the holders of any bonds of the board.

(e) At any time and from time to time, to issue revenue bonds in order to raise funds for the purpose of establishing any project or of acquiring lands for any project, or of acquiring, constructing, improving, equipping, furnishing, financing, or refinancing any project, including payment of principal and interest on revenue bond anticipation notes, or for any combination of these purposes, which bonds may be secured as provided in this article.

(f) At any time, and from time to time, in connection with the financing or refinancing of any project, to loan or advance proceeds of revenue bonds or revenue bond anticipation notes to any person or state or local governmental entity, and to enter into loan agreements, leases, installation purchase agreements, conditional

sales contracts, and similar financing instruments with the recipient of that loan or advance, all upon terms and conditions determined by the board.

(g) At any time and from time to time, to issue revenue bond anticipation notes pursuant to Section 90013.

(h) To adopt rules and regulations as may be necessary to enable the board to exercise the powers and to perform the duties conferred or imposed upon the board by this article.

(i) Nothing contained in this section or elsewhere in this article shall be construed directly or by implication to be in derogation of or in limitation of powers conferred upon or existing in the board by the Constitution or statutes of this state.

SEC. 3. Section 90013 of the Education Code is amended to read:

90013. (a) The board may issue revenue bond anticipation notes, in anticipation of the sale of revenue bonds. Before issuing any of these notes, the board shall, by resolution, authorize their issuance, declare the purpose for which the proceeds of the notes shall be expended, and specify the maximum amount of notes to be issued for that purpose.

(b) Revenue bond anticipation notes shall bear interest at the fixed or variable rate or rates determined by the board, not exceeding 12 percent per annum, payable in the time, form, and manner set forth in the indenture for the notes, and shall mature on the date or dates determined by the board and set forth in the resolution or indenture authorizing their issuance.

(c) The proceeds from the sale of notes shall be used only for the purposes for which the proceeds of the sale of bonds may be used in anticipation whereof the notes are issued.

(d) All notes issued, including renewal notes, and the interest thereon shall be payable from the proceeds of the sale of the bonds, the revenues of the project, any appropriations made for that purpose or all of these sources, and not otherwise, except that if the sale of the bonds has not occurred prior to the maturity of the notes issued in anticipation thereof, the board may issue renewal notes to pay the notes then maturing. No renewal notes shall be issued after the sale of the bonds in anticipation of which the original note was issued.

(e) Revenue bond anticipation notes may be secured by a pledge of, and lien upon, the proceeds of the sale of bonds, the revenues of the project, and any other legally available funds.

(f) A resolution or indenture authorizing the issuance of revenue bond anticipation notes may include provisions deemed necessary or advisable by the board for the security of the notes issued thereunder, and may include any and all provisions authorized to be included in indentures by this article.

SEC. 4. Section 90014 of the Education Code is amended to read:

90014. Notes authorized to be issued under this article shall be sold by the Treasurer, for cash, in the manner that the Treasurer shall be directed by a resolution requesting the sale adopted by the board. Notes in the form of commercial paper notes shall be sold in the manner specified in the indenture for the notes.

SEC. 5. Section 90016 of the Education Code is amended to read:

90016. The board shall issue revenue bonds and revenue bond anticipation notes in its name and as its obligation, but no bond or note issued or sold pursuant to this article shall be or become a lien, charge, or liability against the State of California or against the board or against the property or funds of either, except, in the case of revenue bonds, to the extent of the pledge of revenues or part of revenues of the project, as may be provided by the indenture pursuant to which revenue bonds are issued, and, in the case of notes, to the extent of the pledge of revenues of the project and proceeds of the sale of bonds, as may be provided in the resolution or indenture authorizing the issuance of the notes. Each of these bonds and notes issued by the board shall contain a recital on the face thereof, stating that neither the payment of the principal nor any part thereof, nor any interest thereon, constitutes a debt, liability, or obligation of the State of California.

SEC. 6. Section 90027 of the Education Code is amended to read:

90027. An indenture may include a clause relating to the bonds issued thereunder requiring the board to fix, prescribe, and collect rates, rentals, or other charges in connection with the services and facilities furnished from the project acquired, constructed, or purchased from part or all of the proceeds of the bonds, or from the revenues securing the bonds, sufficient to pay the principal of

and interest on the bonds as they become due and payable, together with additional sums that may be required for any fund created by this article, for the further security of the bonds or as a depreciation charge or other charge in connection with the project.

SEC. 7. Section 90040 of the Education Code is amended to read:

90040. Bonds shall bear interest at a fixed or variable rate of not to exceed 12 percent per annum, payable in the time, form, and manner set forth in the indenture for the bonds.

SEC. 8. Section 90047 of the Education Code is amended to read:

90047. When the bonds authorized to be issued under this article are duly executed, they shall be sold by the Treasurer, for cash, in those parcels and numbers as the Treasurer shall be directed by a resolution adopted by the board. Before offering any of the bonds for sale, the Treasurer shall detach therefrom all coupons, if any, that have matured or will mature before the day fixed for the sale. Bonds in the form of commercial paper notes shall be sold in the manner specified in the indenture for the bonds.

SEC. 9. Section 90073 of the Education Code is amended to read:

90073. The proceeds from the sale of all bonds and notes authorized under this article, except those proceeds used to redeem outstanding bonds or notes, shall be deposited forthwith by the Treasurer, on order of the Controller, in the State Treasury to the credit of a fund to be designated as the California State University Dormitory Construction Fund, which is hereby created. The money in the California State University Dormitory Construction Fund shall be expended, pursuant to claims filed by the board with the Controller, for the purposes authorized by this article, or as provided in the indenture or notes, and for any other purposes, subject to the restrictions provided by law, by the notes, or by the indenture, as may be authorized by resolution of the board. In carrying out these purposes, the money may be used to make loans to builders and developers for the establishment, acquisition, or construction of projects, to acquire leasehold interests in projects, or otherwise to provide funds for projects in any manner that the board may authorize by resolution. Moneys required to meet the costs of acquisition, construction, improvement, equipment, furnishing, financing, or refinancing of any project authorized by

this article, and all costs incident thereto, shall be paid from the California State University Dormitory Construction Fund as provided in this article upon claim filed by the board and after audit by the Controller in the manner provided by law and upon warrants drawn by the Controller.

SEC. 10. On or before January 1, 2012, the Trustees of the California State University shall report to the Director of Finance, the Legislative Analyst, and to the chairpersons of the appropriate policy and fiscal committees of the Legislature on the specific actions taken to implement the act that adds this section and an assessment of the costs and benefits of those actions. The Legislative Analyst is requested to review and comment on this report as part of its annual analysis of the Budget Bill.

Approved _____, 2007

Governor