california legislature—2013–14 regular session

ASSEMBLY BILL No. 1015

Introduced by Assembly Member Hagman

February 22, 2013

An act to add Section 17524.5 to, and to add Article 10.7 (commencing with Section 17077.50) to Chapter 12.5 of Part 10 of Division 1 of Title 1 of, the Education Code, relating to school facilities.

legislative counsel's digest

AB 1015, as introduced, Hagman. School facilities: joint occupancy: high-performance grants and tax credits.

(1) The Kindergarten-University Public Education Facilities Bond Act of 2006 (bond act), approved by the voters as Proposition 1D at the November 7, 2006, statewide general election, authorizes the issuance and sale of a total of $10,416,000,000 in general obligation bonds. The bond act requires that $100,000,000 of the proceeds from the sale of those bonds be allocated for purposes of incentive grants to promote the use of designs and materials in new construction and modernization projects that include attributes of high-performance schools.

Existing law authorizes a school district to enter into leases and agreements relating to real property and buildings to be used jointly by the school district and any private person, firm, local governmental agency, or corporation, requires the governing board of a school district to own the site upon which a building is to be used in this manner before entering into a lease or agreement, and requires a lease or agreement to include a provision requiring the private person, firm, local governmental agency, or corporation to construct, or provide for the construction, on the demised premises of a building or buildings for the joint use of the school district and the private person, firm, local governmental agency, or corporation.

This bill would authorize the State Allocation Board to provide an incentive grant to school districts to fund the use of designs and materials characteristic of high-performance schools for school districts executing a joint-occupancy agreement and would authorize the incentive grant to be used for high-performance components of a new construction or modernization project at any schoolsite within the school district. The bill would provide that incentive grant eligibility is established by entering into a joint-occupancy lease and agreement and would require the agreement to generate income for the school district within 7 years after the agreement is entered into.

(2) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those law, including a credit for the startup expenses of constructing a child care facility, as specified.

This bill would authorize a specified tax credit, as applicable, for a developer, contractor, investor, or combination of private sector partners that execute a joint occupancy agreement with school districts, as described above, or execute an agreement with the governing board of a school district to purchase, lease, or exchange school property in accordance with specified requirements. The bill would authorize the tax credit to be a specified percentage of the total cost to the developer, contractor, investor, or combination of private sector partners of the joint-occupancy project for up to 7 taxable years. The bill would authorize a school district or county office of education to establish a foundation with the authority to accept tax-deductible donations from a private sector entity that is a party to a joint-occupancy agreement. The bill would also authorize a governing board of a school district to enter into an agreement with a private sector entity or nonprofit entity for purposes of improving educational facilities and would authorize that agreement to include provisions authorizing the private sector entity or nonprofit entity to use the improved educational facilities at times that do not conflict with operations or extracurricular activities of the school district if the private sector entity or nonprofit entity contributes substantial resources to improving the educational facilities, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Article 10.7 (commencing with Section 17077.50) is added to Chapter 12.5 of Part 10 of Division 1 of Title 1 of the Education Code, to read:

Article 10.7. Joint-Occupancy Facilities

17077.50. (a) With funds made available for purposes of this article, the board may provide incentive grants to fund the use of designs and materials characteristic of high-performance schools for those school districts executing a joint-occupancy agreement for facilities on schoolsites for kindergarten and grades 1 to 12, inclusive.

(b) A school district with a joint-occupancy agreement entered into pursuant to Article 8 (commencing with Section 17515) of Chapter 4 of Part 10.5 may apply to the board for an incentive grant under this article. The incentive grant may be used for high-performance components of new construction or modernization projects at a schoolsite within the school district.

(c) A school district is not required to apply for state funding of a new construction or modernization project pursuant to this chapter in order to be eligible for an incentive grant.

(d) Eligibility for an incentive grant is established by entering into a joint-occupancy agreement pursuant to Article 8 (commencing with Section 17515) of Chapter 4 of Part 10.5.

(e) A joint-occupancy agreement entered into pursuant to Article 8 (commencing with Section 17515) of Chapter 4 of Part 10.5 shall generate income for the school district within seven years after the joint-occupancy agreement is entered into.

17077.55. The board may provide an incentive grant for high-performance components of a new construction or modernization project funded in whole or in part with proceeds from the sale or lease of surplus property by a school district.

17077.60. For purposes of this article, high-performance components include, but are not limited to, designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting, improved indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high-performance schools.

SEC. 2. Section 17524.5 is added to the Education Code, to read:

17524.5. (a) For taxable years beginning on or after January 1, 2014, there shall be allowed to a developer, contractor, investor, or combination of private sector partners that execute a joint-occupancy agreement with the governing board of a school district pursuant to Section 17524 a credit against the "net tax," as defined in Section 17039 of the Revenue and Taxation Code, or "tax," as defined in Section 23036 of the Revenue and Taxation Code, as applicable, as follows:

(1) Commencing in the first taxable year of construction, as demonstrated by a construction contract for all or a portion of the joint-occupied property of the school district, 8 percent of the total cost to the developer, contractor, investor, or combination of private sector partners of the joint-occupancy project for the first four taxable years and 6 percent of the total cost to the developer, contractor, investor, or combination of private sector partners of the joint-occupancy project for three subsequent taxable years if the joint-occupancy agreement requires the developer, contractor, investor, or combination of private sector partners to contribute at least 50 percent of the cost for any of the following:

(A) Certified rehabilitation of certified historic structures on the schoolsite of the joint-occupancy facility or at a different schoolsite location within the geographical boundaries of the school district or county office of education.

(B) Renewing, rehabilitating, repairing, or replacing non-historic schools, classrooms, ancillary facilities, and structures built before 1976 on the schoolsite of the joint-occupancy facility or at a different schoolsite location within the geographical boundaries of the school district or county office of education.

(2) Commencing in the first taxable year of construction of a joint-occupancy project, 8 percent of the total cost to the developer, contractor, investor, or combination of private sector partners of the joint-occupancy project for the first four taxable years and 6 percent of the total cost to the developer, contractor, investor, or combination of private sector partners of the joint-occupancy project for three subsequent taxable years.

(b) (1) For taxable years beginning on or after January 1, 2014, there shall be allowed to a developer, contractor, investor, or combination of private sector partners that execute an agreement with the governing board of a school district to purchase, lease, or exchange, school property, consistent with applicable provisions of law, a credit against the "net tax," as defined in Section 17039 of the Revenue and Taxation Code, or "tax," as defined in Section 23036 of the Revenue and Taxation Code, as applicable, and as described in paragraph (2), if the agreement requires the developer, contractor, investor, or combination of private sector partners to provide financing, preconstruction services, or construction services that address infrastructure needs at one or more properties of the school district.

(2) Commencing in the first taxable year of an agreement for services related to infrastructure needs of the school district that include, but are not limited to, financing, environmental or seismic investigations, architectural or engineering services, or construction, 8 percent of the total cost to the developer, contractor, investor, or combination of private sector partners of the services required by the agreement for the first four taxable years and 6 percent of the total cost to the developer, contractor, investor, or combination of private sector partners of the services required by the agreement for three subsequent taxable years.

(c) A school district or county office of education may establish a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code for purposes of receiving and managing tax-deductible donations to the school district or county office of education from a private sector entity that has entered into a joint-occupancy agreement with the school district or county office of education. The donations may be used for furthering the purposes of the joint-occupancy agreement.

(d) (1) This chapter shall not prohibit the governing board of a school district from entering into a collaborative agreement with a private sector entity or nonprofit entity for purposes of improving schoolsite infrastructure, including, but not limited to, the construction of new buildings, the renewal, modernization, repair, or replacement of existing buildings, or the construction or installation of equipment within a building or on a schoolsite.

(2) A private sector entity or nonprofit entity may be authorized, pursuant to an agreement described in paragraph (1), to use the

school buildings, grounds, or equipment included within the agreement, if the use does not conflict with the operations or extracurricular activities of the school district and if any of the following apply:

(A) The private sector entity or nonprofit entity has, pursuant to the agreement, contributed substantial resources, including, but not limited to, funding, building construction, schoolsite construction, construction materials, labor, or instructional materials.

(B) The private sector entity or nonprofit entity will, pursuant to the agreement, contribute future one-time or ongoing maintenance of school buildings, grounds, or equipment.

O