



- 4) Establishes the California Educational Facilities Authority (CEFA) Act, authorizing the CEFA, in part, to develop student housing on or near any campus of the CCC, CSU, or UC through the use of agreements with participating nonprofit entities.
- 5) Establishes the UC as a public trust to be administered by the Regents of the UC; and, grants the Regents full powers of organization and government, subject only to such legislative control as may be necessary to insure security of its funds, compliance with the terms of its endowments, statutory requirements around competitive bidding and contracts, sales of property and the purchase of materials, goods and services.
- 6) Establishes the CCC, a postsecondary education system consisting of community college districts and the Board of Governors of the CCC.
- 7) Requires the Board of Governors of the California Community Colleges to provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the CCCs.
- 8) Establishes the CSU administered by the Board of Trustees, and provides that the Trustees shall have the full power over the construction and development of any CSU campus and any buildings or other facilities or improvements.
- 9) Requires that not less than the general prevailing rate of per diem wages be paid to all workers employed on a "public works" project costing over \$1,000 dollars and imposes misdemeanor penalties for violation of this requirement. (Labor Code §1771)
- 10) Defines "public work" to include, among other things, construction, alteration, demolition, installation or repair work done under contract and paid for in whole or in part out of public funds, including contracts for maintenance work, as specified in state regulations. [Labor Code §1720(a) & §1771]
- 11) Requires that the applicable general prevailing rate of per diem wages be determined by the Director of the Department of Industrial Relations (DIR) for each locality in which the public work is to be performed and for each craft, classification, or type of worker needed to execute the public works project. (Labor Code §1773)
- 12) Specifies requirements that must be met whenever a statute or regulation requires a public entity to obtain an enforceable commitment that a bidder, contractor, or other entity will use a skilled and trained workforce to complete a contract or project. Among other things, requires the public entity to include in all bid documents and construction contracts a notice that the project is subject to the skilled and trained workforce requirements; requires the contractor, bidder or other entity to provide to the public entity or other awarding body, on a monthly basis while the project is being performed, a report demonstrating compliance. (Public Contract Code §2600-2603)
- 13) Defines "skilled and trained workforce" to mean a workforce that meets all of the following:

- a. All the workers performing work in an apprenticeable occupation in the building and construction trades are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the chief of the Division of Apprenticeship Standards, at the Department of Industrial Relations.
- b. For work performed on or after January 1, 2020, at least 60 percent of the skilled journeypersons employed to perform work on the contract or project by every contractor and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation, except as specified.
- c. The apprenticeship graduation percentage requirements are satisfied if, in a particular calendar month, either of the following is true:
  - i. At least the required percentage of the skilled journeypersons employed by the contractor or subcontractor to perform work on the contract or project meet the graduation percentage requirement.
  - ii. For the hours of work performed by skilled journeypersons employed by the contractor or subcontractor on the contract or project, the percentage of hours performed by skilled journeypersons who met the graduation requirement is at least equal to the required graduation percentage.  
(Public Contract Code §2601)

**This bill:**

- 1) Establishes the California Student Housing Revolving Loan Fund (Fund) in the State Treasury to provide zero-interest loans to qualifying college and university applicants for the purpose of constructing affordable student housing and affordable faculty and staff housing.
- 2) Expresses the intent of the Legislature to appropriate, in the annual Budget Act, the sum of \$5 billion into the Fund.
- 3) Requires each authority to develop a uniform application that includes requests for relevant information, such as project goals, costs, number of students or faculty and staff to be housed, timeline for the project, financial feasibility of the project, and other information deemed necessary for evaluation of creditworthiness and public benefit criteria established by each authority.
- 4) Requires that the applications be available by April 1, 2023, in accordance with each authority's existing regulations or any necessary amendments, which shall be undertaken as emergency regulations, if necessary.
- 5) Requires that the initial preliminary applications for projects be submitted to the designated authority by July 1, 2023; and, specifies that the authority, thereafter, may establish subsequent application periods, as necessary.
- 6) Specifies that applications may be submitted to the designated authority by college and university applicants, pursuant to the following:

- a. The California Educational Facilities Authority (CEFA) shall consider applications from university applicants; and,
  - b. The California School Finance Authority (CSFA) shall consider applications from college applicants.
- 7) Specifies requirements of applicants and requirements of the projects in order to receive funding.
- 8) Authorizes CEFA to issue revenue bonds and enter into related agreements, and take all other actions necessary and convenient for the issuance of revenue bonds for university applicants for projects in accordance with the Act and its authorizing statutes, as amended from time to time.
- 9) Stipulates that notwithstanding any other law, revenue bonds issued under the Act are not and shall not be deemed to constitute a debt or liability of the state or any political subdivision thereof, and are not and shall not be deemed to be a pledge of the faith and credit of the state, or any political subdivision thereof, other than the authority. Revenue bonds of the authority shall be payable solely from funds provided under the Act.
- 10) Authorizes each authority to adopt, amend, or repeal rules and regulations pursuant to the Act as emergency regulations. The adoption, amendment, or repeal of these regulations is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare as specified.
- 11) Requires each authority to provide a report to the Department of Finance and the Budget Committees of the Assembly and Senate by March 15, 2024 that includes, but not necessarily be limited to, all of the following information:
- a. The number of projects receiving loans;
  - b. The total dollar amount of loans made;
  - c. The dollar amount of the loan provided for each project; and,
  - d. The terms of the loan for each project.

***Labor specific provisions:***

- 12) Specifies that for projects financed pursuant to this fund, participating colleges and universities and participating nonprofit entities shall do all of the following:
- a. At least seven days before issuing a bid solicitation for the project, send a notice describing the project to the following entities within the jurisdiction of the project site:
    - i. Any bona fide labor organization representing workers in the building and construction trades who may perform work necessary to complete the project.
    - ii. Any organization representing contractors that may perform work necessary to complete the project.
  - b. Ensure that all contractors and subcontractors performing work on the project will be required to pay prevailing wages for any proposed construction, alteration, or repair work, as specified. Provides that all of the following shall occur:
    - i. The participating college, university or nonprofit entity shall ensure that the prevailing wage requirement is included in all contracts for all construction work.

- ii. All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except as specified.
  - iii. Requires all contractors and subcontractors to maintain and verify payroll records, as specified, and make those records available for inspection and copying.
  - iv. Provides that the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment which may be reviewed within 18 months after the completion of the development, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action, as specified. If a civil wage and penalty assessment is issued, liability for liquidated damages also applies, as specified.
  - v. Specifies that iii and iv above do not apply if all contractors and subcontractors performing work on the development are subject to a multicraft building trades project labor agreement (PLA), as defined, that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.
- c. **For projects financed pursuant to this fund with onsite construction, alteration, or repair costs totaling twenty-five million dollars (\$25,000,000) or more**, requires the entity to seek bids containing an enforceable commitment that all contractors and subcontractors performing work on the project will use a skilled and trained workforce to perform any rehabilitation, construction, or alterations work on the project that falls within an apprenticeable occupation in the building and construction trades.
- d. For the purpose of establishing a bidder pool of eligible contractors and subcontractors that satisfy the skilled and trained workforce requirements, requires the establishment of a *process to prequalify prime contractors and subcontractors* that includes, but is not limited to, all of the following requirements:
- i. The participating college, university or participating nonprofit entity shall only accept bids from prime contractors that have been prequalified and listed as eligible.
  - ii. If the participating college, university or participating nonprofit entity receives at least two bids from prequalified prime contractors, the contract shall be awarded to the lowest qualified bidder and ensure that a skilled and trained workforce will be used.
  - iii. *If fewer than two bids are received from prequalified prime contractors, the contract may be rebid and awarded to the lowest responsive bidder without the skilled and trained workforce requirement applying to the prime contractor's scope of work.*
  - iv. If the prime contractor receives bids from at least 2 subcontractors in each tier listed on the prequalified list, the prime contractor shall require that the contract for that tier or scope of work will require a skilled and trained workforce.
  - v. *If the prime contractor fails to receive at least 2 bids from subcontractors listed on the prequalified list in any tier, the prime contractor will not require that a skilled and trained workforce be used for that scope of work, and may list subcontractors that do not appear on the prequalified list.*
- e. Requires the college, university or participating nonprofit entity to provide to the authority on a monthly basis a report demonstrating compliance with the skilled and trained workforce requirements.

- i. Failure to provide this monthly report shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month. Any contractor or subcontractor that fails to use a skilled and trained workforce as requires shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner, as specified, and paid to the State Public Works Enforcement Fund.
  - ii. Specifies that the above provisions do not apply if all contractors and subcontractors performing work on the development are subject to a multicraft building trades project labor agreement (PLA) that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.
- f. Requires the college, university or nonprofit entity to notify the Department of Industrial Relations within five calendar days of the contract award.

## COMMENTS

### 1. Background and double referral:

This bill has been double referred and was previously heard and passed by the Senate Education Committee. According to the Senate Education Committee policy analysis:

The state's nine UC campuses and 23 CSU campuses offer student housing, typically to undergraduate and some graduate students.

Debt capacity to finance student housing projects differs from campus to campus. Due to issues with debt capacity and other variables, UC and CSU campuses have entered into private public partnerships (P3s) to finance capital projects such as student housing. In a P3, a public sector entity and a private-sector entity enter into an agreement whereby the private entity funds a public project in exchange for some benefit, such as partial ownership of the completed project or operating profits.

***Many college students face food and housing insecurity.*** According to the California Student Aid Commission's 2018-19 Student Expense and Resource Survey, nearly one in three college students in California faces food and housing insecurity. The survey, which sampled 150,000 college students from four-year institutions in 2018 and community colleges in 2019, found that students' financial concerns extend far beyond tuition and fees. All CSU and UC institutions were represented in the study, according to the report.

Nearly two-thirds of students cited either the cost of college or balancing school and work responsibilities as their biggest obstacle to success. Students selected those obstacles over all other stressors, including the difficulty level of classes, too little support from friends or family, and difficulty balancing school and family responsibilities. The survey also found that black and Hispanic students were more likely to access financial aid, including federal Pell grants or the state Cal Grant, and other forms of public assistance, but were also more likely than other students to report food insecurity or housing insecurity.

Each segment of higher education has a different distribution of where students live while attending college. At the CSU, 14 percent of students live on campus, 39 percent live off

campus, and 47 percent live with their parents. At the UC, 39 percent of students live on campus, 49 percent live off campus, and 11 percent live with their parents. Not surprisingly, housing insecurity is found to be highly correlated with lower degree completion, persistence, and credit attainment.

According to a 2021 report from CSAC, for many students, the COVID-19 pandemic has led to increased housing costs; CSAC found that nearly half of all college students reported increased monthly housing expenses during the pandemic.

## **2. Need for this bill?**

According to the author, “California has a housing and college affordability crisis. Lack of affordable housing is a barrier for many college students in California. At the University of California (UC) and California State University (CSU), housing accounts for nearly half of the total cost of attending college, resulting in high levels of housing insecurity and even homelessness among college students.

By establishing the \$5 billion California Student Housing Fund, AB 1602 will provide a zero-interest financing option for the UC, CSU, and California Community College systems (CCC) to construct approximately 25,000 student housing beds at below market rent.”

This bill establishes the California Student Housing Fund, a multi-billion dollar revolving-loan fund administered by the State Treasurer’s office. The bill specifies that this fund shall be used to provide 0% interest loans to UC, CSU, and CCC campuses to build student, faculty, and staff housing projects. The bill also allows UC CSU and CCC to enter into P3s with nonprofit entities for the purpose of building these housing projects. The bill includes a “direct hire” provision requiring UC to directly hire employees for specified maintenance and grounds keeping positions. Finally, the bill includes a “skilled and trained” provisions that requires applicants to establish a pre-qualified bidder pool of contractors that use skilled and trained workforce. For projects over \$25 million if there are at least 2 pre-qualified bids, the contract must be awarded to a bidder that uses skilled and trained labor. If there are fewer than 2 bidders that use skilled and trained labor, the contract may be awarded to a bidder that does not use skilled and trained labor.

## **3. Proponent Arguments:**

According to the sponsors of the measure, Generation Up, Inc. (GENup), “California has a housing and college affordability crisis. The lack of affordable housing is a barrier for many college students in California. At the UC and CSU, housing costs account for nearly half of the total cost of attending college, resulting in high levels of housing insecurity and homelessness among college students. This is especially troubling given that nearly half of CCC and CSU, and 40-percent of UC, students are low-income students. Housing insecurity negatively impacts students’ ability to attend and perform well in class, and is linked with a higher risk of withdrawing enrollment or declining to register for classes. In order to learn and thrive, students need to have their basic needs met.

AB 1602 provides the financial support necessary to help California’s public colleges and universities build affordable housing that meets the urgent housing needs of existing students, and allow for enrollment growth in alignment with the state’s higher education goals.”

Writing in support of the measure, the California State Pipe Trades Council, the California State Association of Electrical Workers and the Coalition of California Utility Employees, state, “Creating a multi-billion-dollar revolving loan fund for Student housing at our State's public Colleges and Universities is a high priority for the aforementioned organizations. We thank Assembly Member McCarty for working with us and accepting our amendments to add important workforce protections, including a skilled and trained requirement. The amendments require a skilled and trained workforce with a two-bidder minimum. We believe this strikes a reasonable balance for these large student housing projects.”

#### **4. Opponent Arguments:**

The State Building and Construction Trades Council is opposed to the measure and write, “The projects envisioned under AB 1602 should be considered by policymakers as construction worker learning environments – not just a construction project to help traditional college students attain a degree. Providing these learning environments to construction worker apprentices who are building projects to help college-bound students to learn, is a policy we should all embrace. However, policymakers should not ask construction workers to build housing for university and community college students without adequate workforce protections for the construction worker “students” who could be exploited. We have reviewed recent amendments to the bill, and we do not believe they are protective enough for construction workers. It is good public policy to ensure that those jobsites are full of highly skilled and trained apprentices and journey-level graduates of state-approved apprenticeship programs who understand their rights under California labor law.

Student housing is important, but it is equally as important to think about HOW the housing is built and not just assume that developers, contractors, and public agencies will have the workers’ interests in mind when building projects envisioned by AB 1602. To make these projects work for the construction workers building them, we believe that skilled and trained protections that are not watered down is critical. Adding these commonsense amendments to AB 1602 will ensure that these projects are built once and built right the first time, saving the state and developers money.”

### **SUPPORT**

Generation Up Inc. (Sponsor)  
AFSCME Local 3299  
Associated Builders and Contractors of California  
California Apartment Association  
California Faculty Association  
California Federation of Teachers, AFL-CIO  
California School Employees Association  
California State Association of Electrical Workers  
California State Pipe Trades Council  
California State University Employees Union  
California YIMBY  
City of Berkeley  
Coalition of California Utility Employees  
EAH Housing

Jewish Free Loan Association  
Mt. San Antonio College  
National Association of Social Workers, California Chapter  
North Orange County Community College District  
San Jose-Evergreen Community College District  
Student Senate for California Community Colleges  
TV Academy  
United Public Employees  
University of California  
University of California Graduate and Professional Council

**OPPOSITION**

State Building and Construction Trades Council, AFL-CIO

**-- END --**