

# LACCD Legislative & Public Affairs Committee

Trustee David Vela, Chair

## Policy Background Information Worksheet for Staff and Faculty - STATE

Please submit your policy ideas by September 17, 2018

RETURN COMPLETED FORM TO VELOZML@EMAIL.LACCD.EDU

Contact Name:	David Vela
Phone:	213 891-2055
Email:	Velozml@email.laccd.edu

### 1. Need for this Bill: AB19 Extension – 2 years

- What policy problem are you seeking to address?  
Increase access to community college education
- Why is legislation necessary to resolve this problem?  
Currently under AB19, first time, full time students only have first their first year of community college education paid.
- How will this proposed policy impact LACCD students?  
Students will have two years of college free – as was proposed in California’s Higher Education Master Plan in the 1960’s.

### 2. Origin of this Bill:

- What person or organization is requesting the policy change? Please provide name, phone number and email address.  
Trustee David Vela
- Do you know if a similar policy has been before the legislature in a previous session? If yes, when?  
Yes, AB19 (Santiago)

### 3. General Background Information on fiscal effect:

- Will the policy have a fiscal impact to the state budget? How much do you think it will cost to implement?  
Yes, approximately \$40 million a year

### 4. Please attach copies of any background material in explanation of this proposed policy for reference.

5. Please list likely support and opposition of this proposed policy.  
The bill will likely be supported by the individuals and organizations that supported AB19 and opposed by the Department of Finance.

CONCURRENCE IN SENATE AMENDMENTS  
AB 19 (Santiago, et al.)  
As Amended September 8, 2017  
Majority vote

ASSEMBLY: 56-18 (May 31, 2017) SENATE: 31-7 (September 12, 2017)

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Original Committee Reference: **HIGHER ED.**

**SUMMARY:** Establishes, under the administration of the California Community Colleges (CCC) Chancellor, the California College Promise.

**The Senate amendments:**

- 1) Authorize the CCC Chancellor, upon appropriation by the Legislature, to distribute funding to community college districts to fund CCCs that meet the requirements of the established promise program.
- 2) Require the CCC Chancellor to establish a funding formula that advances the goals of the promise program; ensuring that the formula factors in the number of full-time equivalent students (FTES) at a CCC and the number of students at a CCC who satisfy the requirements to receive federal Pell Grants.
- 3) Require, as condition to participate in the promise program, the following:
  - a) Partnering with one or more local educational agencies (LEAs) to establish an Early Commitment to College Program that will provide secondary and postsecondary students and their families assistance that, in part, includes learning about college opportunities, completing college preparatory courses, and applying for college and financial aid;
  - b) Partnering with one or more LEAs to support and improve high school student preparation for college and reduce postsecondary remediation through practices that may include, in part, small learning communities and concurrent enrollment;
  - c) Utilizing evidence-based assessment and placement practices at the CCC that include multiple measures of student performance;
  - d) Participating in the California Community College Guided Pathways Grant Program; and,
  - e) Maximizing student access to need-based financial aid by leveraging the Board of Governors (BOG) fee waiver;
- 4) Authorize community colleges participating in the promise program, and receiving funds for said purpose from the CCC Chancellor, to use funds to waive some or all of the fees for first-time community college students who are enrolled at the college full-time, and complete and submit either a Free Application for Federal Student Financial Aid (FAFSA) or a California Dream Act application.

- 5) Require the fee waiver in number four above, to only be for one academic year. Fees shall only be waived for the summer term and each semester or quarter of that year in which the student maintains full-time status.
- 6) Declare the Legislature's intent that funding to support the promise program be used by the CCC to advance the goals of the program.
- 7) Define:
  - a) "Full-time" to mean 12 or more semester units or the equivalent; and,
  - b) "One academic year" to mean the total of the summer term that immediately precedes the first semester or quarter of the fall term, and the two consecutive semesters or three-quarters that immediately follow that summer term. Each semester or quarter is approximately the same length.
- 8) Authorize the CCC BOG to adopt regulations regarding the created promise program.

**EXISTING LAW:**

- 1) Establishes a \$46/unit fee for students at the CCC, and waivers of such (Education Code (EC) Section 76300).
- 2) Provides for a waiver of fees for certain types of students, including:
  - a) Students enrolled in specified public benefit programs;
  - b) Homeless students;
  - c) Those with household incomes below certain thresholds established by the CCC BOG or with demonstrated financial need, pursuant to federal law;
  - d) Dependents or surviving spouses of California National Guard members, either killed or who died from a permanent disability, as a result of service to the state;
  - e) Surviving spouse or child of a California law enforcement officer or firefighter killed in the performance of active law enforcement or fire suppression duties or who died as a result of performing those duties;
  - f) The dependent of any California resident killed in the September 11, 2001 terrorist attacks;
  - g) The child of a United States military veteran who has a service-connected disability or was killed in action or died of a service-connected disability; and,
  - h) The child of a recipient of the Congressional Medal of Honor (EC Section 66025.3).
- 3) Provides funding through state apportionments, pursuant to provisional language in the annual budget act, to offset districts' loss of fee revenue due to the BOG waiver.

- 4) Provides Cal Grant B Entitlement awards to students meeting specified income and asset thresholds, having at least a 2.0 GPA and applying either the year they graduate from high school or the following year. Awardees are entitled to a living allowance and tuition and fee assistance. Awards for first-year students are limited to an allowance for books and living expenses (\$1,678). In the second and subsequent years, the award also provides tuition and fee support.
- 5) Establishes the Full-Time Student Success Grant, which supplements the Cal Grant B access award by \$300 per semester for each CCC student enrolled in 12 or more units. This ongoing program was established in the 2015-16 Budget Act (AB 93 (Weber), Chapter 10).

**FISCAL EFFECT:** According to the Senate Appropriations Committee, "While the provisions of the bill would be subject to an appropriation, the Chancellor's Office estimates that waiving the fees for first-time students for an entire year would cost approximately \$31.1 million in Proposition 98 General Fund. This estimate assumes that an additional 19,000 community college students would qualify for a fee waiver, which is based on the number of resident students enrolled in 2014-15 who met the requirements of this bill and did not receive a fee waiver. To the extent that additional students elect to enroll at the community colleges as a result of this measure, the estimate would be higher."

**COMMENTS:** *Purpose.* According to the author, "California faces an estimated shortage of one million college-educated workers needed to sustain the state's workforce. The bill is motivated by the multiple promise programs proposed or enacted across the U.S. [United States]. These proposals have prompted extensive debate across the nation on college access and affordability. Realizing the benefits of such programs, many community college districts throughout California and across the U.S. have implemented local Promise Programs. These programs have been demonstrated to expand access to financial, promote equity, increase enrollment, improve academic performances and boost college completion rates."

The requirements established by this measure extend the provision of fee waivers to a first-time community college student enrolled full-time within a CCC district that enters into local partnership agreements as specified.

*Background.* Over the 2015-16 academic year, the CCC served about 2.3 million students, with about 1.6 million students enrolling in each of the fall 2015 and spring 2016 semesters. For that same year, about one million students, or 43% of all students, received a BOG fee waiver—an equivalent of \$800 million in waived fees. The vast majority of students receiving a BOG waiver do so because of limited family income or demonstrated financial need. Specifically, the income limit is less than or equal to 150% of federal poverty guidelines, and varies with family size. For a family of four, the limit is currently \$36,375. Likewise, a student who submits the FAFSA and demonstrates at least \$1,104 (24 units times \$46/unit) of financial need—based on a complex formula that determines a family's expected contribution toward the student's cost of college—is eligible for the BOG waiver. Under this criterion, a student from a family of four with income up to \$85,000 would be eligible for the fee waiver.

Around 30 percent of CCC students who enrolled during the fall 2015 semester (470,000) or the spring 2016 semester (430,000) took 12 or more units. This would include first-time students as well as continuing and returning students. Another 15% of students (about 240,000) took more than nine but less than 12 units.

*Who Benefits from This Bill?* In addition to those who already qualify for a BOG fee waiver, this bill waives fees for those students enrolled for the first time in the community college system and who take at least 12 units per semester. This new waiver would only be available for a newly enrolled student's first full academic year of attendance, which would include a summer term, if the new student chose to attend in the summer, and then the immediately following fall and spring semesters. (For campuses on a quarter system, it would include the immediately following fall, winter, and spring terms.)

Based on data provided by the Chancellor's Office of the CCC, for the 2014-15 academic year, about 19,000 first-time CCC students who did not receive a fee waiver – either because they did not qualify or did not apply – enrolled in at least 24 units during that year. While there are limitations in this data, it can be assumed that a majority of these students likely enrolled in at least 12 units during each of the fall and spring semesters. Under this bill, these students would have automatically received a fee waiver for their first full year of attendance. Since this new fee waiver would be available to *all* newly-enrolled full-time CCC students, this benefit would generally accrue to students who are less needy (including those from affluent families), compared to full-time students who currently qualify for a BOG fee waiver. Notably, the new fee waiver benefit would disproportionately assist those at campuses with relatively larger shares of non-needy students who attend school full time. To note, about one-third of the 19,000 students referenced above attended just 12 of the system's 113 campuses, which constitute only about 18% of total CCC enrollment.

Additionally, to the students who attended full-time for two semesters, more than 10,000 other first-time CCC students enrolled in at least 12 units in their first semester, and would have received the fee waiver for this semester. Some of these students may not have enrolled in at least 12 units in their second semester and others may not have first enrolled until the spring semester, thus either group would only be eligible for one semester of fee waiver under this bill.

*Other Impacts.* While the above discussion represents the most easily quantifiable impact of this bill, there would likely be other impacts. For example, the opportunity to obtain a fee waiver in return for full-time enrollment might induce additional first-time students to take a full course load. As mentioned earlier, last year almost a quarter-million students were, in general, only one course short of meeting the 12-unit qualifying threshold of this bill. Based on the proportion of students in the system that are first-time students (about 17%), the number who may see this new benefit as a sufficient incentive to full-time enrollment might approach the low tens of thousands.

In addition to promoting full-time enrollment, the ability of districts to provide the public with the simple message that students' first-year of community college could include no fees may spur additional enrollment demand of both part-time and full-time students, many of which would be eligible for fee waivers, either under the existing eligibility criteria or under this bill's requirements.

*AB 19 and College Promise Programs?* In general, College Promise programs are partnerships seeking to align local K-12 school districts, community colleges, and public universities by providing clear pathways for students to achieve their educational goals. Such programs seek to improve college readiness, access, and the overall success of participants. Some community college districts in California, along with their school district and university partners, already have promise programs, and many other programs are in the planning stages.

As part of the 2016-17 Budget Act, the Legislature provided \$15 million in one-time competitive grants for establishing or expanding CCC promise programs. A budget trailer bill, AB 1741 (Rodriguez), was the implementing legislation for the grant program. Upon receiving and evaluating grant applications, the CCCCCO, which is administering the program, recommended 14 districts to receive grants of either \$1.5 million (for multiple colleges within a district) or \$750,000 (for single-campus districts or for a single campus within a multi-college district). These grants were awarded by the BOG earlier this year. As determined by the CCCCCO and the BOG, the successful applicants were those districts who best demonstrated how their promise program would meet the following goals:

- 1) Increase the number and percentage of high school students within the region who are prepared for and attend college directly from high school.
- 2) Increase the percentage of high school graduates within the region who are placed in college-level Math and English at a public postsecondary university in California.
- 3) Increase the percentage of students from the region who: earn associate degrees or career technical education certificates; successfully transfer from a community college to UC or CSU; graduate with a bachelor's degree.
- 4) Reduce and eliminate achievement gaps for students from groups that are underrepresented in postsecondary education.

Though not a program requirement, district applications were also given additional consideration if able to identify local public and private sources of funding to develop a sustainable program and/or to leverage new or existing sources of local and state funding to better align efforts to improve student success.

**Analysis Prepared by:** Jeanice Warden / HIGHER ED. / (916) 319-3960

FN: 0002220

# LACCD Legislative & Public Affairs Committee

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Trustee David Vela, Chair

## Policy Background Information Worksheet for Staff and Faculty - STATE

Please submit your policy ideas by October 15, 2018

RETURN COMPLETED FORM TO VELOZML@EMAIL.LACCD.EDU

Contact Name:	Dale Shimasaki
Phone:	916-441-3909
Email:	dfs@strategicadvocates.com

### 1. Need for this Bill: Extending Eligibility of Cal Grant Program from 4 to 6 years

- What policy problem are you seeking to address? Cal Grants provide only four years of eligibility to financially needy students. In general, community college students take four years or more to transfer to a four-year institution and take another three years to graduate. As a result, many community college students do not apply for a Cal Grant to preserve their financial aid eligibility at four-year schools, where tuition costs are higher. This creates a barrier to community college students and prolongs their educational careers as they choose to “save” the Cal Grant for future use. As a result CCC students must increase their work hours and/or reduce their course loads.
- Why is legislation necessary to resolve this problem? Statute limits Cal Grant eligibility to four years.
- How will this proposed policy impact LACCD students? Adding two years eligibility will aid financially needy students matriculate in less time through the community college system.

### 2. Origin of this Bill:

- What person or organization is requesting the policy change? Please provide name, phone number and email address.
  - The LACCD was the sponsor of AB 2306-Santiago last year.
- Do you know if a similar policy has been before the legislature in a previous session? If yes, when?



- Yes, see above

3. General Background Information on fiscal effect:

- Will the policy have a fiscal impact to the state budget? How much do you think it will cost to implement?
  - The Assembly Appropriations Committee estimated the costs of AB 2306 to be \$20 million per year. The Appropriations Committee staff indicated that this estimate was on the low side because it did not include students who defer receipt of their Cal Grant award to save eligibility for four-year institutions.

4. Please attach copies of any background material in explanation of this proposed policy for reference.

- Copy of AB 2306 [Santiago]
- Assembly Higher Education analysis of AB 2306-Santiago
- Assembly Appropriations Committee analysis of AB 2306-Santiago

5. Please list likely support and opposition of this proposed policy.

- Support:
  - Alliance for Children's Rights
  - California Student Aid Commission
  - Community College League of California
  - Faculty Association of California Community Colleges
  - Foothill-De Anza Community College District
  - Kern Community College District
  - Los Rios Community College District
  - North Orange Community College District
  - Peralta Community College District
  - San Diego Community College District
  - San Francisco Community College District
  - San Jose-Evergreen Community College District
  - South Orange County Community College District
  - Yuba Community College District
- Opposition:
  - None posted
- NOTE: Given the bill's cost and that the bill died on the Suspense File in the house or origin, consideration should be given to make this a budget request working with the Department of Finance and the legislative budget committees.

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**Please submit your policy ideas by October 15, 2018**

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Contact Name:	<b>Dale Shimasaki, Ph.D.</b>
Phone:	<b>916-441-3909</b>
Email:	<b>dfs@strategicadvocates.com</b>

### **1. Need for this Bill: Best Value Procurement**

- What policy problem are you seeking to address? To provide the LACCD the authority to use best value procurement as an option for public projects.
  
- Why is legislation necessary to resolve this problem? Current law does not authorize the district to use best value procurement.
  
- How will this proposed policy impact LACCD students? If authorized, this financing option could be less costly than other financing options, thereby freeing up resources to use for other student priorities.

### **2. Origin of this Bill:**

- What person or organization is requesting the policy change? Please provide name, phone number and email address.
  - Jeffrey Prieto, LACCD General Counsel
  - Thomas Hall, LACCD Facilities Planning & Development-Management
  
- Do you know if a similar policy has been before the legislature in a previous session? If yes, when?
  - Pursuant to Chapter 786, Statutes of 2015 [AB 1185: Ridley-Thomas], the Los Angeles Unified School District is authorized to utilize a best value procurement process as a pilot project until January 1, 2021

### **3. General Background Information on fiscal effect:**

- Will the policy have a fiscal impact to the state budget? How much do you think it will cost to implement?
    - When AB 1185 was moving through the legislative process, the Senate Appropriations Committee indicated “an unknown but potentially significant savings at the district level to the extent that (1) the district elects to use best value procurement method, and (2) that the method utilizes savings that would surpass potential increases in costs from not choosing the lowest bidder.
    - The Senate Appropriations Committee staff noted that “this bill is permissive, and would also allow LAUSD to continue to choose the lowest responsible bidder.
4. Please attach copies of any background material in explanation of this proposed policy for reference.
- Copy of Chapter 786, Statutes of 2015 [AB 1185: Ridley-Thomas]
  - Copy of Senate Appropriations Committee Suspense File analysis addendum of AB 1185.
  - Copy of Senate Education Committee analysis of AB 1185
5. Please list likely support and opposition of this proposed policy.
- Support: In 2015, the Los Angeles Unified School District was sponsor and in support of AB 1185.
  - Opposition: The Senate Education Committee analysis posted opposition from the following organizations:
    - Air Conditioning Trade Association
    - Associated Builders and Contractors of California [unless amended]
    - Associated Builders and Contractors—San Diego Chapter
    - Plumbing-Hearing-Cooling Contractors Association of California
    - Western Electrical Contractors Association



## Assembly Bill No. 1185

### CHAPTER 786

An act to add and repeal Article 3.3 (commencing with Section 20119) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code, relating to best value procurement.

[Approved by Governor October 11, 2015. Filed with  
Secretary of State October 11, 2015.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1185, Ridley-Thomas. Los Angeles Unified School District: best value procurement: pilot program.

The Local Agency Public Construction Act requires the governing board of any school district to let any contract for a public project, as defined, involving an expenditure of \$15,000 or more, to the lowest responsible bidder that gives security as the board requires, or else reject all bids.

This bill would establish a pilot program to authorize the Los Angeles Unified School District to use, before December 31, 2020, a best value procurement method for bid evaluation and selection for public projects that exceed \$1,000,000. The bill would establish various requirements applicable to the use of the best value procurement method under this authorization. The bill would require the school district to submit an interim and final report to the appropriate policy and fiscal committees of the Legislature on the use of the best value procurement method pursuant to the bill, in accordance with a specified schedule. These provisions would be repealed on January 1, 2021.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Los Angeles Unified School District.

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

SECTION 1. Article 3.3 (commencing with Section 20119) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:

#### Article 3.3. Los Angeles Unified School District — Best Value Procurement

20119. (a) It is the intent of the Legislature to enable school districts to use cost-effective options for building and modernizing school facilities. The Legislature has recognized the merits of the best value procurement method process in the past by authorizing its use for projects undertaken by the University of California.

(b) The Legislature also finds and declares that school districts using the best value procurement method require a clear understanding of the roles and responsibilities of each participant in the best value process. As reflected in the University of California report to the Legislature, the benefits of a best value procurement method include a reduction in contract delays, change orders, and claims producing a savings in both contract costs and administration.

(c) It is the intent of the Legislature to provide an optional, alternative procedure for bidding and building school construction projects.

20119.1. As used in this article:

(a) “Apprenticeable occupation” means an occupation for which the Chief of the Division of Apprenticeship Standards had approved an apprenticeship program pursuant to Section 3075 of the Labor Code prior to January 1, 2015.

(b) “Best value” means a procurement process whereby the selected bidder may be selected on the basis of objective criteria for evaluating the qualifications of bidders with the resulting selection representing the best combination of price and qualifications.

(c) “Best value contract” means a competitively bid contract entered into pursuant to this article.

(d) “Best value contractor” means a properly licensed person, firm, or corporation that submits a bid for and is awarded a best value contract.

(e) “Best value score” means the resulting score when the school district divides the bidder’s price by the bidder’s qualification score.

(f) “Demonstrated management competency” means the experience, competency, capability, and capacity of the proposed management staffing to complete projects of similar size, scope, or complexity.

(g) “Financial condition” means the financial resources needed to perform the contract. The criteria used to evaluate a bidder’s financial condition shall include, at a minimum, capacity to obtain all required payment bonds and required insurance.

(h) “Governing board” or “governing board of the school district” means the governing board of the Los Angeles Unified School District.

(i) “Labor compliance” means the ability to comply with, and past conformance with, contract and statutory requirements for the payment of wages and qualifications of the workforce. The criteria used to evaluate a bidder’s labor compliance shall include, at a minimum, the bidder’s ability to comply with the apprenticeship requirements of the California Apprenticeship Council and the Department of Industrial Relations, its past conformance with such requirements, and its past conformance with requirements to pay prevailing wages on public works projects.

(j) “Project” has the same meaning as “public project” as defined in subdivision (c) of Section 22002.

(k) “Qualifications” means financial condition, relevant experience, demonstrated management competency, labor compliance, the safety record of the bidder, and, to the extent relevant, the preceding qualifications as

they pertain to all subcontractors proposed to be used by the bidder for designated portions of the work.

(l) “Relevant experience” means the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity.

(m) “Safety record” shall be deemed “acceptable” if a contractor’s experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period do not exceed the applicable statistical standards for its business category or if the bidder is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(n) “School district” means the Los Angeles Unified School District.

(o) “Skilled and trained workforce” means a workforce that meets all of the following conditions:

(1) All the workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards.

(2) (A) As of January 1, 2016, at least 20 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the United States Secretary of Labor.

(B) As of January 1, 2017, at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the United States Secretary of Labor.

(C) As of January 1, 2018, at least 40 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the United States Secretary of Labor.

(D) As of January 1, 2019, at least 50 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved

for federal purposes pursuant to the apprenticeship regulations adopted by the United States Secretary of Labor.

(E) As of January 1, 2020, at least 60 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the Chief of the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the United States Secretary of Labor.

(3) For an apprenticeable occupation in which no apprenticeship program had been approved by the chief prior to January 1, 1995, up to one-half of the graduation percentage requirements of paragraph (2) may be satisfied by skilled journeypersons who commenced working in the apprenticeable occupation prior to the chief's approval of an apprenticeship program for that occupation in the county in which the project is located.

(p) "Skilled journeyperson" means a worker who either:

(1) Graduated from an apprenticeship program for the applicable occupation that was approved by the chief or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

(2) Has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the chief.

20119.2. (a) This article provides for a pilot program for the Los Angeles Unified School District to use best value procurement for projects over one million dollars (\$1,000,000).

(b) The governing board, for projects over one million dollars (\$1,000,000), before December 31, 2020, may use the best value procurement method in accordance with this article.

(c) The bidder may be selected on the basis of the best value to the governing board of the school district. In order to implement this method of selection, the governing board of the school district shall adopt and publish procedures and required guidelines for evaluating the qualifications of the bidders that ensure the best value selections by the school district are conducted in a fair and impartial manner. These procedures and guidelines shall conform to this article and shall be mandatory for the school district when using best value selection.

(d) If the governing board of the school district deems it to be for the best interest of the school district, the governing board of the school district, on the refusal or failure of the selected bidder for a project to execute a tendered contract, may award it to the bidder with the second lowest best value score. If the second bidder fails or refuses to execute the contract, the governing board of the school district may likewise award it to the bidder with the third lowest best value score.

(e) The governing board of the school district shall let any contract for a project pursuant to this article to the selected bidder that represents the best value or else reject all bids.

(f) (1) If the school district elects to award a project pursuant to this section, retention proceeds withheld by the district from the selected best value contractor shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation of bids.

(2) In a contract between the selected best value contractor and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the district and the selected best value contractor. If the selected best value contractor provides written notice to a subcontractor that, prior to or at the time the bid is requested, a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the selected best value contractor, then the selected best value contractor may withhold retention proceeds in excess of the percentage specified in the contract between the district and the selected best value contractor from any payment made by the selected best value contractor to the subcontractor.

(g) All subcontractors bidding on contracts pursuant to this chapter shall be afforded the protection contained in Chapter 4 (commencing with Section 4100) of Part 1.

20119.3. The governing board of the school district shall proceed in accordance with the following when awarding best value contracts under this article:

(a) The school district shall prepare a solicitation for bids and give notice pursuant to Section 20112.

(b) (1) The school district shall establish a procedure to prequalify bidders as required by this code. Information submitted by the bidder as part of the evaluation process shall not be open to public inspection to the extent that information is exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(2) A best value entity shall not be prequalified or shortlisted unless the entity provides an enforceable commitment to the governing board that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades.

(3) An entity's commitment that a skilled and trained workforce will be used to perform the project or contract may be established by any of the following:

(A) The entity's agreement with the school district that the entity and its subcontractors at every tier will comply with the requirements of this subdivision and that the entity will provide the governing board of the school district with evidence, on a monthly basis while the project or contract is



being performed, that the entity and its subcontractors are complying with the requirements of this subdivision.

(B) If the governing board has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract and that includes the requirements of this subdivision, the entity's agreement that it will become a party to that project labor agreement.

(C) Evidence that the entity has entered into a project labor agreement that includes the requirements of this subdivision and that will bind the entity and all its subcontractors at every tier performing the project or contract.

(c) Each solicitation for bids shall do all of the following:

(1) Invite prequalified bidders to submit sealed bids in the manner prescribed by this article.

(2) Include a section identifying and describing the following:

(A) Criteria that the school district will consider in evaluating the qualifications of the bidders.

(B) The methodology and rating or weighting system that will be used by the school district in evaluating bids.

(C) The relative importance or weight assigned to the criteria for evaluating the qualifications of bidders identified in the request for bids.

(d) Final evaluation of the bidders shall be done in a manner that prevents the identity of the bidders and the cost or price information from being revealed in evaluating the qualifications of the bidders prior to completion of qualification scoring.

20119.4. Selection of the best value contractor shall be made as follows:

(a) (1) The school district shall evaluate the qualifications of the bidders based solely upon the criteria set forth in the solicitation documents, and shall assign a qualification score to each bid.

(2) Qualification scores shall be determined by using only the criteria and selection procedures specifically identified in the request for proposals. The following minimum factors, however, shall be weighted as deemed appropriate by the school district:

(A) Relevant experience.

(B) Safety record.

(C) Other factors identified in the request for proposal.

(b) To determine the best value contractor, the school district shall divide each bidder's price by its qualifications score. A preference of up to 5 percent shall be applied to the price of a bid submitted by a small business, as defined by the school district, before dividing the bidder's price by its qualification score. The lowest resulting cost per quality point will represent the best value bid. The award of the contract shall be made to the bidder whose bid is determined, by the school district in writing, to be the best value to the school district.

(c) The school district shall issue a written decision of its contract award or else reject all bids.

(d) Upon issuance of a contract award, the school district shall publicly announce its award identifying the project, the project price, the best value contractor to which the award is made, as well as the prices, qualification scores, and resulting costs per qualification point for all responsive bidders. The contract file shall include documentation sufficient to support the decision to award.

20119.5. (a) (1) A school district that uses the best value procurement method pursuant to this article shall submit to the appropriate policy and fiscal committees of the Legislature an interim and final report on the use of the best value procurement method. The reports shall be prepared by an independent third party and the school district shall pay for the cost of the report. The reports shall be submitted to the appropriate policy and fiscal committees of the Legislature as follows:

- (A) An interim report on or before July 1, 2018.
- (B) A final report on or before January 1, 2020.
- (2) A report shall include, but is not limited to, the following information:
  - (A) A description of the projects awarded using the best value procedures.
  - (B) The contract award amounts.
  - (C) The best value contractors awarded the projects.
  - (D) A description of any written protests concerning any aspect of the solicitation, bid, or award of the best value contracts, including the resolution of the protests.
  - (E) A description of the prequalification process.
  - (F) The criteria used to evaluate the bids, including the weighting of the criteria and an assessment of the effectiveness of the methodology.
  - (G) If a project awarded under this article has been completed, an assessment of the project performance, to include a summary of any delays or cost increases.

(b) The requirement for submitting a report imposed pursuant to subdivision (a) is inoperative on January 1, 2021, pursuant to Section 10231.5 of the Government Code.

20119.6. Except as otherwise provided in this article, the best value procurement method is not intended to change any guideline, criterion, procedure, or requirement of the governing board of the school district to let a contract for a project to the lowest responsible bidder or else reject all bids.

20119.7. This article shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the need to establish a pilot project for the Los Angeles Unified School District to determine the potential benefits and consequences of using best value procurement to facilitate infrastructure improvements and ease fiscal impacts.

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## SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** AB 1185  
**Author:** Ridley-Thomas  
**Version:** May 20, 2015  
**Urgency:** No  
**Consultant:** Kathleen Chavira  
**Hearing Date:** June 17, 2015  
**Fiscal:** No

**Subject:** Los Angeles Unified School District: best value procurement: pilot program

**NOTE:** This bill has been referred to the Committee on Education and the Committee on Appropriations. A "do pass" motion should include referral to the Committee on Appropriations.

### SUMMARY

This bill, establishes a pilot program to authorize the Los Angeles Unified School District (LAUSD) to use a best value procurement method, before December 31, 2020, for public projects that exceed \$1 million, and requires submission of specified reports on the use of this procurement method.

### BACKGROUND

Existing law requires the governing board of a school district, to competitively bid, and award to the lowest responsible bidder, any contract for a public project (as defined) involving an expenditure of \$15,000 or more. (Public Contract Code § 20111)

Existing law, until January 1, 2017 authorizes a pilot program at the University of California (UC) to award construction contracts on a "best value" basis, rather than just to the lowest bid. (Public Contract Code §10506.4)

Existing law defines "best value," for purposes of the UC, as a procurement process whereby the lowest responsible bidder may be selected on the basis of objective criteria with the resulting selection representing the best combination of price and qualifications. (Public Contract Code § 10506.5)

### ANALYSIS

This bill:

- 1) Authorizes the governing board of the Los Angeles Unified School District (LAUSD), before December 31, 2020, to use best value procurement for projects over \$1 million.
- 2) Generally outlines the definitions, policies, and procedures to be followed by the LAUSD consistent with current law provisions applicable to best value contracting by the UC (Public Contract Code, Chapter 2.1, Article 1.5, commencing with § 10506.4) and additionally requires that:

- a) Specified "skilled and trained workforce" requirements are met.
  - b) Specified proceeds retention and surety bond conditions are met.
  - c) Subcontracting fair practices are followed.
  - d) Los Angeles Unified School District (LAUSD) weigh, at minimum and as deemed appropriate, factors such as relevant experience, acceptable safety record and other factors identified in a request for proposal in determining qualification scores for each bid, and specifically assign preference of up to 5% to small businesses, as defined by the LAUSD.
- 3) Establishes the following additional definitions for purposes of the pilot:
- a) "Best value score" as the resulting score when the bidder's price is divided by the bidder's qualification score.
  - b) "Skilled journeyman" as a worker who either graduated from an applicable apprenticeship program which met specified state or federal approval requirements, or had at least as many hours of on-the-job experience in an applicable occupation as would be required for graduation from a state-approved apprenticeship program.
  - c) "Apprenticeable occupation" as an occupation for which the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations had approved an apprenticeship program before January 1, 2015.
  - d) "Skilled and trained workforce" as a workforce in which all the workers are skilled journeymen or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations and establishes the following phased-in implementation of the proportion of skilled journeymen and subcontractors at every tier, employed that must be approved apprenticeship program graduates to meet the condition of having a "skilled and trained workforce":
    - i) At least 30% by January 1, 2016.
    - ii) At least 40% by January 1, 2017.
    - iii) At least 50% by January 1, 2018.
    - iv) At least 60% by January 1, 2019.
    - v) At least 70% by January 1, 2020.
- 4) Provides that, for an apprenticeable occupation with no approved program prior to January 1, 1995, up to one-half of the apprenticeship program graduate percentage requirements may be met by skilled journeymen who commenced work in the occupation prior to the approval of an applicable apprentice program in the county of the project's location.
- 5) Prohibits the prequalification or shortlisting of a best value entity absent an enforceable commitment to use a skilled and trained workforce for all work on the project/contract as applicable and provides that this commitment may be established by:

- a) An agreement between the entity and the school district governing board to comply with these requirements and the provision of monthly evidence demonstrating such compliance during the performance of the project/contract.
  - b) A project labor agreement (PLA), entered into by the school district governing board, that includes these requirements and that binds all contractors/subcontractors working on the project/contract and agreement by the entity to become a party to the PLA.
  - c) Evidence that the entity has entered into a PLA that includes these requirements and that binds the entity and all its subcontractors at every tier performing the project/contract.
- 6) Establishes related reporting requirements. More specifically it:
- a) Requires the Los Angeles Unified School District (LAUSD) to submit an interim report and a final report, conducted by an independent third party, containing specified information on the use of best value to the Legislative Analyst's Office (LAO) by July 1, 2018, and January 1, 2020, respectively.
  - b) Requires the LAO to submit an interim report and a final report, on the use of best value, as specified, to the appropriate policy and fiscal committees of the Legislature by January 1, 2019, and July 1, 2020, respectively, to evaluate whether the best value procurement method should be continued, expanded, or prohibited.
- 7) Clarifies that the best value procurement method is not intended to change guideline, criterion, procedure, or requirement of the governing board to let a project contract to the lowest responsible bidder other than those specifically provided for in the bill's provisions.
- 8) Sunsets these provisions on January 1, 2021.

#### STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, this bill will empower LAUSD to consider qualifications other than just price. The current lowest bidder process restricts the ability of school districts to evaluate bidders on the basis of prior school construction experience, previous violations of health and safety laws, disqualification or removal from prior school construction jobs, and financial stability. This bill can ensure that the district can consider the bidder's experience or knowledge to navigate the school construction process when selecting a contractor, minimizing project delays and cost overruns.
- 2) ***Best Value Pilot Program.*** SB 667 (Migden), Chapter 367, Statutes of 2006, established a pilot program for the University of California (UC). Initially authorized for five years, the bill allowed the UC San Francisco to award contracts based on the best value for the university. Under this process, UC prequalifies bidders, then evaluates the bid based on answers to a separate best value questionnaire and

assigns a qualification score. UC then divides each bidder's price by its qualification score. The lowest resulting cost per quality point represents the best value bid.

In a report to the Legislature in January 2010, the University of California (UC) reported that 23 contracts totaling \$158.3 million were issued under the best value pilot program. Of the 23 contracts, 12 contracts were low bid contracts. According to the report, the "University Representatives for all these projects [four completed and two almost completed projects] have been unanimous in their praise of this process that has already demonstrated numerous advantages such as decreased bid protests and communication problems, decreased the need for multiple inspections and re-work, decreased disputes, change order requests, claims and litigation and increased incentives for contractors to perform their work safely and to adhere to high labor and quality standards." UC concludes that the best value pilot program fosters better quality work, less labor and safety problems, better qualified persons/contractors, better on-time completion, and better on-budget performance. In 2011, SB 835 (Wolk, Chapter 636, Statutes of 2011), expanded the authority to all UC campuses and extended the sunset from January 1, 2012, to January 1, 2017.

The provisions of this bill are generally based upon the pilot program authorized for the UC, but codify more prescriptive requirements around labor, contractors and subcontractors, and the weighting of certain factors in the evaluation of bids.

- 3) **Skilled workforce provisions.** The provisions of this bill relative to a skilled workforce are very similar to recently adopted provisions regarding the use of a design-build method for awarding public works contracts by state and local agencies (SB 785, Chapter 931, Statutes of 2014), as well as contracts for the construction, alteration, demolition, installation, repair, or maintenance work at petroleum refineries (SB 54, Chapter 795, Statutes of 2013). In addition, these provisions were a component of SB 566 (O'Donnell), which was heard and passed by this Committee on June 10, 2015, by a vote of 6-2.
- 4) **Fiscal implications.** To the extent this bill results in the awarding of contracts to other than the lowest bidder, contracting costs could increase. It is unclear whether the resultant savings from reduced change orders and delays would offset these costs. Staff notes that Legislative Counsel has identified this bill as non-fiscal. However, the Senate Rules Committee has referred the bill to the Senate Appropriations Committee, at their request. If it is the desire of the committee to move this bill, the bill should be referred to the Senate Appropriations Committee.
- 5) **Prior Legislation.** This bill is almost identical to AB 1971 (Bocanegra, 2014) which was heard and passed by this Committee in June 2014, by a vote of 4-1. AB 1971 was never acted upon on the Senate Floor.

## SUPPORT

Los Angeles Unified School District

## OPPOSITION

Air Conditioning Trade Association

Associated Builders and Contractors of California  
Associated Builders and Contractors – San Diego Chapter  
Plumbing-Heating-Cooling Contractors Association of California  
Western Electrical Contractors Association

**-- END --**

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**SENATE COMMITTEE ON APPROPRIATIONS**

**Senator Ricardo Lara, Chair  
2015 - 2016 Regular Session**

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**AB 1185 (Ridley-Thomas) - Los Angeles Unified School District: best value procurement: pilot program.**

**Version:** July 1, 2015

**Policy Vote:** ED. 6 - 2

**Urgency:** No

**Mandate:** No

**Hearing Date:** August 27, 2015

**Consultant:** Jillian Kisse

**\*\*\*\*\* ANALYSIS ADDENDUM – SUSPENSE FILE \*\*\*\*\***

**The following information is revised to reflect amendments  
adopted by the committee on August 27, 2015**

**Bill Summary:** This bill, an urgency measure, authorizes a pilot program for the Los Angeles Unified School District (LAUSD) to use best value procurement for projects over \$1 million.

**Fiscal Impact:**

- Unknown, but potentially significant savings at the district level to the extent that (1) the district elects to use a best value procurement method, and (2) that the method realizes savings that would surpass potential increases in costs from not choosing the lowest bidder. This bill is permissive, and would also allow LAUSD to continue to choose the lowest responsible bidder.

**Author Amendments:** Removes the Legislative Analyst's Office from the reporting requirement and shifts the responsibility to an independent third part paid for by LAUSD. Provides other technical changes.

**-- END --**