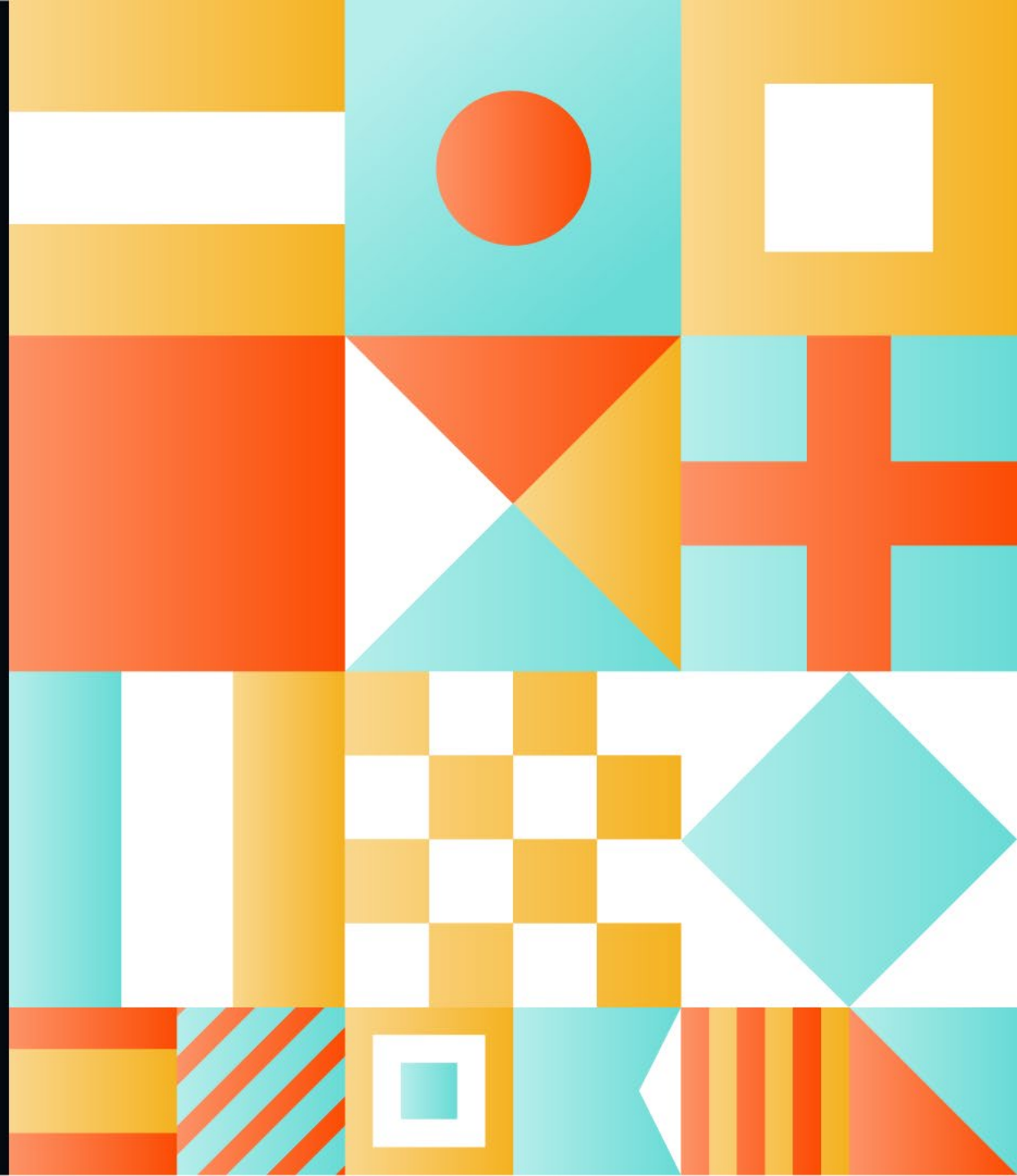
Legislative Update on Community College Facilities and Procurement

Rebekah Cearley

Community College Facility Coalition



Community College Facility Coalition

- ***Mission:*** Provide leadership in legislative advocacy and deliver critical information, education, and training on facilities issues for community college districts and their business partners to enhance student learning.

- ***Vision:*** Be the voice of and provide resources and education for professionals engaged in California's community college facilities.

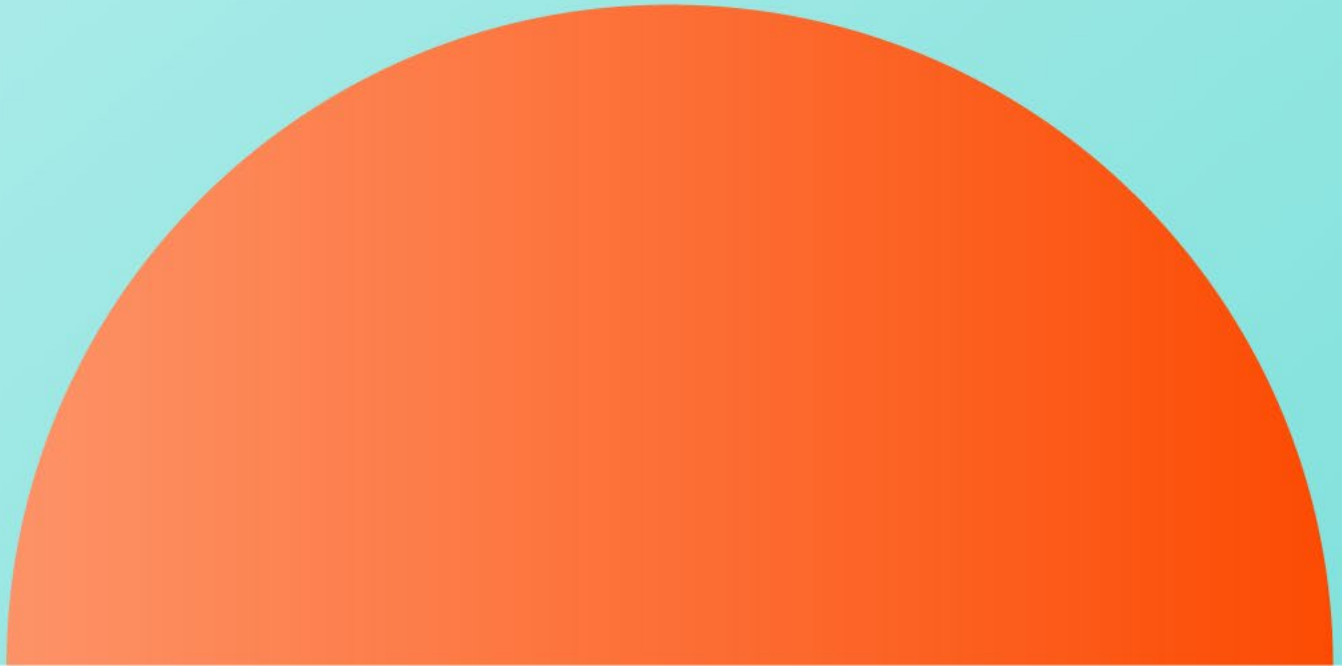
Presentation Overview

- Capital Outlay Funding and State Budget
- Facilities and Procurement Legislation/Policy Issues
  - Progressive Design-Build
  - Piggybacking Modular Buildings
  - AB 2232 (McCarty) – HVAC and CO2
- Student Housing
  - SB 169 Higher Education Student Housing Grant Program
  - Housing Legislation

Political Landscape

- How much money do we really have to spend?
  - Governor estimates $47.5 billion surplus – real amount TBD
  - SO much bacon to bring home … in an election year
- Legislature is focused on:
  - Successful *implementation* of newly-created programs
  - Targeted new investments, including infrastructure
- The Gann Limit is having its moment
  - Governor: $2.6 billion over SAL in 20-21 & 21-22
  - LAO: Likely higher at May Revision
- CCDs focused on meeting student basic needs during a pandemic (food, housing, financial aid, etc.) and retention/re-enrollment

Capital Outlay Funding & State Budget



State School Bond & Capital Outlay Funding Efforts

- Dual track effort for school facilities funding in 2022
- Two Nov. 2022 bond bills in the Legislature
  - AB 75 (O'Donnell) - $12 billion K-14
    - Split TBD
  - SB 22 (Glazer) - $15.5 billion K-University
    - $2 billion for CCDs
- General Fund appropriation for CCD facilities in FY 22-23?
  - Governor proposed $2.225 billion non-Prop 98 GF over two years ***for K-12*** – *bridge to a future bond*
  - Assembly - Budget Blueprint proposes $10 billion for school infrastructure
- **CCFC Advocacy**: requesting $3 billion (non-Prop 98 GF) - $332 million to fund 7 eligible CCD student housing projects and $2.6 billion for capital outlay program

Capital Outlay Funding - Status

- Prop 51 (2016) funding is almost entirely committed to new projects
  - Less than $100 million remains – likely exhausted in FY 22-23
- FY 21-22 = $581 million for CCC capital outlay
  - New projects: $8.2 million for 9 projects (preliminary plans and working drawings)
  - Continuing projects: $573.2 million for 32 projects (construction)
- FY 22-23 *Proposed* = $373 million for CCC capital outlay
  - All continuing projects
- Deferred Maintenance
  - FY 21-22 = $511 million
  - FY 22-23 *Proposed* = $387.6 million

FY 22-23 CCC Operational Budget

- CCC Roadmap = Builds upon existing Vision for Success
  - Goal of 70% postsecondary degree and certificate attainment among working-aged Californians by 2030
- Proposition 98 = Increase of $1.8 billion for CCC ($842 million ongoing and $983 million one-time)
- Apportionments
  - Increase of $409.4 million for a 5.33% COLA for Student Centered Funding Formula and categorical programs
  - $24.9 million for 0.5% enrollment growth
- Hold Harmless
  - 2021 Budget Act extended SCFF hold harmless provision by one year, through 2024-25
  - 2022-23 Governor's proposal extends hold harmless indefinitely, sets FY 24-25 as the new funding floor

FY 22-23 CCC Operational Budget, Continued

- Student Enrollment and Retention = $150 million
  - Administration expects CCDs will aim to offer at least 50% of lecture and lab courses in-person for 2022-23
- CCC Technology Modernization and Sensitive Data Protection = $100 million to address modernization of CC tech infrastructure
- Affordability = $100 million to support CC Student Success Completion Grant Program
- Pathways Grant Program for High-Skilled Careers = $20 million to incentivize public-private partnerships that prepare students in grades 9 to 14

Facilities and Procurement Legislation/Policy Issues

Progressive Design-Build

- What is it?
  - PDB uses a qualifications-based or best value selection, followed by a process whereby the owner progresses towards a contract price with the team
- Various efforts to clarify/provide legal authority for Progressive Design-Build
  - By agency or statewide authorization?
  - Schools have permissive Education Code
- CCD Design-Build authority – Education Code 81700 *et seq.*

Progressive Design-Build, Continued

- **AB 137** Budget Trailer Bill – **CHAPTERED** 2021
  - Authorizes Dept. of General Services to utilize PDB for three pilot projects
- **AB 902** (O'Donnell) [2021]
  - Creates "alternative design-build" process option (i.e. Progressive Design-Build)
  - Allows "open book" procurement for K-12 Design-Build projects
  - Amendments under negotiation – which districts/projects can use; declaratory of existing law protections
- **SB 1205** (Hertzberg) [2020] – **DEAD**
  - Stated intent to allow the use of PDB in the Public Contract Code governing counties and other local jurisdictions (did not apply to schools)

Piggybacking Modular Facilities

- Office of Public School Construction issued a report in February 2022 regarding prior guidance to K-12 districts to *avoid* the use of piggybacks for modular facilities on permanent foundations
  - Tied to K-12 state funding programs
- Referenced 2006 Attorney General's Opinion 05-405
  - AG: "A school district may not without advertising for bids, contract with another public agency to acquire factory-built modular building components for installation on a permanent foundation."
  - Opinion references Public Contract Code 20118 – *K-12 only, but language is almost identical to CCD authorization in PCC 20652*
- Why now?
  - Implementation of universal transitional kindergarten – est. 250,000 new students by 2025-26
  - $490 million [2021] for Preschool, Transitional Kindergarten, and Full-Day Kindergarten Facility Grant Program

AB 2232 (McCarty) – Ventilation and Air Quality

- Sponsored by Western States Sheet Metal Workers & California State Pipe Trades council
- Requires schools and CCDs to:
  - Conduct comprehensive HVAC inspections once every five years, consistent with ASHRAE standards
  - Install CO2 monitors in all classrooms
- Mandated contracting out of M&O work?
  - HVAC testing shall be performed by Certified TAB Technician or HVAC Acceptance Test Technician
  - If CO2 level is greater than 1100 ppm more than once per week – CO2 must be adjusted by a Certified TAB Technician
- Likely significant costs to an unfunded mandate
  - Purchase and installation of CO2 monitors
  - Integration with Emergency Management System

Student Housing

SB 169 Higher Education Student Housing Grant Program

- 2021 Budget committed $2 billion over three years to student housing projects at CCDs, UC, and CSU
  - FY 21-22: $500 million (half for CCDs)
  - FY 22-23 *Proposed:* $750 million
- Intent to provide 100% construction funding
- Focus on *affordable* student housing and *shovel-ready* projects
  - Affordability test and commitment for the life of the facility
- 2021 funding round process
  - Applications due to DOF Oct. 31, 2021
  - DOF released list of projects recommended for funding March 1, 2022
  - Legislature reviewing in FY 22-23 budget cycle; grant awards expected ~June 2022
  - What about 22-23?
- Public-Private Partnerships are permitted for CCDs only

SB 169 Program, Continued

- Round 1 is oversubscribed
  - DOF received 114 applications worth $3.2 billion
  - CCD applications:
    - 21 construction applications worth $1.2 billion
    - 71 planning applications worth $313 million
- DOF funding recommendations – CCDs
  - 1 intersegmental project – Imperial Valley College & San Diego State
  - 4 CCD construction projects worth $214 million
  - 75 CCD planning grants worth $18.1 million
- Eligible but not proposed for funding by DOF
  - 7 CCD construction projects worth $332 million
- How will the Legislature evaluate projects?
- **CCFC Advocacy**: fund *all* eligible CCD student housing projects
  - Use additional one-time non-Prop 98 funds for 7 additional projects

Student Housing – Outstanding Issues

- Affordable rent cap for the life of the facility
  - Risk transfers to college
- How to fund ongoing operations? M&O? Food service? Student support services?
- How to handle funding gaps and scope change?
- Time = money = increased rents to students
  - Regulatory hurdles increase design and construction timeline
- Chancellor's Office Funding Request for FY 22-23
  - Joint advocacy – fund all eligible projects
  - $50 million ongoing (non-Prop 98) for an affordable housing program
  - Establish clear criteria and standards for CCC student housing
- Where do we go from here for long-term funding?

AB 1602 (McCarty) – Revolving Loan Fund

- Creates Revolving Loan Fund for higher education student and workforce housing (UC, CSU, CCDs)
- Proposes $5 billion initial investment
  - Zero-interest loans
- State Treasurer's Office to administer the program
- Issues with ownership/lack of authority to use P3s?
- Building Trades opposed unless amended to add skilled workforce requirements

AB 1764 (Medina) – DSA Exemption

- Exempts CCC student housing projects from Field Act and DSA review
  - Would presumably require review by local jurisdiction
- Intended to save time (and therefore money) by streamlining project approvals
- Requires CCC, UC, and CSU to collect data on student housing insecurity and prepare a report
- Concerns:
  - DSA would still have jurisdiction over access compliance, leading to some duplicative review and multiple agencies
  - Some local jurisdictions would be challenging
  - CCFC requesting clarification that DSA is still an option

SB 886 (Wiener) – CEQA Exemption

- Provides statutory CEQA exemption for UC, CSU, and CCC housing projects in specified circumstances
- To qualify, projects must:
  - Be on a UC, CSU, or CCC campus
  - Pay prevailing wage and use a skilled and trained workforce
  - Not utilize land demarcated as farmland, wetlands, high fire hazard zones, or other specified land uses
- P3 complications – ownership issue

Thank you

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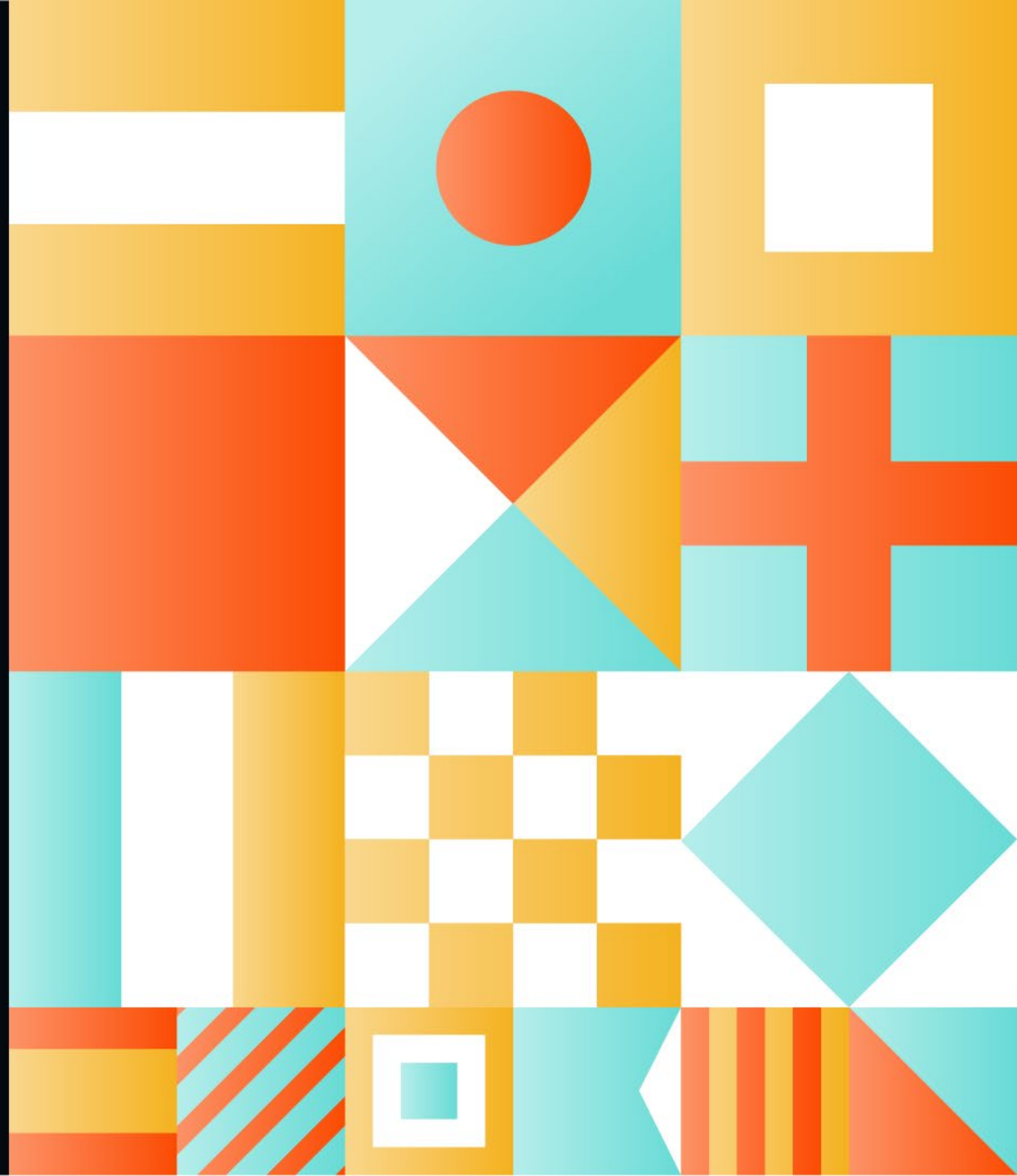
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