

Senate Bill No. 490

CHAPTER 366

An act to amend Section 6516.6 of the Government Code, and to add Section 97.69 to the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor September 20, 2006. Filed with Secretary of State September 20, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 490, Lowenthal. Local government finance.

Existing law authorizes school entities, among others, to sell, assign, pledge, or otherwise transfer to a joint powers authority their right, title, and interest in and to the enforcement and collection of delinquent and uncollected property taxes, assessments, and other receivables that have been levied by or on behalf of the school entity for collection on the secured, unsecured, or supplemental property tax rolls.

Existing law requires, for each fiscal year, that each city, county, and city and county receive a portion of the countywide vehicle license fee adjustment amount, as defined, from a Vehicle License Fee Property Tax Compensation Fund (VLFPTCF) established in the treasury of each county to receive amounts from a county Educational Revenue Augmentation Fund (ERAF). Existing law also requires, for each fiscal year during the fiscal adjustment period, as defined, that each city, county, and city and county receive a portion of the countywide adjustment amount, as defined, from a Sales and Use Tax Compensation Fund (SUTCF) established in the treasury of each county to also receive amounts from a county ERAF.

This bill would, on and after January 1, 2007, prohibit an ERAF from transferring, and a joint powers authority from obtaining, delinquent and uncollected receivables from a county ERAF, as specified. This bill would also prohibit the auditor of a county from allocating to the VLFPTCF and SUTCF delinquent and uncollected property tax revenues on the secured roll that have been pledged or contractually obligated to debt service repayment, as specified. This bill would also require county auditors to proportionally increase the amount of the ad valorem property tax reduction for school entities in the county to ensure that the total amount of the countywide vehicle license fee adjustment amount and the countywide adjustment amount is not reduced, as specified.

By changing the manner in which ad valorem property tax revenues are allocated in a county, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 6516.6 of the Government Code is amended to read:

6516.6. (a) Notwithstanding any other provision of law, a joint powers agency established pursuant to a joint powers agreement in accordance with this chapter may issue bonds pursuant to Article 2 (commencing with Section 6540) or Article 4 (commencing with Section 6584), in order to purchase obligations of local agencies or make loans to local agencies, which moneys the local agencies are hereby authorized to borrow, to finance the local agencies' unfunded actuarial pension liability or to purchase, or to make loans to finance the purchase of, delinquent assessments or taxes levied on the secured roll by the local agencies, the county, or any other political subdivision of the state. Notwithstanding any other provision of law, including Section 53854, the local agency obligations or loans, if any, shall be repaid in the time, manner and amounts, with interest, security, and other terms as agreed to by the local agency and the joint powers authority.

(b) Notwithstanding any other provision of law, a joint powers authority established pursuant to a joint powers agreement in accordance with this chapter may issue bonds pursuant to Article 2 (commencing with Section 6540) or Article 4 (commencing with Section 6584), in order to purchase or acquire, by sale, assignment, pledge, or other transfer, any or all right, title, and interest of any local agency in and to the enforcement and collection of delinquent and uncollected property taxes, assessments, and other receivables that have been levied by or on behalf of the local agency and placed for collection on the secured, unsecured, or supplemental property tax rolls. Local agencies, including, cities, counties, cities and counties, school districts, redevelopment agencies, and all other special districts that are authorized by law to levy property taxes on the county tax rolls, are hereby authorized to sell, assign, pledge, or otherwise transfer to a joint powers authority any or all of their right, title, and interest in and to the enforcement and collection of delinquent and uncollected property taxes, assessments, and other receivables that have been levied by or on behalf of the local agency for collection on the secured, unsecured, or supplemental property tax rolls in accordance with the terms and conditions that may be set forth in an agreement with a joint powers authority.

(c) Notwithstanding Division 1 (commencing with Section 50) of the Revenue and Taxation Code, upon any transfer authorized in subdivision (b), the following shall apply:

(1) A local agency shall be entitled to timely payment of all delinquent taxes, assessments, and other receivables collected on its behalf on the secured, unsecured, and supplemental tax rolls, along with all penalties, interest, costs, and other charges thereon, no later than 30 calendar days after the close of the preceding monthly or four-week accounting period during which the delinquencies were paid by or on account of any property owner.

(2) Upon its receipt of the delinquent taxes, assessments, and receivables that it had agreed to be transferred, a local agency shall pay those amounts, along with all applicable penalties, interest, costs, and other charges, to the joint powers authority in accordance with the terms and conditions that may be agreed to by the local agency and the joint powers authority.

(3) The joint powers authority shall be entitled to assert all right, title, and interest of the local agency in the enforcement and collection of the delinquent taxes, assessments, and receivables, including without limitation, its lien priority, its right to receive the proceeds of delinquent taxes, assessments, and receivables, and its right to receive all penalties, interest, administrative costs, and any other charges, including attorney fees and costs, if otherwise authorized by law to be collected by the local agency.

(4) (A) For any school district that participates in a joint powers authority using financing authorized by this section and that does not participate in the alternative method of distribution of tax levies under Chapter 3 of Division 1 of Part 8 of the Revenue and Taxation Code, the amount of property tax receipts to be reported in a fiscal year for the district under subdivision (f) of Section 75.70 of the Revenue and Taxation Code, or any other similar law requiring reporting of school district property tax receipts, shall be equal to 100 percent of the school district's allocable share of the taxes distributed to it for the then fiscal year, plus 100 percent of the school district's share of any delinquent secured and supplemental property taxes assigned from that year and 100 percent of its share of any delinquent secured and supplemental property taxes from any prior years which the school district has assigned to a joint powers authority in that fiscal year, as such delinquent taxes are shown on the delinquent tax roll prescribed by Section 2627 of the Revenue and Taxation Code, on an abstract list if one is kept pursuant to Chapter 4 (commencing with Section 4372) of Part 7 of Division 1 of the Revenue and Taxation Code, or other records maintained by the county, plus all other delinquent taxes that the school district has not assigned to a joint powers authority which are collected and distributed to the school district as otherwise provided by law, less any reduction amount required by subparagraph (B). One hundred percent of the school district's allocable share of the delinquent taxes assigned for the current fiscal year, and 100

percent of the school district's allocable share of the delinquent taxes assigned for all years prior thereto, as shown on the delinquent roll, abstract list, or other records maintained by the county, whether or not those delinquent taxes are ever collected, shall be paid by the joint powers authority to the county auditor and shall be distributed to the school district by the county auditor in the same time and manner otherwise specified for the distribution of tax revenues generally to school districts pursuant to current law. Any additional amounts shall not be so reported and may be provided directly to a school district by a joint powers authority.

(B) When a joint powers authority finances delinquent taxes for a school district pursuant to this section, and continuing as long as adjustments are made to the delinquent taxes previously assigned to a joint powers authority, the school district's tax receipts to be reported as set forth in subparagraph (A) shall be reduced by the amount of any adjustments made to the school district's allocable share of taxes shown on the applicable delinquent tax roll, abstract list, if one is kept, or other records maintained by the county, occurring for any reason whatsoever other than redemption, which reduce the amount of the delinquent taxes assigned to the joint powers authority.

(C) A joint powers authority financing delinquent school district taxes and related penalties pursuant to this subdivision shall be solely responsible for, and shall pay directly to the county, all reasonable and identifiable administrative costs and expenses of the county which are incurred as a direct result of the compliance of the county tax collector or county auditor, or both, with any new or additional administrative procedures required for the county to comply with this subdivision. Where reasonably possible, the county shall provide a joint powers authority with an estimate of the amount of and basis for any additional administrative costs and expenses within a reasonable time after written request for an estimate.

(D) In no event shall the state be responsible or liable for a joint powers authority's failure to actually pay the amounts required by subparagraphs (A) and (B), nor shall a failure constitute a basis for a claim against the state by a school district, county, or joint powers authority.

(E) The phrase "school district," as used in this section, includes all school districts of every kind or class, including, without limitation, community college districts and county superintendents of school.

(d) The powers conferred by this section upon joint powers authorities and local agencies shall be complete, additional, and cumulative to all other powers conferred upon them by law. Except as otherwise required by this section, the agreements authorized by this section need not comply with the requirements of any other laws applicable to the same subject matter.

(e) An action to determine the validity of any bonds issued, any joint powers agreements entered into, any related agreements, including, without limitation, any bond indenture or any agreements relating to the

sale, assignment, or pledge entered into by a joint powers authority or a local agency, the priority of any lien transferred in accordance with this section, and the respective rights and obligations of any joint powers authority and any party with whom the joint powers authority may contract pursuant to this chapter, may be brought by the joint powers authority pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. Any appeal from a judgment in the action shall be commenced within 30 days after entry of judgment.

(f) This section shall not be construed to affect the manner in which an agency participates in or withdraws from the alternative distribution method established by Chapter 3 (commencing with Section 4701) of Part 8 of Division 1 of the Revenue and Taxation Code.

(g) Notwithstanding any other law, on and after January 1, 2007, a joint powers authority shall not purchase or acquire, and an Educational Revenue Augmentation Fund shall not sell, assign, pledge, or otherwise transfer to a joint powers authority, the right, title, or interest of an Educational Revenue Augmentation Fund in the enforcement and collection of delinquent and uncollected property tax revenues, assessments, or other receivables placed for collection on the secured, unsecured, or supplemental rolls.

SEC. 2. Section 97.69 is added to the Revenue and Taxation Code, to read:

97.69. (a) Notwithstanding any other law, in allocating ad valorem property tax revenues to a Sales and Use Tax Compensation Fund under Section 97.68 or a Vehicle License Fee Property Tax Compensation Fund under Section 97.70, the auditor shall not allocate to those funds the revenues from delinquent and uncollected property taxes on the secured roll that have been pledged or contractually obligated to debt service repayment under Section 6516.6 of the Government Code.

(b) In implementing subdivision (a), the auditor shall proportionally increase, using nondelinquent ad valorem property tax revenues, the total amount of the ad valorem property tax revenue reduction, otherwise required by Sections 97.68 and 97.70, for all school entities in the county that have pledged or contractually obligated to debt service repayment revenues from delinquent and uncollected property taxes on the secured roll, by an amount equal to the total amount excluded under subdivision (a) to ensure that there is no reduction in the total amount of the countywide adjustment amount, as defined in Section 97.68, or the total amount of the countywide vehicle license fee adjustment amount, as defined in Section 97.70, for any fiscal year.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.