

AMENDED IN ASSEMBLY MARCH 27, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 155

Introduced by Assembly Member Mendoza
(Principal coauthor: Assembly Member Torrico)
(Coauthors: Assembly Members Brownley, Coto, De Leon, Fuentes,
Furutani, Ma, Nava, John A. Perez, V. Manuel Perez, and
Yamada)

(Coauthor: Senator Wiggins)

January 26, 2009

An act to amend Section 53760 of, *and to add Section 8860 to*, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 155, as amended, Mendoza. Local government: bankruptcy proceedings.

Under existing law, any taxing agency or instrumentality of the state may file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States.

This bill would provide that a local public entity may only file under federal bankruptcy law with the approval of the ~~Local Agency Bankruptcy Committee that would consist of the Controller, the Treasurer, and the Director of Finance~~, *California Debt and Investment Advisory Commission*, as specified.

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

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

1 *SECTION 1. The Legislature hereby finds and declares all of*
2 *the following:*

3 *(a) California is one of only 12 states that grants blanket*
4 *authority for its municipalities to petition for bankruptcy and offers*
5 *no opportunity for its municipalities to receive state-level,*
6 *prebankruptcy guidance, oversight, or assistance for those*
7 *jurisdictions that are truly insolvent and face no other alternative*
8 *to bankruptcy.*

9 *(b) The costs of municipal financial default are borne by the*
10 *state as a whole, including every California taxpayer.*

11 *(c) State intervention in local affairs should only occur in*
12 *exceptional circumstances and not without a compelling interest*
13 *of statewide concern.*

14 *(d) Given the connection between state allocations and local*
15 *budgets, the state has a role in mitigating possible local*
16 *bankruptcy.*

17 *(e) It is the duty of all state and local elected officials to ensure*
18 *that governments provide essential services to the communities*
19 *they are elected to serve.*

20 *(f) California's taxpayers who rely on public safety, senior,*
21 *park, and library services, as well as those who own and operate*
22 *businesses in our communities deserve every effort that state and*
23 *local government can make to avoid the long-term devastation of*
24 *bankruptcy.*

25 *(g) The California Debt and Investment Advisory Commission,*
26 *as established by the Legislature in 1981, is the appropriate body*
27 *to provide the expert oversight and guidance sought by local public*
28 *agencies who find themselves in a fiscal crisis, given its current*
29 *statutory duties to collect municipal finance data, conduct research,*
30 *administer educational seminars, and provide information and*
31 *technical assistance on behalf of local public agencies and their*
32 *finance professionals, and given the commission's diverse*
33 *membership that includes state and local government financial*
34 *experts.*

35 *SEC. 2. Section 8860 is added to the Government Code, to*
36 *read:*

37 *8860. (a) The commission shall, upon request of a local public*
38 *agency, advise and, if deemed appropriate by the commission,*

1 grant approval to the agency to exercise its rights pursuant to
2 Section 53760, which may include conditions prescribed by the
3 commission.

4 (b) Upon request under subdivision (a), the local public agency
5 shall submit all of the following to the commission:

6 (1) A proposed plan for restructuring debt and other financial
7 obligations to avoid a fiscal crisis.

8 (2) An itemization of creditors that may be impaired or may
9 seek damages as a result of the proposed restructuring.

10 (3) Any and all supporting documentation that the local public
11 entity deems appropriate in support of the stated fiscal crisis or
12 as requested by the commission, that may be required to perform
13 a desk audit.

14 (c) Upon receipt of the information required by subdivision (b),
15 the commission shall do all that it deems necessary to evaluate
16 the fiscal condition of the local public agency, including, but not
17 limited to, reviewing the submission and recommending specific
18 action to be taken by the public agency to avert fiscal insolvency.

19 (d) Any recommendations released, or approvals granted, by
20 the commission shall be conducted in a noticed public hearing.

21 (e) As used in this section, "local public entity" means any city,
22 county, city and county, district public authority, public agency,
23 or other entity that is a "municipality" within the meaning of
24 paragraph (40) of Section 101 of Title 11 of the United States
25 Code, or that qualifies as a debtor under any federal bankruptcy
26 law applicable to local public entities.

27 **SECTION 1.**

28 SEC. 3. Section 53760 of the Government Code is amended
29 to read:

30 53760. (a) Except as otherwise provided by statute, a local
31 public entity in this state may, with the approval of the ~~Local~~
32 ~~Agency Bankruptcy Committee California Debt and Investment~~
33 ~~Advisory Commission~~, under the terms and conditions that the
34 ~~committee may impose~~, commission may impose pursuant to
35 Section 8860, file a petition and exercise powers pursuant to
36 applicable federal bankruptcy law.

37 (b) As used in this section, "local public entity" means any
38 county, city, district, public authority, public agency, or other
39 entity, without limitation, that is a "municipality," as defined in
40 paragraph (40) of Section 101 of Title 11 of the United States Code

- 1 (bankruptcy), or that qualifies as a debtor under any other federal
- 2 bankruptcy law applicable to local public entities.
- 3 ~~(e) The Local Agency Bankruptcy Committee is comprised of~~
- 4 ~~the Controller, the Director of Finance, and the Treasurer.~~

O