AMENDED IN SENATE MARCH 19, 2009

SENATE BILL No. 116

Introduced by Senator Calderon

January 29, 2009

An act to amend Sections 16430, ~~17201,~~ 17211, 17212, 17222, 17240, 17243, 17244, 17245, 17253, 17271, 17275~~, 17276, and 17280~~ *and 17276* of the Government Code, relating to public finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 116, as amended, Calderon. State warrants.

(1) Existing law specifies the types of securities that are eligible for the investment of surplus state funds.

This bill would include warrants as a type of securities that is eligible for the investment of surplus state funds.

~~(2) Existing law authorizes the California Victim Compensation and Government Claims Board to make rules and regulations governing the issuance and sale of registered warrants.~~

~~This bill instead would authorize the Controller to adopt, amend, and repeal rules and regulations governing the issuance, sale, and payment of registered warrants, reimbursement warrants, and refunding warrants and to implement emergency regulations, as specified.~~

~~(3)~~

(2) Existing law sets forth the procedures for the sale and payment of registered warrants, reimbursement warrants, and registered reimbursement warrants, including the manner in which interest is fixed for the warrants.

This bill would modify the procedures for the sale of, applicable interest rates for, and payment of interest for registered warrants, reimbursement warrants, and registered reimbursement warrants in specified circumstances.

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

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

SECTION 1. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be any of the following:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds, warrants, and notes of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the state, municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under that act, obligations of the Federal Home Loan Mortgage Corporation, in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended, and bonds, notes, and other obligations guaranteed by the Commodity Credit Corporation for the export of California agricultural products under the Commodity Credit Corporation Charter Act as amended.

(f) (1) Commercial paper of "prime" quality as defined by a nationally recognized organization that rates these securities. Eligible paper is further limited to issuing corporations, trusts, or limited liability companies approved by the Pooled Money Investment Board that meet the conditions in either subparagraph (A) or subparagraph (B):

(A) Both of the following:

(i) Organized and operating within the United States.

(ii) Having total assets in excess of five hundred million dollars ($500,000,000).

(B) Both of the following:

(i) Organized within the United States as a special purpose corporation, trust, or limited liability company.

(ii) Having programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond.

(2) Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, trust, or limited liability company, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, this investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a federally or state-chartered bank or savings and loan association, a state-licensed branch of a foreign bank, or a federally or state-chartered credit union. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600).

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Bank loans and obligations guaranteed by the Export-Import Bank of the United States.

(k) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1001 and following) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. Sec. 1087-2).

(*l*) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank of Puerto Rico.

(m) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service.

~~SEC. 2. Section 17201 of the Government Code is amended to read:~~

~~17201. The Controller may adopt, amend, and repeal rules and regulations governing the issuance, sale, and payment of registered warrants, reimbursement warrants, and refunding warrants and to otherwise implement the purposes of this chapter as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). Notwithstanding subdivision (e) of Section 11346.1, for the purposes of the Administrative Procedure Act, including Section 11349.6, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, any regulation adopted pursuant to this section shall not remain in effect more than 180 days unless the Controller complies with the rulemaking provisions of the Administrative Procedure Act.~~

~~SEC. 3.~~

SEC. 2. Section 17211 of the Government Code is amended to read:

17211. Registered warrants described in subdivisions (b) and (c) of Section 17212 issued in connection with any credit enhancement or liquidity agreement (including in the form of a letter of credit, standby purchase agreement, liquidity facility, or other similar arrangement) entered into by the state to secure or support any reimbursement warrants or refunding warrants issued pursuant to this chapter shall be based upon the same claims, and shall have the same priority as to payment from unapplied money in the General Fund, as the reimbursement warrants or refunding warrants paid with funds disbursed under or in connection with the credit enhancement or liquidity agreement. These warrants shall be issued and registered in the amounts requested by the provider of the credit enhancement or liquidity agreement.

~~SEC. 4.~~

SEC. 3. Section 17212 of the Government Code is amended to read:

17212. (a) Notwithstanding Section 17222, if at any time it is necessary to register warrants pursuant to this chapter for the payment of principal of or interest on notes issued pursuant to Section 17302, the warrants shall bear interest at either the fixed or variable interest rate specified in the notes as the interest rate for that warrant or, if no rate is set forth, the fixed or variable interest rate borne by the notes. In both cases, the interest rate on those warrants shall not exceed 12 percent per annum.

(b) Notwithstanding Section 17222, if at any time it is necessary to register warrants pursuant to this chapter for the payment of any obligations of the state under any credit enhancement or liquidity agreement, including in the form of a letter of credit, standby purchase agreement, reimbursement agreement, liquidity facility, or other similar arrangement, authorized pursuant to Section 5922, the warrants shall bear interest at the fixed or variable rate specified in the credit enhancement or liquidity agreement as the interest rate for those warrants. Those registered warrants may provide for periodic payment of interest thereon prior to redemption.

(c) Notwithstanding Section 17222, if at any time it is necessary to register warrants pursuant to this chapter for the payment of any periodic interest payment on registered warrants described in subdivision (b), the warrants shall bear interest at the fixed or variable rate specified in the credit enhancement or liquidity agreement as the interest rate for those warrants and shall be payable only upon redemption of the warrants.

(d) Notwithstanding subdivisions (b) and (c), in no case shall the total sum of interest payments under the credit enhancement or liquidity agreement and on any warrants described in subdivisions (b) and (c) exceed the amount of the appropriation pursuant to law for the payment of interest under the credit enhancement or liquidity agreement.

~~SEC. 5.~~

SEC. 4. Section 17222 of the Government Code is amended to read:

17222. By a majority vote, the committee shall fix the rate of interest paid on registered warrants at not more than 5 percent per annum, except, if the committee determines that it is in the best interests of the state to do so, the committee may fix the rate of interest paid on any registered warrants at no more than 12 percent per annum.

~~SEC. 6.~~

SEC. 5. Section 17240 of the Government Code is amended to read:

17240. As used in this chapter:

(a) "Reimbursement warrants" refers to warrants drawn by the Controller on the General Fund pursuant to this article to reimburse the General Cash Revolving Fund for demands against the General Fund for which warrants were drawn against the General Cash Revolving Fund.

(b) "Refunding warrants" refers to warrants drawn by the Controller on the General Fund pursuant to this article to provide funds for the payment of reimbursement warrants bearing a fixed maturity date or warrants issued pursuant to Section 17211.

~~SEC. 7.~~

SEC. 6. Section 17243 of the Government Code is amended to read:

17243. The Controller may fix a maturity date for reimbursement warrants, and indorse upon each warrant, the date upon which the principal amount of the warrant will be paid and redeemed. The Controller may fix periodic payment dates for interest on reimbursement warrants or provide that interest on reimbursement warrants be paid only upon redemption, provided that interest on registered reimbursement warrants for which the committee has not fixed a maximum rate of interest pursuant to Section 17244 shall be paid only upon redemption of the registered reimbursement warrant.

~~SEC. 8.~~

SEC. 7. Section 17244 of the Government Code is amended to read:

17244. (a) Notwithstanding any other provision of law, in lieu of prescribing a precise interest rate on registered reimbursement warrants, the committee may fix a maximum rate of interest for the warrants, not to exceed 12 percent per annum for either fixed or variable interest rate warrants, and prescribe that the interest rate on the warrants, not in excess of that maximum, shall be either of the following:

(1) Fixed in accordance with the best bids for the warrants if the warrants are sold at public sale.

(2) Fixed or variable on the terms and conditions the Controller shall approve at the time of sale of the warrants if the warrants are sold in negotiated sales.

(b) Different rates of interest for any reimbursement warrants may be so fixed or established by the Controller.

~~SEC. 9.~~

SEC. 8. Section 17245 of the Government Code is amended to read:

17245. Registered reimbursement warrants shall be sold by the Controller at public sale to the best bidders or in negotiated sales on the terms and conditions the Controller shall approve, but at no less than face value of the registered reimbursement warrants offered.

~~SEC. 10.~~

SEC. 9. Section 17253 of the Government Code is amended to read:

17253. The proceeds of the sale of any registered reimbursement warrant shall be deposited in the State treasury; an amount equal to its face value shall be credited to the General Cash Revolving Fund; and any premium received shall be deposited in the General Fund and used ~~to~~ *for* the payment of interest on the registered reimbursement warrants.

~~SEC. 11.~~

SEC. 10. Section 17271 of the Government Code is amended to read:

17271. (a) A registered warrant that bears a maturity date shall be paid by the Treasurer upon that date out of any unapplied money in the General Fund on the due date, available therefor.

(b) Notwithstanding subdivision (a), accrued interest on a registered reimbursement warrant shall be paid by the Treasurer on each payment date established pursuant to Section 17243 out of any unapplied money in the General Fund available therefor on the payment date.

(c) Notwithstanding subdivision (a), a registered reimbursement warrant may provide that it may be redeemed at the option of the Controller prior to the maturity date of the warrant at a redemption price not to exceed 110 percent of the principal amount of the warrant plus accrued interest. The optional redemption price shall be paid by the Treasurer out of any unapplied money in the General Fund available therefor on the optional redemption date.

~~SEC. 12.~~

SEC. 11. Section 17275 of the Government Code is amended to read:

17275. Any interest paid on any registered warrant shall accrue to the person holding the warrant on the date of redemption, except a registered reimbursement warrant may provide otherwise. A registered warrant ceases to bear interest on the first of the following dates:

(a) The maturity date indorsed on its face, if any, if on that date unapplied money or the proceeds of refunding warrants are available for its payment.

(b) The date of redemption, so long as the date is at least three days following the first day of published notice pursuant to Section 17273.

(c) The date specified in subdivision (b) of Section 17280.1.

~~SEC. 13.~~

SEC. 12. Section 17276 of the Government Code is amended to read:

17276. (a) If on the maturity date indorsed on a registered reimbursement warrant, there is no money available for its payment, either from unapplied money, or from the proceeds of refunding warrants the registered reimbursement warrant shall continue to bear interest on the principal amount of the warrant and shall become payable in the same manner as registered warrants not bearing maturity dates.

(b) Notwithstanding Section 17222, if at any time it is necessary to register warrants pursuant to this chapter for the payment of any interest payment on a registered reimbursement warrant, those warrants shall bear interest at the fixed or variable rate determined by the Controller and as specified in the registered reimbursement warrant as the interest rate for those warrants. Interest on those warrants shall be payable only upon redemption of the warrants.

(c) Notwithstanding subdivision (b), in no case shall the total sum of interest payments on the registered reimbursement warrant and the warrants registered for the payment of any interest payment on that registered reimbursement warrant exceed an amount equal to the interest that could have accrued on the registered reimbursement warrant at the maximum interest rate that could have been fixed by the committee thereon pursuant to subdivision (a) of Section 17244.

~~SEC. 14. Section 17280 of the Government Code is amended to read:~~

~~17280. If at any time it is necessary to register warrants for the payment of principal and interest on state general obligation bonds or other general obligation debt instruments, warrants so registered have a prior lien in the order of their issuance on any money thereafter received into the General Fund, and shall be paid before any other warrants regardless of the prior issuance of the latter.~~

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