

Introduced by Committee on Environmental Quality (Senators Simitian (Chair), Corbett, Hancock, Lowenthal, Pavley, Runner, and Strickland)

March 1, 2010

An act to amend Sections 44508, 44542, 44543, and 44553 of the Health and Safety Code, relating to the California Pollution Control Financing Authority, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1477, as introduced, Committee on Environmental Quality. California Pollution Control Financing Authority.

The California Pollution Control Financing Authority Act establishes the California Pollution Control Financing Authority, with specified powers and duties, and authorizes the authority to approve financing for projects or pollution control facilities to prevent or reduce environmental pollution.

This bill would make various changes to the financial and administrative provisions of the act, including changes to the definitions of "project," and "pollution control facility."

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 44508 of the Health and Safety Code is
- 2 amended to read:

1 44508. “Project” and “pollution control facility,” respectively,
2 mean any land, building, *structure*, improvement thereto, work,
3 real or personal property ~~or structure~~, vehicle, or equipment
4 providing or designed to provide for the control, reduction,
5 abatement, elimination, remediation, or prevention of pollution,
6 improvement of air, water, or soil quality, ensure the safe handling,
7 recycling, or disposal of materials that might otherwise be
8 improperly disposed of, or provide for environmental restoration,
9 cleanup, or enhancement. Eligible projects include, but are not
10 limited to, any type of project described in this section that is
11 authorized pursuant to federal law for tax-exempt or tax credit
12 financing ~~including in~~. *Eligible projects may also include any*
13 *facility described in* Section 142(a)(4), (5), (6), (8), (9), (10), (12),
14 or (14) of Title 26 of the United States Code.

15 SEC. 2. Section 44542 of the Health and Safety Code is
16 amended to read:

17 44542. (a) (1) The authority is authorized from time to time
18 to issue its negotiable bonds, notes, debentures, or other securities
19 (hereinafter collectively called “bonds”) for any corporate purpose.
20 These bonds may be authorized, without limiting the generality
21 of the foregoing, to finance a single project for a single
22 participating party, a series of projects for a single participating
23 party, a single project for several participating parties, or several
24 projects for several participating parties.

25 (2) In anticipation of the sale of the bonds as authorized by
26 Section 44540, or as may be authorized pursuant to Section 44541,
27 the authority may issue negotiable bond anticipation notes and
28 may renew the same from time to time. These bond anticipation
29 notes may be paid from the proceeds of sale of the bonds of the
30 authority in anticipation of which they were issued. Notes and
31 agreements relating thereto and bond anticipation notes, hereinafter
32 collectively called notes, and the resolution or resolutions
33 authorizing the same may contain any provisions, conditions, or
34 limitations that a bond, agreement relating thereto, and bond
35 resolution of the authority may contain, except that the note or
36 renewal thereof shall mature at a time not exceeding three years
37 from the date of issue of the original note.

38 (b) Except as may otherwise be expressly provided by the
39 authority, every issue of its bonds, notes, or other obligation shall
40 be general obligations of the authority payable from any revenues

1 or moneys of the authority available therefor and not otherwise
2 pledged, subject only to any agreements with the holders of
3 particular bonds, notes, or other obligations pledging any particular
4 revenues or moneys and subject to any agreements with any
5 participating party. Notwithstanding that bonds, notes, or other
6 obligations may be payable from a special fund, they shall be and
7 be deemed to be for all purposes negotiable instruments, subject
8 only to the provisions of the bonds, notes, or other obligations for
9 registration.

10 (c) The bonds may be issued as serial bonds or as term bonds,
11 or the authority in its discretion, may issue bonds of both types.
12 The bonds shall be authorized by resolution of the authority and
13 shall bear the date or dates, mature at the time or times, not
14 exceeding 50 years from their respective dates, bear interest at the
15 fixed rate or rates, or at the variable rates, including multiple
16 methods of setting rates from time to time while the bonds are
17 outstanding, be payable at the time or times, be in the
18 denominations, be executed in the manner, be payable in lawful
19 money of the United States of America at the place or places, and
20 be subject to the terms of redemption or tender, as resolution or
21 resolutions may provide. The bonds or notes shall be sold by the
22 Treasurer as agent for sale. The bond or notes may be sold at a
23 public or private sale, and for the price or prices and on terms and
24 conditions, as the authority shall determine after giving due
25 consideration to the recommendations of any participating party
26 to be assisted from the proceeds of the bonds or notes. Pending
27 preparation of the definitive bonds, the Treasurer may issue interim
28 receipts, certificates, or temporary bonds which shall be exchanged
29 for definitive bonds. The Treasurer may sell any bonds, notes, or
30 other evidence of indebtedness at a price below the par value
31 thereof.

32 (d) Any resolution or resolutions authorizing any bonds or any
33 issue of bonds may contain provisions, which shall be a part of
34 the contract with the holders of the bonds or any *provider of credit*
35 ~~provider~~ *enhancement* to be authorized, as to all of the following:

36 (1) Pledging the full faith and credit of the authority or pledging
37 all or any part of the revenues of any project or any
38 revenue-producing contract or contracts made by the authority
39 with any individual, partnership, corporation, or association or
40 other body, public or private, or other moneys of the authority, to

1 secure the payment of the bonds or of any particular issue of bonds,
2 subject to agreements with bondholders or any *providers of credit*
3 ~~providers~~ *enhancement* as may then exist.

4 (2) The rentals, fees, purchase payments, loan payments, and
5 other charges to be charged, and the amounts to be raised in each
6 year thereby, and the use and disposition of the revenues.

7 (3) The setting aside of reserves or sinking funds, and the
8 regulation and disposition thereof.

9 (4) Limitations on the right of the authority or its agent to restrict
10 and regulate the use of the project or projects to be financed out
11 of the proceeds of the bonds or any particular issue of bonds.

12 (5) Limitations on the purpose to which the proceeds of sale of
13 any issue of bonds then or thereafter to be issued may be applied
14 and pledging these proceeds to secure the payment of the bonds
15 or any issue of the bonds.

16 (6) Limitations on the issuance of additional bonds, the terms
17 upon which additional bonds may be issued and secured and the
18 refunding of outstanding bonds.

19 (7) The procedure, if any, by which the terms of any contract
20 with bondholders may be amended or abrogated, the amount of
21 bonds the holders of which must consent thereto, and the manner
22 in which consent may be given.

23 (8) Limitations on expenditures for operating, administrative,
24 or other expenses of the authority.

25 (9) Defining the acts or omissions to act that constitute a default
26 in the duties of the authority to holders of its obligations and
27 providing the rights and remedies of these holders in the event of
28 a default.

29 (10) The mortgaging of any project and the site thereof for the
30 purpose of securing the bondholders.

31 (11) The mortgaging of land, improvements, or other assets
32 owned by a participating party for the purpose of securing the
33 bondholders.

34 (12) Provisions for the security of any *provider of credit* ~~provider~~
35 *enhancement* supporting payment on the bonds, but only in a
36 manner subordinate to the rights of bondholders.

37 (e) Neither the members of the authority nor any person
38 executing the bonds or notes shall be liable personally on the bonds
39 or notes or be subject to any personal liability or accountability
40 by reason of the issuance thereof.

1 (f) The authority shall have power out of any funds available
2 therefor to purchase its bonds or notes without the cancellation
3 thereof. The authority may hold, pledge, cancel, or resell bonds,
4 subject to, and in accordance with, agreements with bondholders.

5 SEC. 3. Section 44543 of the Health and Safety Code is
6 amended to read:

7 44543. (a) In the discretion of the authority, any bonds issued
8 under the provisions of this division may be secured by a trust
9 agreement by and between the authority and a trustee or trustees,
10 which may be any trust company or bank having the powers of a
11 trust company within or without the state. The trust agreement or
12 the resolution providing for the issuance of bonds may pledge or
13 assign the revenues to be received or proceeds of any contract or
14 contracts pledged and may convey or mortgage the project or
15 projects, or any portion thereof, to be financed out of the proceeds
16 of bonds. The trust agreement or resolution providing for the
17 issuance of bonds may contain provisions for protecting and
18 enforcing the rights and remedies of the bondholders, or any
19 *provider of credit-provider enhancement*, as may be reasonable
20 and proper and not in violation of law, including particular
21 provisions as have hereinabove been specifically authorized to be
22 included in any resolution or resolutions of the authority
23 authorizing bonds thereof. Any bank or trust company doing
24 business under the laws of this state that may act as depository of
25 the proceeds of bonds or of revenues or other moneys may furnish
26 these indemnifying bonds or pledge securities as may be required
27 by the authority. Any trust agreement may set forth the rights and
28 remedies of the bondholders and of the trustee or trustees, and may
29 restrict the individual right of action by bondholders or any
30 *provider of credit-provider enhancement*. In addition to the
31 foregoing, any trust agreement or resolution may contain other
32 provisions as the authority may deem reasonable and proper for
33 the security of the bondholders. Notwithstanding any other
34 ~~provision of law~~, the Treasurer shall not be deemed to have a
35 conflict of interest by reason of acting as trustee pursuant to this
36 division.

37 (b) All expenses incurred in carrying out the provisions of a
38 trust agreement or resolution may be treated as a part of the cost
39 of the operation of a project.

1 SEC. 4. Section 44553 of the Health and Safety Code is
2 amended to read:

3 44553. All moneys received pursuant to the provisions of this
4 division, whether as proceeds from the sale of bonds, notes, or
5 other evidences of indebtedness or as revenues ~~or fees received~~
6 ~~by the authority~~, shall be deemed to be trust funds to be held and
7 applied solely as provided in this division. Any bank or trust
8 company with which these moneys shall be deposited shall act as
9 trustee of these moneys and shall hold and apply the same for the
10 purposes hereof, subject to regulations as the resolution authorizing
11 the bonds of any issue or the trust agreement securing these bonds
12 may provide.

13 SEC. 5. This act is an urgency statute necessary for the
14 immediate preservation of the public peace, health, or safety within
15 the meaning of Article IV of the Constitution and shall go into
16 immediate effect. The facts constituting the necessity are:

17 In order to ensure the protection of the environment at the earliest
18 possible time, it is necessary that this act take effect immediately.