

Senate Bill No. 1477

Passed the Senate April 22, 2010

Secretary of the Senate

Passed the Assembly August 12, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

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

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

44508. “Project” and “pollution control facility,” respectively, mean any land, building, structure, improvement thereto, work, real or personal property, vehicle, or equipment providing or designed to provide for the control, reduction, abatement, elimination, remediation, or prevention of pollution, improvement of air, water, or soil quality, ensure the safe handling, recycling, or disposal of materials that might otherwise be improperly disposed of, or provide for environmental restoration, cleanup, or enhancement. Eligible projects include, but are not limited to, any type of project described in this section that is authorized pursuant to federal law for tax-exempt or tax credit financing. Eligible projects may also include any facility described in Section

142(a)(4), (5), (6), (8), (9), (10), (12), or (14) of Title 26 of the United States Code.

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

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

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

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds, notes, or other obligation shall be general obligations of the authority payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds, notes, or other obligations pledging any particular revenues or moneys and subject to any agreements with any participating party. Notwithstanding that bonds, notes, or other obligations may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of the bonds, notes, or other obligations for registration.

(c) The bonds may be issued as serial bonds or as term bonds, or the authority in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the authority and

shall bear the date or dates, mature at the time or times, not exceeding 50 years from their respective dates, bear interest at the fixed rate or rates, or at the variable rates, including multiple methods of setting rates from time to time while the bonds are outstanding, be payable at the time or times, be in the denominations, be executed in the manner, be payable in lawful money of the United States of America at the place or places, and be subject to the terms of redemption or tender, as resolution or resolutions may provide. The bonds or notes shall be sold by the Treasurer as agent for sale. The bond or notes may be sold at a public or private sale, and for the price or prices and on terms and conditions, as the authority shall determine after giving due consideration to the recommendations of any participating party to be assisted from the proceeds of the bonds or notes. Pending preparation of the definitive bonds, the Treasurer may issue interim receipts, certificates, or temporary bonds which shall be exchanged for definitive bonds. The Treasurer may sell any bonds, notes, or other evidence of indebtedness at a price below the par value thereof.

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

(1) Pledging the full faith and credit of the authority or pledging all or any part of the revenues of any project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, or other moneys of the authority, to secure the payment of the bonds or of any particular issue of bonds, subject to agreements with bondholders or any providers of credit enhancement as may then exist.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44543. (a) In the discretion of the authority, any bonds issued under the provisions of this division may be secured by a trust agreement by and between the authority and a trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement or

the resolution providing for the issuance of bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or projects, or any portion thereof, to be financed out of the proceeds of bonds. The trust agreement or resolution providing for the issuance of bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders, or any provider of credit enhancement, as may be reasonable and proper and not in violation of law, including particular provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company doing business under the laws of this state that may act as depository of the proceeds of bonds or of revenues or other moneys may furnish these indemnifying bonds or pledge securities as may be required by the authority. Any trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders or any provider of credit enhancement. In addition to the foregoing, any trust agreement or resolution may contain other provisions as the authority may deem reasonable and proper for the security of the bondholders. Notwithstanding any other law, the Treasurer shall not be deemed to have a conflict of interest by reason of acting as trustee pursuant to this division.

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

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

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

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

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

Approved _____, 2010

Governor