

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 893

Introduced by Assembly Member V. Manuel Pérez

February 17, 2011

An act to amend Sections ~~63021.5, 63022, 63035, and 63040~~ of 16724, 63021.5, 63022, 63035, 63040, and 63050 of, and to add Section 63037 to, the Government Code, relating to state government, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 893, as amended, V. Manuel Pérez. State government: *California* infrastructure and economic development bank.

(1) *Existing law, the State General Obligation Bond Law, contains procedures for use in authorizing the issuance and sale and providing for the repayment of state general obligation bonds. The State General Obligation Bond Law requires that a bond act include various provisions.*

This bill would incorporate a requirement into the State General Obligation Bond Law that a bond act include a provision that includes a plan on how the bond will be administered, including outreach and oversight, to ensure that the objectives of the bond act will be adhered to.

Existing

(2) *Existing law* establishes the California Infrastructure and Economic Development Bank in the Business, Transportation and Housing Agency. The board of directors of the bank consists of, among others, the Secretary of State and Consumer Services, or their designee. Existing law requires 3 members of the board to constitute a quorum

and to take action. Existing law imposes certain duties and grants certain powers to the executive director of the bank. *Existing law establishes the California Infrastructure and Economic Development Bank Fund in the State Treasury, and requires that moneys in that fund are only used for specified purposes.*

This bill would alter the membership of the board of the directors of the bank by removing and adding certain members. This bill would also impose term limits on certain members of the board. This bill would also require 4 members of the board to constitute a quorum and to take action.

This bill would require the executive director of the bank to oversee the annual outreach schedule of the bank, as specified.

This bill would require the bank to provide technical support to small and rural communities in the state in obtaining financing for local infrastructure projects. This bill would establish the Technical Assistance Account in the California Infrastructure and Development Bank Fund, and would continuously appropriate the moneys in the account to the bank to be used to provide technical support to small and rural communities. This bill would authorize the bank to use moneys in the California Infrastructure and Economic Development Bank Fund to support the Technical Assistance Account.

Existing

(3) *Existing* law requires the California Infrastructure and Economic Development Bank to submit an annual report to the Governor, and the Joint Legislative Budget Committee, that contains specified requirements.

This bill would require the bank to also submit the report to policy committees of the Legislature that oversee the bank, and would alter the requirements of the report.

Existing

(4) *Existing* law requires the bank to notify the Governor, the fiscal and policy committees of the Legislature that exercise legislative oversight of the bank, and appropriate state and local agencies, when the bank establishes or makes changes to the criteria, priorities, and guidelines for project selection.

This bill would require the bank to notify the Governor, the fiscal and policy committees of the Legislature that exercise legislative oversight of the bank, and appropriate state and local agencies, 60 days prior to the adoption or modification of criteria, priorities, and guidelines for project selection.

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

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

1 SECTION 1. Section 16724 of the Government Code is
2 amended to read:

3 16724. The bond act shall contain all of the following
4 provisions:

5 (a) A statement of the total amount of bonds authorized to be
6 issued and the purpose for which the proceeds from the sale of the
7 bonds may be used.

8 (b) The creation of a committee and fund, and the naming of
9 the board as these items are defined in Section 16722.

10 (c) A statement that the bonds are valid obligations of the state
11 and a pledge of the full faith and credit of the state for the punctual
12 payment of both principal and interest thereof.

13 (d) An appropriation from the General Fund in the State
14 Treasury of the sum annually as shall be necessary to pay the
15 principal and interest on the bonds as they become due and payable.

16 (e) A requirement that there be collected annually in the same
17 manner and at the same time as other state revenue is collected the
18 sum, in addition to the ordinary revenues of the state, as is required
19 to pay the principal and interest on the bonds; and a provision
20 making it the duty of all officers charged by law with any duty in
21 regard to the collections of the revenue to do and perform each
22 and every act which is necessary to collect that additional sum.

23 (f) If the bond act provides that the fund shall have any receipts
24 other than the proceeds of the sale of bonds, the proceeds of interim
25 financing, or the investment earnings on the proceeds of bond sales
26 or interim financing, then the bond act shall also specify whether
27 those receipts shall be transferred to the General Fund as a
28 reimbursement for debt service payments or be used for the same
29 purpose for which the proceeds of the sale of the bonds may be
30 used.

31 (g) A provision incorporating the provisions of this chapter, and
32 a declaration that the provisions hereof are included in the act as
33 though set out in full therein.

34 (h) A statement that the bonds may be refunded in accordance
35 with Article 6 (commencing with Section 16780), and that approval

1 of the authorization of the bonds by the electors includes approval
 2 of any bonds issued to refund the bonds originally issued.

3 (i) A statement that notwithstanding any other provision of the
 4 bond act, or of the State General Obligation Bond Law (Chapter
 5 4 (commencing with Section 16720) of Part 3 of Division 4 of
 6 Title 2 of the Government Code), if the Treasurer sells bonds
 7 pursuant to this bond act that include a bond counsel opinion to
 8 the effect that the interest on the bonds is excluded from gross
 9 income for federal tax purposes under designated conditions, the
 10 Treasurer may maintain separate accounts for the bond proceeds
 11 invested and the investment earnings on those proceeds, and may
 12 use or direct the use of those proceeds or earnings to pay any
 13 rebate, penalty, or other payment required under federal law, or
 14 take any other action with respect to the investment and use of
 15 those bond proceeds, as may be required or desirable under federal
 16 law in order to maintain the tax-exempt status of those bonds and
 17 to obtain any other advantage under federal law on behalf of the
 18 funds of this state.

19 (j) A statement that the board may request the Pooled Money
 20 Investment Board to make a loan from the Pooled Money
 21 Investment Account, in accordance with Section 16312, for the
 22 purposes of carrying out the bond act. The amount of the request
 23 shall not exceed the amount of the unsold bonds that the committee
 24 has by resolution authorized to be sold for the purpose of carrying
 25 out the bond act. The board shall execute any documents required
 26 by the Pooled Money Investment Board to obtain and repay the
 27 loan. Any amounts loaned shall be deposited in the fund to be
 28 allocated by the board in accordance with the bond act.

29 (k) *A provision that includes a plan on how the bond act will*
 30 *be administered, including, but not limited to, outreach and*
 31 *oversight, to ensure that the objectives of the bond act will be*
 32 *adhered to.*

33 **SECTION 1.**

34 *SEC. 2.* Section 63021.5 of the Government Code is amended
 35 to read:

36 63021.5. (a) The bank shall be governed and its corporate
 37 power exercised by a board of directors that shall consist of the
 38 following persons:

- 39 (1) The Director of Finance or his or her designee.
- 40 (2) The Treasurer or his or her designee.

1 (3) The Secretary of Business, Transportation and Housing or
2 his or her designee, who shall serve as chair of the board.

3 (4) An appointee of the Governor.

4 (5) (A) (i) A representative from the economic development
5 community appointed by the Speaker of the Assembly.

6 (ii) A representative from the business community appointed
7 by the ~~chair of the~~ Senate Committee on Rules.

8 (B) Appointments by the Speaker of the Assembly and the
9 Senate Committee on Rules shall be for two-year terms. Appointees
10 may be reappointed for no more than two terms.

11 (6) The chairpersons of the Senate and Assembly policy
12 committees that oversee infrastructure and economic development
13 issues, as determined by the Speaker of the Assembly and the
14 Senate Committee on Rules, shall serve as ex officio nonvoting
15 members of the board.

16 (b) Any designated director shall serve at the pleasure of the
17 designating power.

18 (c) Four of the members shall constitute a quorum and the
19 affirmative vote of four board members shall be necessary for any
20 action to be taken by the board.

21 (d) A member of the board shall not participate in any bank
22 action or attempt to influence any decision or recommendation by
23 any employee of, or consultant to, the bank that involves a sponsor
24 of which he or she is a representative or in which the member or
25 a member of his or her immediate family has a personal financial
26 interest within the meaning of Section 87100. For purposes of this
27 section, "immediate family" means the spouse, children, and
28 parents of the member.

29 (e) Except as provided in this subdivision, the members of the
30 board shall serve without compensation, but shall be reimbursed
31 for actual and necessary expenses incurred in the performance of
32 their duties to the extent that reimbursement for these expenses is
33 not otherwise provided or payable by another public agency, and
34 shall receive one hundred dollars (\$100) for each full day of
35 attending meetings of the authority.

36 ~~SEC. 2.~~

37 *SEC. 3.* Section 63022 of the Government Code is amended
38 to read:

39 63022. The executive director shall manage and conduct the
40 business and affairs of the bank, the infrastructure bank fund, and

1 guarantee trust fund, subject to the direction of the board. The
2 executive director shall oversee the annual outreach schedule of
3 the bank to ensure that outreach is coordinated with other similar
4 federal and state infrastructure development resources. Except as
5 otherwise provided in this section, the board may assign to the
6 executive director, by resolution, those duties generally necessary
7 or convenient to carry out its powers and purposes under this
8 chapter. Any action involving final approval of any bonds, notes,
9 or loans shall require the approval of a majority of the members
10 of the board. Subject to any conditions that the board may from
11 time to time prescribe, the executive director may exercise any
12 power, function, or duty conferred by law on the bank in
13 connection with the administration, management, and conduct of
14 the business and affairs of the bank, the infrastructure bank fund,
15 and the guarantee trust fund.

16 ~~SEC. 3.~~

17 *SEC. 4.* Section 63035 of the Government Code is amended
18 to read:

19 63035. The bank shall, not later than November 1 of each year,
20 submit to the Governor, the policy committees of the Legislature
21 that exercise legislative oversight of the bank, and the Joint
22 Legislative Budget Committee a report of its activities pursuant
23 to this division for the preceding fiscal year. The report shall
24 include all of the following:

25 (a) (1) A listing of applications accepted, including a description
26 of the expected employment impact of each project. The expected
27 employment impact shall detail the amount of jobs created,
28 retained, and indirectly impacted.

29 (2) A separate summary of applications for the Infrastructure
30 State Revolving Fund Program, including a summary of the number
31 of preliminary applications that did not receive funding and the
32 reason the applicant did not qualify.

33 (3) A list of public outreach activities engaged in during the
34 year, including outcomes.

35 (b) A specification of bonds sold and interest rates thereon.

36 (c) The amount of other public and private funds leveraged by
37 the assistance provided.

38 (d) A report of revenues and expenditures for the preceding
39 fiscal year, including all of the bank's costs. The information

1 provided pursuant to this subdivision shall include, but need not
2 be limited to, both of the following:

3 (1) The amount and source of total bank revenues. Revenues
4 shall be shown by main categories of revenues, including interest
5 earnings, fees collected, and bond proceeds, for each bank program.

6 (2) The amount and type of total bank expenditures.
7 Expenditures shall be shown by major categories of expenditures,
8 including loans provided, debt service payments, and program
9 support costs, for each bank program.

10 (e) A projection of the bank's needs and requirements for the
11 coming year.

12 (f) Recommendations for changes in state and federal law
13 necessary to meet the objectives of this division.

14 *SEC. 5. Section 63037 is added to the Government Code, to*
15 *read:*

16 *63037. (a) The bank shall provide technical support to small*
17 *and rural communities in the state in obtaining financing for local*
18 *infrastructure projects.*

19 *(b) For purposes of this section, "technical support" means*
20 *assisting communities in developing strategic plans, writing grants,*
21 *applying for public and private loans and guarantees, issuing*
22 *bonds, and other activities directly related to obtaining funding*
23 *for infrastructure projects. Technical assistance in this regard*
24 *shall include extended interaction with a community throughout*
25 *the financing process, and shall be encouraged to maximize*
26 *public-private partnerships to the extent possible.*

27 *(c) The bank shall develop a competitive process for selecting*
28 *communities to be assisted under this section, based on*
29 *infrastructure need and community readiness to undertake the*
30 *infrastructure project. First priority shall be given to projects that*
31 *remediate severe health and safety problems. Second priority shall*
32 *be given to projects that promote economic development. Third*
33 *priority shall be given to projects that promote general health and*
34 *safety. The bank shall make every effort to widely advertise the*
35 *availability of the services provided by this section and encourage*
36 *applications from historically underserved communities.*

37 *(d) The bank shall provide for no fewer than three professional*
38 *positions and one staff position to implement this section.*

39 *(e) (1) Funds to support the services provided by this section*
40 *related to assisting communities in obtaining the proceeds of bonds*

1 authorized pursuant to Section 1 of Article XVI of the California
2 Constitution, and transferred pursuant to subdivision (c) of Section
3 63050, shall be deposited in the Technical Assistance Account,
4 which is hereby created in the California Infrastructure and
5 Economic Development Bank Fund. Notwithstanding Section
6 13340, moneys in the account are continuously appropriated to
7 the bank in amounts representing the pro rata share of each source
8 of funds, and moneys transferred pursuant to subdivision (c) of
9 Section 63050 shall not be used for any other purpose than the
10 furtherance of the purpose of the respective bond acts by this
11 section.

12 (2) Other funds, excluding General Fund revenues, may be
13 deposited in the Technical Assistance Account and may be used
14 to provide technical assistance to communities for infrastructure
15 projects financed with funding sources other than those authorized
16 pursuant to Section 1 of Article XVI of the California Constitution.

17 (f) The bank shall individually track each funding source and
18 its use to ensure that all funding conditions are met and that only
19 eligible communities and eligible purposes are authorized.

20 (g) The bank may contract with other state agencies, local
21 agencies, or federal authorities for the purpose of providing
22 technical support to small and rural communities in the state
23 pursuant to this section.

24 ~~SEC. 4.~~

25 SEC. 6. Section 63040 of the Government Code is amended
26 to read:

27 63040. (a) Following consultation with appropriate state and
28 local agencies, the bank shall establish criteria, priorities, and
29 guidelines for the selection of projects to receive assistance from
30 the bank. Projects shall comply with the criteria, priorities, and
31 guidelines adopted by the bank.

32 (b) The criteria, priorities, and guidelines shall, at a minimum,
33 be based upon the following:

34 (1) The State Environmental Goals and Policy Report, or its
35 successor, approved pursuant to Article 5 (commencing with
36 Section 65041) of Chapter 1.5 of Division 1 of Title 7. This
37 requirement shall not apply if the update to the report is more than
38 two years overdue.

39 (2) If the sponsor is a state agency, board, commission, or
40 department, the Capital and Infrastructure Project Planning Report,

1 prepared by the Director of Finance pursuant to Article 2
2 (commencing with Section 13100) of Chapter 2 of Part 3 of
3 Division 3 of Title 2.

4 (c) When the bank proposes to establish or modify changes to
5 the criteria, priorities, and guidelines, the bank shall notify the
6 Governor, the fiscal and policy committees of the Legislature that
7 exercise legislative oversight of the bank, and appropriate state
8 and local agencies 60 days prior to the adoption or modification.

9 (d) The resolution required in Section 63041 shall have been
10 adopted prior to the project's selection by the bank.

11 *SEC. 7. Section 63050 of the Government Code is amended to*
12 *read:*

13 63050. (a) There is hereby created in the State Treasury the
14 California Infrastructure and Economic Development Bank Fund
15 for the purpose of implementing the objectives and provisions of
16 this division. Within the fund there shall also be established a
17 Sponsor Revenue Bond Account, a Participating Party Revenue
18 Bond Account, a State Infrastructure Revolving Account, a
19 *technical Assistance Account*, and additional accounts and
20 subaccounts that the bank may establish from time to time.

21 (b) Notwithstanding Section 13340 and except as provided in
22 subdivision (c), all moneys in the infrastructure bank fund are
23 continuously appropriated without regard to fiscal years for the
24 support of the bank and shall be available for expenditure for the
25 purposes stated in this division.

26 (c) Moneys in the infrastructure bank fund shall be available
27 for expenditure for general administration only upon appropriation
28 by the Legislature. This subdivision shall not limit the authority
29 of the bank to expend funds directly related to the servicing of
30 approved debt. Moneys in the fund shall be available for the
31 purpose of general administration of the authority only upon
32 appropriation by the Legislature, but not more than 5 percent of
33 any bond proceeds administered by the authority may be expended
34 to cover the costs of issuance, as that terminology is defined under
35 Section 147 (G) of the Internal Revenue Code. *Moneys in the fund*
36 *shall be available for the purpose of providing technical support*
37 *to small and rural communities in the state pursuant to Section*
38 *63037.*

39 (d) Notwithstanding any other provision of this division, not
40 more than 15 percent of the financing annually approved by the

1 executive director that utilizes state funds from the infrastructure
2 bank fund may be expended upon educational facilities,
3 environmental mitigation measures, and parks and recreational
4 facilities.

5 (e) The executive director may transfer funds between the
6 infrastructure bank fund and the guarantee trust fund when
7 appropriate to accomplish the financing objectives of this division.

O