

ASSEMBLY BILL

No. 182

Introduced by Assembly Members Buchanan and Hueso
(Principal coauthors: Senators Block and Wyland)

January 24, 2013

An act to amend Section 15146 of, and to add Sections 15144.1 and 15144.2 to, the Education Code, and to amend Sections 53506, 53507, 53508.7, and 53530 of the Government Code, relating to bonds.

LEGISLATIVE COUNSEL'S DIGEST

AB 182, as introduced, Buchanan. Bonds: school districts and community college districts.

(1) Existing law authorizes the governing board of any school district or community college district to order an election and submit to the electors of the district the question whether the bonds of the district should be issued and sold for the purposes of raising money for specified purposes. Existing law requires the interest rate on the bonds to bear a rate of interest that does not exceed 8% per annum and requires the number of years the whole or any part of the bonds are to run to not exceed 25 years.

This bill would require the ratio of total debt service to principal for each bond series to not exceed 4 to one. The bill would require each capital appreciation bond maturing more than 10 years after its date of issuance to be subject to mandatory tender for purchase or redemption before its fixed maturity date, as specified, beginning no later than the 10th anniversary of the date the capital appreciation bond was issued.

(2) Existing law requires the governing board of the school district or community college district, before the sale of bonds, to adopt a

resolution as an agenda item at a public meeting that includes specified information.

This bill would require, if the sale includes capital appreciation bonds, the agenda item to identify that capital appreciation bonds are proposed and require the governing board of the school district or community college district to be presented with an analysis containing the overall cost of the capital appreciation bonds, a comparison to the overall cost of current interest bonds, the reason capital appreciation bonds are being recommended, and a copy of a certain disclosure made by the underwriter.

(3) Additionally and alternatively to the authority described above, existing law authorizes the legislative body of an issuer, by resolution, to provide for the issuance of bonds or refunding bonds and defines “issuer” to include, among other public entities, a school district and a community college district. Existing law also authorizes bonds to bear an interest rate at a coupon rate or rates as determined by the legislative body of a local agency in its discretion but not to exceed 12% per year payable and defines “local agency” to include, among other public entities, a public district.

This bill would instead specify that issuer and local agency, as defined for purposes of this source of bonding authority, do not include a school district or a community college district.

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

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

- 1 SECTION 1. Section 15144.1 is added to the Education Code,
- 2 to read:
- 3 15144.1. The ratio of total debt service to principal for each
- 4 bond series shall not exceed four to one.
- 5 SEC. 2. Section 15144.2 is added to the Education Code, to
- 6 read:
- 7 15144.2. A capital appreciation bond maturing more than 10
- 8 years after its date of issuance shall be subject to mandatory tender
- 9 for purchase or redemption before its fixed maturity date, with or
- 10 without a premium, at any time, or from time to time, beginning
- 11 no later than the 10th anniversary of the date the capital
- 12 appreciation bond was issued.

1 SEC. 3. Section 15146 of the Education Code is amended to
2 read:

3 15146. (a) The bonds shall be issued and sold pursuant to
4 Section 15140, payable out of the interest and sinking fund of the
5 district. The governing board may sell the bonds at a negotiated
6 sale or by competitive bidding.

7 (b) ~~Prior to~~ *Before* the sale, the governing board shall adopt a
8 resolution, as an agenda item at a public meeting, that includes all
9 of the following:

- 10 (1) Express approval of the method of sale.
11 (2) Statement of the reasons for the method of sale selected.
12 (3) Disclosure of the identity of the bond counsel, and the
13 identities of the bond underwriter and the financial adviser if either
14 or both are utilized for the sale, unless these individuals have not
15 been selected at the time the resolution is adopted, in which case
16 the governing board shall disclose their identities at the public
17 meeting occurring after they have been selected.

18 (4) Estimates of the costs associated with the bond issuance.

19 (c) *If the sale includes capital appreciation bonds, the agenda
20 item shall identify that capital appreciation bonds are proposed
21 and the governing board shall be presented with all of the
22 following:*

- 23 (1) *An analysis containing the total overall cost of the capital
24 appreciation bonds.*
25 (2) *A comparison to the overall cost of current interest bonds.*
26 (3) *The reason capital appreciation bonds are being
27 recommended.*
28 (4) *A copy of the disclosure made by the underwriter in
29 compliance with Rule G-17 adopted by the federal Municipal
30 Securities Rulemaking Board.*

31 ~~(e)~~
32 (d) After the sale, the governing board shall do both of the
33 following:

- 34 (1) Present the actual cost information for the sale at its next
35 scheduled public meeting.
36 (2) Submit an itemized summary of the costs of the bond sale
37 to the California Debt and Investment Advisory Commission.

38 ~~(e)~~
39 (e) The governing board shall ensure that all necessary
40 information and reports regarding the sale or planned sale of bonds

1 by the school district it governs are submitted to the California
 2 Debt and Investment Advisory Commission in compliance with
 3 Section 8855 of the Government Code.

4 ~~(e)~~

5 (f) The bonds may be sold at a discount not to exceed 5 percent
 6 and at an interest rate not to exceed the maximum rate permitted
 7 by law. If the sale is by competitive bid, the governing board shall
 8 comply with Sections 15147 and 15148. The bonds shall be sold
 9 by the governing board no later than the date designated by the
 10 governing board as the final date for the sale of the bonds.

11 ~~(f)~~

12 (g) The proceeds of the sale of the bonds, exclusive of any
 13 premium received, shall be deposited in the county treasury to the
 14 credit of the building fund of the school district, or community
 15 college district as designated by the California Community
 16 Colleges Budget and Accounting Manual. The proceeds deposited
 17 shall be drawn out as other school moneys are drawn out. The
 18 bond proceeds withdrawn shall not be applied to any other purposes
 19 than those for which the bonds were issued. Any premium or
 20 accrued interest received from the sale of the bonds shall be
 21 deposited in the interest and sinking fund of the district.

22 ~~(g)~~

23 (h) The governing board may cause to be deposited proceeds
 24 of sale of any series of the bonds in an amount not exceeding 2
 25 percent of the principal amount of the bonds in a costs of issuance
 26 account, which may be created in the county treasury or held by
 27 a fiscal agent appointed by the district for this purpose, separate
 28 from the building fund and the interest and sinking fund of the
 29 district. The proceeds deposited shall be drawn out on the order
 30 of the governing board or an officer of the district duly authorized
 31 by the governing board to make the order, only to pay authorized
 32 costs of issuance of the bonds. Upon the order of the governing
 33 board or duly authorized officer, the remaining balance shall be
 34 transferred to the county treasury to the credit of the building fund
 35 of the school district or community college district. The deposit
 36 of bond proceeds pursuant to this subdivision shall be a proper
 37 charge against the building fund of the district.

38 ~~(h)~~

39 (i) The governing board may cause to be deposited proceeds of
 40 sale of any series of the bonds in the interest and sinking fund of

1 the district in the amount of the annual reserve permitted by Section
2 15250 or in any lesser amount, as the governing board shall
3 determine from time to time. The deposit of bond proceeds
4 pursuant to this subdivision shall be a proper charge against the
5 building fund of the district.

6 (i)

7 (j) The governing board may cause to be deposited proceeds of
8 sale of any series of the bonds in the interest and sinking fund of
9 the district in the amount not exceeding the interest scheduled to
10 become due on that series of bonds for a period of two years from
11 the date of issuance of that series of bonds. The deposit of bonds
12 proceeds pursuant to this subdivision shall be a proper charge
13 against the building fund of the district.

14 SEC. 4. Section 53506 of the Government Code is amended
15 to read:

16 53506. (a) This article is full authority for the issuance of
17 bonds or refunding bonds by any city, county, city and county,
18 ~~school district, community college district,~~ or special district,
19 secured by the levy of ad valorem taxes, authorized in accordance
20 with the Constitution and, in the case of a chartered city, county,
21 or city and county, with the charter thereof, or in the case of a
22 special district, with the district's principal act. *This article shall*
23 *not apply to a school district or a community college district.*

24 (b) This article is intended to provide a complete additional and
25 alternative method for doing the things authorized by this article.
26 The powers conferred by this article are supplemental and
27 additional to the powers conferred by any other laws, and the
28 limitations imposed by this article do not affect the powers
29 conferred by any other law.

30 SEC. 5. Section 53507 of the Government Code is amended
31 to read:

32 53507. As used in this article, the following terms shall have
33 the meanings assigned to them in this section.

34 (a) "Bonds" means bonds, notes, warrants, or other evidence of
35 indebtedness payable, both principal and interest, from the proceeds
36 of ad valorem taxes that may be levied without limitation as to
37 rate or amount upon property subject to taxation by the legislative
38 body.

39 (b) "Issuer" means a city, county, city and county, ~~school~~
40 ~~district, community college district,~~ or special district, secured by

1 the levy of ad valorem taxes, authorized to issue bonds pursuant
2 to this article. *“Issuer” shall not include a school district or*
3 *community college district.*

4 (c) *“Legislative body”* means the governing body of the issuer.

5 SEC. 6. Section 53508.7 of the Government Code is amended
6 to read:

7 53508.7. (a) The bonds shall be sold at a public or private sale
8 and at a price at, above, or below par, as the legislative body
9 determines.

10 (b) Any bonds sold at a discount below the par value of the
11 bonds shall be sold in compliance with the provisions of Section
12 53532.

13 ~~(c) The private sale of bonds is limited to the sale of school~~
14 ~~districts’ and community college districts’ bonds pursuant to~~
15 ~~Sections 15140 or 15146 of the Education Code.~~

16 SEC. 7. Section 53530 of the Government Code is amended
17 to read:

18 53530. As used in this article:

19 (a) *“Local agency”* means county, city, city and county, public
20 district, public entity or authority, or other public or municipal
21 corporation, including redevelopment agencies, housing authorities,
22 and industrial development authorities. *“Local agency” shall not*
23 *include a school district or community college district.*

24 (b) *“Bonds”* means bonds, warrants, notes or other evidences
25 of indebtedness of a local agency or zone or improvement district
26 thereof.