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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 182

Introduced by Assembly Members Buchanan and Hueso
(Principal coauthor: Assembly Member Alejo)
(Principal coauthors: Senators Block and Wyland)
(Coauthors: Assembly Members Ian Calderon, Chávez,
Roger Hernández, and Williams)

January 24, 2013

An act to amend Section 15146 of, and to add Sections 15144.1, 15144.2, and 15144.3 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 amended, 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 to raise money for specified purposes. Existing law requires 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. The bill would authorize a school district or community college district with a note issued before December 31, 2013, to seek from the State Board of Education or the Chancellor of the California Community Colleges, as applicable, a one-time waiver from certain requirements of this bill if 2 specified conditions are satisfied.

(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 these 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, 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:

1 15144.1. The ratio of total debt service to principal for each
2 bond series shall not exceed four to one.

3 SEC. 2. Section 15144.2 is added to the Education Code, to
4 read:

5 15144.2. A capital appreciation bond maturing more than 10
6 years after its date of issuance shall be subject to ~~mandatory tender~~
7 ~~for purchase or~~ redemption before its fixed maturity date, with or
8 without a premium, at any time, or from time to time, at the option
9 of the issuer, beginning no later than the 10th anniversary of the
10 date the capital appreciation bond was issued.

11 SEC. 3. Section 15144.3 is added to the Education Code, to
12 read:

13 15144.3. A school district or community college district with
14 a note issued before December 31, 2013, pursuant to Section 15150
15 may seek from the state board or the Chancellor of the California
16 Community Colleges, as applicable, a one-time waiver from one
17 or more of the requirements of Sections 1, 2, and 4 of Assembly
18 Bill 182 of the 2013–14 Regular Session, if both of the following
19 are satisfied:

20 (a) The proceeds of the issuance subject to the waiver will be
21 used only for the purpose of paying the note.

22 (b) The school district or community college district has
23 provided to the state board or the Chancellor of the California
24 Community Colleges, as applicable, an analysis from a financial
25 adviser unaffiliated with the school district, the community college
26 district, or the underwriter used by the school district or community
27 college district, showing the total overall costs of the proposed
28 bond, how the issuance is the most cost-effective method, and the
29 reasons why the school district or community college district is
30 unable to meet those requirements of Sections 1, 2, and 4 of
31 Assembly Bill 182 of the 2013–14 Regular Session that are the
32 subject of the waiver.

33 SEC. 4. Section 15146 of the Education Code is amended to
34 read:

35 15146. (a) The bonds shall be issued and sold pursuant to
36 Section 15140, payable out of the interest and sinking fund of the
37 district. The governing board may sell the bonds at a negotiated
38 sale or by competitive bidding.

- 1 (b) Before the sale, the governing board shall adopt a resolution,
2 as an agenda item at a public meeting, that includes all of the
3 following:
- 4 (1) Express approval of the method of sale.
 - 5 (2) Statement of the reasons for the method of sale selected.
 - 6 (3) Disclosure of the identity of the bond counsel, and the
7 identities of the bond underwriter and the financial adviser if either
8 or both are used for the sale, unless these individuals have not been
9 selected at the time the resolution is adopted, in which case the
10 governing board shall disclose their identities at the public meeting
11 occurring after they have been selected.
 - 12 (4) Estimates of the costs associated with the bond issuance.
- 13 (c) If the sale includes capital appreciation bonds, the agenda
14 item shall identify that capital appreciation bonds are proposed
15 and the governing board shall be presented with all of the
16 following:
- 17 (1) An analysis containing the total overall cost of the capital
18 appreciation bonds.
 - 19 (2) A comparison to the overall cost of current interest bonds.
 - 20 (3) The reason capital appreciation bonds are being
21 recommended.
 - 22 (4) A copy of the disclosure made by the underwriter in
23 compliance with Rule G-17 adopted by the federal Municipal
24 Securities Rulemaking Board.
- 25 (d) After the sale, the governing board shall do both of the
26 following:
- 27 (1) Present the actual cost information for the sale at its next
28 scheduled public meeting.
 - 29 (2) Submit an itemized summary of the costs of the bond sale
30 to the California Debt and Investment Advisory Commission.
- 31 (e) The governing board shall ensure that all necessary
32 information and reports regarding the sale or planned sale of bonds
33 by the district it governs are submitted to the California Debt and
34 Investment Advisory Commission in compliance with Section
35 8855 of the Government Code.
- 36 (f) The bonds may be sold at a discount not to exceed 5 percent
37 and at an interest rate not to exceed the maximum rate permitted
38 by law. If the sale is by competitive bid, the governing board shall
39 comply with Sections 15147 and 15148. The bonds shall be sold

1 by the governing board no later than the date designated by the
2 governing board as the final date for the sale of the bonds.

3 (g) The proceeds of the sale of the bonds, exclusive of any
4 premium received, shall be deposited in the county treasury to the
5 credit of the building fund of the school district, or community
6 college district as designated by the California Community
7 Colleges Budget and Accounting Manual. The proceeds deposited
8 shall be drawn out as other school moneys are drawn out. The
9 bond proceeds withdrawn shall not be applied to any purposes
10 other than those for which the bonds were issued. Any premium
11 or accrued interest received from the sale of the bonds shall be
12 deposited in the interest and sinking fund of the district.

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

28 (i) The governing board may cause to be deposited proceeds of
29 sale of any series of the bonds in the interest and sinking fund of
30 the district in the amount of the annual reserve permitted by Section
31 15250 or in any lesser amount, as the governing board shall
32 determine from time to time. The deposit of bond proceeds
33 pursuant to this subdivision shall be a proper charge against the
34 building fund of the district.

35 (j) The governing board may cause to be deposited proceeds of
36 sale of any series of the bonds in the interest and sinking fund of
37 the district in the amount not exceeding the interest scheduled to
38 become due on that series of bonds for a period of two years from
39 the date of issuance of that series of bonds. The deposit of bonds

1 proceeds pursuant to this subdivision shall be a proper charge
2 against the building fund of the district.

3 SEC. 5. Section 53506 of the Government Code is amended
4 to read:

5 53506. (a) This article is full authority for the issuance of
6 bonds or refunding bonds by any city, county, city and county, or
7 special district, secured by the levy of ad valorem taxes, authorized
8 in accordance with the Constitution and, in the case of a chartered
9 city, county, or city and county, with the charter thereof, or in the
10 case of a special district, with the district’s principal act. This
11 article shall not apply to a school district or a community college
12 district.

13 (b) This article is intended to provide a complete additional and
14 alternative method for doing the things authorized by this article.
15 The powers conferred by this article are supplemental and
16 additional to the powers conferred by any other laws, and the
17 limitations imposed by this article do not affect the powers
18 conferred by any other law.

19 SEC. 6. Section 53507 of the Government Code is amended
20 to read:

21 53507. As used in this article, the following terms shall have
22 the meanings assigned to them in this section.

23 (a) “Bonds” means bonds, notes, warrants, or other evidence of
24 indebtedness payable, both principal and interest, from the proceeds
25 of ad valorem taxes that may be levied without limitation as to
26 rate or amount upon property subject to taxation by the legislative
27 body.

28 (b) “Issuer” means a city, county, city and county, or special
29 district, secured by the levy of ad valorem taxes, authorized to
30 issue bonds pursuant to this article. “Issuer” shall not include a
31 school district or community college district.

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

33 SEC. 7. Section 53508.7 of the Government Code is amended
34 to read:

35 53508.7. (a) The bonds shall be sold at a public or private sale
36 and at a price at, above, or below par, as the legislative body
37 determines.

38 (b) Bonds sold at a discount below the par value of the bonds
39 shall be sold in compliance with the provisions of Section 53532.

1 SEC. 8. Section 53530 of the Government Code is amended
2 to read:

3 53530. As used in this article:

4 (a) “Local agency” means county, city, city and county, public
5 district, public entity or authority, or other public or municipal
6 corporation, including redevelopment agencies, housing authorities,
7 and industrial development authorities. “Local agency” shall not
8 include a school district or community college district.

9 (b) “Bonds” means bonds, warrants, notes, or other evidences
10 of indebtedness of a local agency or zone or improvement district
11 thereof.

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