

AMENDED IN ASSEMBLY APRIL 15, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 850

Introduced by Assembly Member Nazarian

February 21, 2013

An act to amend Sections 6585, 6588, 6590, 6591, 6592, and 6599.3 of, and to add Section 6588.7 to, the Government Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 850, as amended, Nazarian. Public capital facilities: water quality.

Existing law, the Marks-Roos Local Bond Pooling Act of 1985, authorizes joint powers authorities, among other powers, to issue bonds and loan the proceeds to local agencies to finance specified types of projects and programs.

This bill would authorize a joint powers authority, ~~commonly referred to as a JPA~~, upon the application of a local agency that owns and operates a publicly owned utility, as defined, to issue rate reduction bonds to finance a utility project, as defined, under specified circumstances. The bill would provide that the rate reduction bonds are secured by utility project property, as defined. The bill would authorize the ~~JPA~~ authority to impose on, and collect from, customers of the publicly owned utility a utility project charge, as a separate nonbypassable charge, to finance the rate reduction bond. The bill would authorize the ~~JPA~~ authority to adjust the utility project charge to correct for any overcollection or undercollection to ensure timely payment of the financing costs of the rate reduction bonds. The bill would require

the ~~JPA~~ authority to enter into a servicing agreement with the local agency for the collection of the utility project charge.

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 6585 of the Government Code is amended
2 to read:

3 6585. The definitions in this section shall govern the
4 construction and interpretation of this article.

5 (a) (1) Except as provided in paragraphs (2) and (3), “authority”
6 means an entity created pursuant to Article 1 (commencing with
7 Section 6500) and includes any successor to the powers and
8 functions of that entity.

9 (2) In the case of an authority issuing bonds pursuant to this
10 chapter in which VLF receivables, as defined in subdivision (j),
11 are pledged to the payment of the bonds, other than VLF
12 receivables so pledged for a county of the first class, an authority
13 shall consist of not fewer than 100 local agencies.

14 (3) In the case of an authority issuing bonds pursuant to this
15 chapter in which Proposition 1A receivables, as defined in
16 subdivision (g), are pledged to the payment of the bonds, an
17 authority shall consist of not fewer than 250 local agencies.

18 (b) “Bond purchase agreement” means a contractual agreement
19 executed between the authority and the local agency whereby the
20 authority agrees to purchase bonds of the local agency.

21 (c) “Bonds” means all of the following:

22 (1) Bonds, including, but not limited to, assessment bonds,
23 redevelopment agency bonds, government-issued mortgage bonds,
24 and industrial development bonds.

25 (2) Notes, including bond, revenue, tax, or grant anticipation
26 notes.

27 (3) Commercial paper, floating rate and variable maturity
28 securities, and any other evidences of indebtedness.

29 (4) Certificates of participation or lease-purchase agreements.

30 (d) “Conservation or reclamation purposes” mean a utility
31 project designed to reduce the amount of potable water to be
32 supplied by a publicly owned utility or reduce the amount of water
33 imported by the publicly owned utility, including without

1 limitation, storm water capture and treatment, water recycling,
2 development of local groundwater resources, groundwater
3 recharging, and water reclamation.

4 (e) “Cost,” as applied to a public capital improvement, a utility
5 project, or portion of the improvement or utility project financed
6 under this part, means all of the following:

7 (1) All or any part of the cost of construction, renovation, and
8 acquisition of all lands, structures, real or personal property, rights,
9 rights-of-way, franchises, easements, and interests acquired or
10 used for a public capital improvement or a utility project.

11 (2) The cost of demolishing or removing any buildings or
12 structures on land so acquired, including the cost of acquiring any
13 lands to which the buildings or structures may be moved, and the
14 cost of all machinery and equipment.

15 (3) Finance charges.

16 (4) Interest prior to, during, and for a period after, completion
17 of that construction, as determined by the authority.

18 (5) Provisions for working capital, reserves for principal and
19 interest and for extensions, enlargements, additions, replacements,
20 renovations, and improvements.

21 (6) The cost of architectural, engineering, financial and legal
22 services, plans, specifications, estimates, and administrative
23 expenses.

24 (7) Other expenses necessary or incidental to determining the
25 feasibility of constructing any project or incidental to the
26 construction or acquisition or financing of any public capital
27 improvement or utility project.

28 (f) “Financing costs” mean any of the following:

29 (1) Interest and redemption premiums that are payable on rate
30 reduction bonds.

31 (2) The cost of retiring the principal of rate reduction bonds,
32 whether at maturity, including acceleration of maturity upon an
33 event of default, or upon redemption, including sinking fund
34 redemption.

35 (3) A cost related to issuing or servicing rate reduction bonds,
36 including, but not limited to, servicing fees, trustee fees, legal fees,
37 administrative fees, bond counsel fees, bond placement or
38 underwriting fees, remarketing fees, broker dealer fees, independent
39 manager fees, payment under an interest rate swap agreement,

1 financial advisor fees, accounting report fees, engineering report
2 fees, and rating agency fees.

3 (4) A payment or expense associated with a bond insurance
4 policy, financial guaranty or a contract, agreement, or other credit
5 enhancement for rate reduction bonds or a contract, agreement, or
6 other financial agreement entered into in connection with rate
7 reduction bonds.

8 (5) The funding of one or more reserve accounts related to rate
9 reduction bonds.

10 (g) (1) “Financing resolution” means a resolution adopted by
11 the governing body of an authority financing a utility project with
12 rate reduction bonds that establishes and imposes a utility project
13 charge in connection with the rate reduction bonds in accordance
14 with Section 6588.7

15 (2) A financing resolution may be separate from a resolution
16 authorizing the issuance of the rate reduction bonds.

17 (h) “Legislative body” means the governing body of a local
18 agency.

19 (i) “Local agency” means a party to the agreement creating the
20 authority, or an agency or subdivision of that party, sponsoring a
21 project of public capital improvements, or any city, county, city
22 and county, authority, district, or public corporation of this state.

23 (j) “Mandate” means a requirement, imposed by a mandating
24 entity by any means, including without limitation, a statute, rule,
25 regulation, an administrative or judicial order, a building, operating,
26 or licensing requirement or condition, or an agreement with, or
27 license or permit from, the mandating entity, on a facility of a
28 publicly owned utility or a facility operated in whole or in part for
29 the benefit of a publicly owned utility, or on the operations of the
30 publicly owned utility, or on the water pumped, acquired, or
31 supplied by the publicly owned utility.

32 (k) (1) “Mandating entity” means the United States; a state of
33 the United States; an agency, department, commission, or other
34 subdivision of the United States or a state of the United States; a
35 court of the United States or a state of the United States; or any
36 other body or organization, that has jurisdiction over the operations
37 of a publicly owned utility; the facility of a publicly owned utility,
38 or a facility operated in whole or in part for the benefit of a publicly
39 owned utility; or the water pumped, acquired or sold by a publicly
40 owned utility.

1 (2) “Mandating entity” does not include a local agency that
2 owns the publicly owned utility.

3 (l) “Proposition 1A receivable” means the right to payment of
4 moneys due or to become due to a local agency, pursuant to clause
5 (iii) of subparagraph (B) of paragraph (1) of subdivision (a) of
6 Section 25.5 of Article XIII of the California Constitution and
7 Section 100.06 of the Revenue and Taxation Code.

8 (m) “Public capital improvements” means one or more projects
9 specified in Section 6546.

10 (n) “Publicly owned utility” means a utility furnishing water
11 service to retail customers that is owned and operated by a local
12 agency or a department or other subdivision of a local agency and
13 includes any successor to the powers and functions of the
14 department or other subdivision.

15 (o) “Rate reduction bonds” mean bonds that are issued by an
16 authority, the proceeds of which are used directly or indirectly to
17 pay or reimburse a local agency or its publicly owned utility for
18 the payment of the costs of a utility project, and that are secured
19 by a pledge of, and are payable from, bonds as provided in Section
20 6588.7.

21 (p) “Revenue” means income and receipts of the authority from
22 any of the following:

23 (1) A bond purchase agreement.

24 (2) Bonds acquired by the authority.

25 (3) Loans installment sale agreements, and other
26 revenue-producing agreements entered into by the authority.

27 (4) Projects financed by the authority.

28 (5) Grants and other sources of income.

29 (6) VLF receivables purchased pursuant to Section 6588.5.

30 (7) Proposition 1A receivables purchased pursuant to Section
31 6588.6.

32 (8) Interest or other income from any investment of any money
33 in any fund or account established for the payment of principal or
34 interest or premiums on bonds.

35 (q) “Utility project” means the acquisition, construction,
36 installation, retrofitting, rebuilding, or other addition to, or
37 improvement of, any equipment, device, structure, improvement,
38 process, facility, technology, rights or property, located either
39 within, or outside of, the State of California, and that is used, or
40 to be used, in connection with the operations of a publicly owned

1 utility ~~in response to a mandate related to water quality or to a~~
 2 ~~mandate~~ for conservation or reclamation purposes *or in response*
 3 *to a mandate related to water quality.*

4 (r) “Utility project charge” means a charge paid or to be paid
 5 by water distribution customers of a publicly owned utility to pay
 6 financing costs of rate reduction bonds issued to finance a utility
 7 project for a publicly owned utility that is imposed pursuant to
 8 Section 6588.7, including any adjustment of the charge pursuant
 9 to Section 6588.7.

10 (s) “Utility project property” means the property right created
 11 pursuant to Section 6588.7, including without limitation, the right,
 12 title, and interest of an authority for any of the following:

13 (1) In and to the financing resolution and the utility charge
 14 established with respect to the rate reduction bonds, as adjusted
 15 from time to time in accordance with Section 6588.7.

16 (2) To be paid the financing costs of the rate reduction bonds
 17 and to all revenues, collections, claims, payments, moneys, or
 18 proceeds for, or arising from, the utility project charge relating to
 19 the rate reduction bonds.

20 (3) In and to all rights to obtain adjustments to the utility project
 21 charge relating to the rate reduction bonds pursuant to Section
 22 6588.7.

23 (t) “VLF receivable” means the right to payment of moneys due
 24 or to become due to a local agency out of funds payable in
 25 connection with vehicle license fees to a local agency pursuant to
 26 Section 10754.11 of the Revenue and Taxation Code.

27 (u) “Working capital” means money to be used by, or on behalf
 28 of, a local agency for any purpose for which a local agency may
 29 borrow money pursuant to Section 53852, or for any purpose for
 30 which a VLF receivable or a Proposition 1A receivable sold to an
 31 authority could have been used by the local agency.

32 SEC. 2. Section 6588 of the Government Code is amended to
 33 read:

34 6588. In addition to other powers specified in an agreement
 35 pursuant to Article 1 (commencing with Section 6500) and Article
 36 2 (commencing with Section 6540), the authority may do any or
 37 all of the following:

38 (a) Adopt bylaws for the regulation of its affairs and the conduct
 39 of its business.

40 (b) Sue and be sued in its own name.

1 (c) Issue bonds, including, at the option of the authority, bonds
2 bearing interest, to pay the cost of any public capital improvement,
3 working capital, or liability or other insurance program. In addition,
4 for any purpose for which an authority may execute and deliver
5 or cause to be executed and delivered certificates of participation
6 in a lease or installment sale agreement with any public or private
7 entity, the authority, at its option, may issue or cause to be issued
8 bonds, rather than certificates of participation, and enter into a
9 loan agreement with the public or private entity.

10 (d) Engage the services of private consultants to render
11 professional and technical assistance and advice in carrying out
12 the purposes of this article.

13 (e) As provided by applicable law, employ and compensate
14 bond counsel, financial consultants, and other advisers determined
15 necessary by the authority in connection with the issuance and sale
16 of any bonds.

17 (f) Contract for engineering, architectural, accounting, or other
18 services determined necessary by the authority for the successful
19 development of a public capital improvement.

20 (g) Pay the reasonable costs of consulting engineers, architects,
21 accountants, and construction, land-use, recreation, and
22 environmental experts employed by any sponsor or participant if
23 the authority determines those services are necessary for the
24 successful development of public capital improvements.

25 (h) Take title to, and sell by installment sale or otherwise, lands,
26 structures, real or personal property, rights, rights-of-way,
27 franchises, easements, and other interests in lands that are located
28 within the state that the authority determines are necessary or
29 convenient for the financing of public capital improvements, or
30 any portion thereof.

31 (i) Receive and accept from any source, loans, contributions,
32 or grants, in either money, property, labor, or other things of value,
33 for, or in aid of, the construction financing, or refinancing of public
34 capital improvement, or any portion thereof or for the financing
35 of working capital or insurance programs, or for the payment of
36 the principal of and interest on bonds if the proceeds of those bonds
37 are used for one or more of the purposes specified in this section.

38 (j) Make secured or unsecured loans to any local agency in
39 connection with the financing of capital improvement projects,
40 working capital or insurance programs in accordance with an

1 agreement between the authority and the local agency. However,
2 no loan shall exceed the total cost of the public capital
3 improvements, working capital or insurance needs of the local
4 agency as determined by the local agency and by the authority.

5 (k) Make secured or unsecured loans to any local agency in
6 accordance with an agreement between the authority and the local
7 agency to refinance indebtedness incurred by the local agency in
8 connection with public capital improvements undertaken and
9 completed.

10 (l) Mortgage all or any portion of its interest in public capital
11 improvements and the property on which any project is located,
12 whether owned or thereafter acquired, including the granting of a
13 security interest in any property, tangible or intangible.

14 (m) Assign or pledge all or any portion of its interests in
15 mortgages, deeds of trust, indentures of mortgage or trust, or
16 similar instruments, notes, and security interests in property,
17 tangible or intangible, of a local agency to which the authority has
18 made loans, and the revenues therefrom, including payment or
19 income from any interest owned or held by the authority, for the
20 benefit of the holders of bonds issued to finance public capital
21 improvements. The pledge of moneys, revenues, accounts, contract
22 rights, or rights to payment of any kind made by or to the authority
23 pursuant to the authority granted in this part shall be valid and
24 binding from the time the pledge is made for the benefit of the
25 pledgees and successors thereto, against all parties irrespective of
26 whether the parties have notice of the claim.

27 (n) Lease the public capital improvements being financed to a
28 local agency, upon terms and conditions that the authority deems
29 proper; charge and collect rents therefor; terminate any lease upon
30 the failure of the lessee to comply with any of the obligations of
31 the lease; include in any lease provisions that the lessee shall have
32 options to renew the lease for a period or periods, and at rents as
33 determined by the authority; purchase or sell by an installment
34 agreement or otherwise any or all of the public capital
35 improvements; or, upon payment of all the indebtedness incurred
36 by the authority for the financing or refinancing of the public
37 capital improvements, the authority may convey any or all of the
38 project to the lessee or lessees.

39 (o) Charge and apportion to local agencies that benefit from its
40 services the administrative costs and expenses incurred in the

1 exercise of the powers authorized by this article. These fees shall
2 be set at a rate sufficient to recover, but not exceed, the authority's
3 costs of issuance and administration. The fee charged to each local
4 obligation acquired by the pool shall not exceed that obligation's
5 proportionate share of those costs. The level of these fees shall be
6 disclosed to the California Debt and Investment Advisory
7 Commission pursuant to Section 6599.1.

8 (p) Issue, obtain, or aid in obtaining, from any department or
9 agency of the United States or of the state, or any private company,
10 any insurance or guarantee to, or for, the payment or repayment
11 of interest or principal, or both, or any part thereof, on any loan,
12 lease, or obligation or any instrument evidencing or securing the
13 same, made or entered into pursuant to this article.

14 (q) Notwithstanding any other provision of this article, enter
15 into any agreement, contract, or any other instrument with respect
16 to any insurance or guarantee; accept payment in the manner and
17 form as provided therein in the event of default by a local agency;
18 and assign any insurance or guarantee that acts as security for the
19 authority's bonds.

20 (r) Enter into any agreement or contract, execute any instrument,
21 and perform any act or thing necessary, convenient, or desirable
22 to carry out any power authorized by this article.

23 (s) Invest any moneys held in reserve or sinking funds, or any
24 moneys not required for immediate use or disbursement, in
25 obligations that are authorized by law for the investment of trust
26 funds.

27 (t) At the request of affected local agencies, combine and pledge
28 revenues to public capital improvements for repayment of one or
29 more series of bonds issued pursuant to this article.

30 (u) Delegate to any of its individual parties or other responsible
31 individuals the power to act on its behalf subject to its general
32 direction, guidelines, and oversight.

33 (v) Purchase, with the proceeds of its bonds or its revenue, bonds
34 issued by any local agency at public or negotiated sale. Bonds
35 purchased pursuant to this subdivision may be held by the authority
36 or sold to public or private purchasers at public or negotiated sale,
37 in whole or in part, separately or together with other bonds issued
38 by the authority.

39 (w) Purchase, with the proceeds of its bonds or its revenue, VLF
40 receivables sold to the authority pursuant to Section 6588.5. VLF

1 receivables so purchased may be pledged to the payment of bonds
2 issued by the authority or may be resold to public or private
3 purchasers at public or negotiated sale, in whole or in part,
4 separately or together with other VLF receivables purchased by
5 the authority.

6 (x) (1) Purchase, with the proceeds of its bonds or its revenue,
7 Proposition 1A receivables pursuant to Section 6588.6. Proposition
8 1A receivables so purchased may be pledged to the payment of
9 bonds issued by the authority or may be resold to public or private
10 purchasers at public or negotiated sales, in whole or in part,
11 separately or together with other Proposition 1A receivables
12 purchased by the authority.

13 (2) (A) All entities subject to a reduction of ad valorem property
14 tax revenues required under Section 100.06 of the Revenue and
15 Taxation Code pursuant to the suspension set forth in Section
16 100.05 of the Revenue and Taxation Code shall be afforded the
17 opportunity to sell their Proposition 1A receivables to the authority.

18 (B) If these entities offer Proposition 1A receivables to the
19 authority for purchase and duly authorize the sale of the Proposition
20 1A receivable pursuant to documentation approved by the
21 authority, the authority shall purchase all Proposition 1A
22 receivables so offered to the extent it can sell bonds therefor. If
23 the authority does not purchase all Proposition 1A receivables
24 offered, it shall purchase a pro rata share of each entity's offered
25 Proposition 1A receivables.

26 (C) The authority may establish a deadline, no earlier than
27 November 3, 2009, by which these entities shall offer their
28 Proposition 1A receivables for sale to the authority and complete
29 the application required by the authority.

30 (3) For purposes of meeting costs incurred in performing its
31 duties relative to the purchase and sale of Proposition 1A
32 receivables, the authority shall be authorized to charge a fee to
33 each entity from which it purchases a Proposition 1A receivable.
34 The fee shall be computed based on the percentage value of the
35 Proposition 1A receivable purchased from each entity, in relation
36 to the value of all Proposition 1A receivables purchased by the
37 authority. The amount of the fee shall be paid from the proceeds
38 of the bonds and shall be included in the principal amount of the
39 bonds.

1 (4) Terms and conditions of any and all fees and expenses
2 charged by the authority, or those it contracts with, and the terms
3 and conditions of sales of Proposition 1A receivables and bonds
4 issued pursuant to this subdivision, including the terms of optional
5 early redemption provisions, if any, shall be approved by the
6 Treasurer and the Director of Finance, who shall not unreasonably
7 withhold their approval. The aggregate principal amount of all
8 bonds issued pursuant to this subdivision shall not exceed two
9 billion two hundred fifty million dollars (\$2,250,000,000), and the
10 rate of interest paid on those bonds shall not exceed 8 percent per
11 annum. The authority shall exercise its best efforts to obtain the
12 lowest cost financing possible. Any and all premium obtained shall
13 be used for either of the following:

14 (A) Applied to pay the costs of issuance of the bonds.

15 (B) Deposited in a trust account that is pledged to bondholders
16 and used solely for the payment of interest on, or for repayment
17 of, the bonds.

18 (5) (A) In connection with any financing backed by Proposition
19 1A receivables, the Treasurer may retain financial advisors, legal
20 counsel, and other consultants to assist in performing the duties
21 required by this chapter and related to that financing.

22 (B) Notwithstanding any other provision of law, none of the
23 following shall apply to any agreements entered into by the
24 Treasurer pursuant to subparagraph (A) in connection with any
25 Proposition 1A financing:

26 (i) Section 11040 of the Government Code.

27 (ii) Section 10295 of the Public Contract Code.

28 (iii) Article 3 (commencing with Section 10300) and Article 4
29 (commencing with Section 10335) of, Chapter 2 of Part 2 of
30 Division 2 of the Public Contract Code, except for the authority
31 of the Department of Finance under Section 10336 of the Public
32 Contract Code to direct a state agency to transmit to it a contract
33 for review, and except for Section 10348.5 of the Public Contract
34 Code.

35 (C) Any costs incurred by the Treasurer in connection with any
36 Proposition 1A financing shall be reimbursed out of the proceeds
37 of the financing.

38 (y) Finance utility projects through the issuance of rate reduction
39 bonds, and to impose and adjust utility project charges in
40 connection with the financing pursuant to Section 6588.7.

1 (z) Set any other terms and conditions on any purchase or sale
2 pursuant to this section as it deems by resolution to be necessary,
3 appropriate, and in the public interest, in furtherance of the
4 purposes of this article.

5 SEC. 3. Section 6588.7 is added to the Government Code, to
6 read:

7 6588.7. (a) A local agency that owns and operates a publicly
8 owned utility may apply to an authority to finance costs of a utility
9 project for the publicly owned utility with the proceeds of rate
10 reduction bonds. In its application to an authority for the financing,
11 the local agency shall specify the utility project to be financed by
12 the rate reduction bonds, the maximum principal amount, the
13 maximum interest rate, and the maximum stated terms of the rate
14 reduction bonds.

15 (b) A local agency shall not apply to an authority for financing
16 of a utility project pursuant to this section unless the legislative
17 body of the local agency has determined all of the following:

- 18 (1) The project to be financed is a utility project.
- 19 (2) The local agency is electing to finance costs of the utility
20 project pursuant to this section and the financing costs associated
21 with the financing are to be paid from utility project property,
22 including the utility project charge for the rate reduction bonds
23 issued for the utility project in accordance with this section.
- 24 (3) Based on information available to, and projections used by,
25 the legislative body, the financing is expected to result in lower
26 rates to the customers of the local agency's publicly owned utility
27 compared with financing the utility project through bonds payable
28 from revenues of the publicly owned utility.

29 (c) (1) Subject to the requirements of Article XIII D of the
30 California Constitution, an authority financing the costs of a utility
31 project or projects for a local agency's publicly owned utility with
32 rate reduction bonds is authorized and directed to impose and
33 collect a utility project charge with respect to the rate reduction
34 bonds as provided in this section. The imposition of the utility
35 project charge shall be made and evidenced by the adoption of a
36 financing resolution by the governing body of the authority. The
37 financing resolution with respect to financing a utility project or
38 project with rate reduction bonds for a publicly owned utility shall
39 include all of the following:

1 (A) The addition of a separate charge to the bill of each customer
2 of distribution service of the publicly owned utility in the class or
3 classes of customers specified in the financing resolution.

4 (B) A description of the financial calculation, formula, or other
5 method that the authority is to use to determine the utility project
6 charge. The calculation, formula or other method shall include a
7 periodic adjustment method to the then current utility project
8 charge, to be applied at least annually, that shall be utilized by the
9 authority to correct for any overcollection or undercollection of
10 financing costs from the utility project charge or any other
11 adjustment necessary to ensure timely payment of the financing
12 costs of the rate reduction bonds, including, but not limited to, the
13 adjustment of the utility project charge to pay any debt service
14 coverage requirement for the rate reduction bonds. The financial
15 calculation, formula, or other method, including the periodic
16 adjustment method, established in the financing resolution pursuant
17 to this section, and the allocation of utility project charges to, and
18 among, water distribution customers shall be decided solely by
19 the governing body of the authority and shall be final and
20 conclusive. In no event shall the periodic adjustment method
21 established in the financing resolution be applied less frequently
22 than required by the financing resolution and the documents
23 relating to the applicable rate reduction bonds. Once the financial
24 calculation, formula, or other method for determining the utility
25 project charge, and the periodic adjustment method, have been
26 established in the financing resolution and have become final and
27 conclusive as provided in this section, they shall not be changed.

28 (C) A requirement that the authority enter into a servicing
29 agreement for the collection of the utility project charge with the
30 local agency for which the financing is undertaken or its publicly
31 owned utility and the local agency or its publicly owned utility
32 shall act as a servicing agent for purposes of collecting the utility
33 project charge as long as the servicing agreement remains in effect.
34 Moneys collected by the local agency or its publicly owned utility,
35 acting as a servicing agent on behalf of the authority, as a utility
36 project charge shall be held in trust for the exclusive benefit of the
37 persons entitled to the financing costs to be paid, directly or
38 indirectly, from the utility project charge and shall not lose their
39 character as revenues of the authority by virtue of possession by
40 the local agency or its publicly owned utility. The local agency or

1 its publicly owned utility shall provide the authority with the
2 information as to estimated sales of water and any other
3 information concerning the publicly owned utility required by the
4 authority in connection with the initial establishment and the
5 adjustment of the utility project charge.

6 (2) The determination of the legislative body of the local agency
7 that a project to be financed with rate reduction bonds is a utility
8 project shall be final and conclusive and the rate reduction bonds
9 issued to finance the utility project and the utility project charge
10 imposed relating to the rate reduction bonds shall be valid and
11 enforceable in accordance with the terms of the financing resolution
12 and the documents relating to the rate reduction bonds. The
13 authority shall require, in its financing resolution with respect to
14 a utility project charge, that as long as a customer obligated to pay
15 the utility project charge obtains water distribution service from
16 the applicable publicly owned utility, the customer shall pay the
17 utility project charge regardless of whether or not the customer
18 obtains water or water services other than water distribution service
19 from a person or entity other than the publicly owned utility. The
20 utility project charge shall be a nonbypassable charge to all water
21 distribution customers of the publicly owned utility in the class or
22 classes of customers specified in the financing resolution that are
23 receiving water distribution service from the publicly owned utility
24 at the time of adoption of the financing resolution and all future
25 water distribution customers in that class or classes. If a customer
26 of the publicly owned utility that is subject to a utility project
27 charge ceases taking water or water services other than water
28 distribution service from the publicly owned utility, the customer
29 shall remain liable for the payment of its share of the utility project
30 charge as if it had not ceased taking the water or water service
31 from the publicly owned utility. The liability may be discharged
32 by the continued payment of its share of the utility project charge
33 as it accrues or by a one-time payment, as determined by the
34 authority. All provisions of a financing resolution adopted pursuant
35 to this subdivision shall be binding on the authority.

36 (3) The timely and complete payment of all utility project
37 charges by a person liable for the charges shall be a condition of
38 receiving water service from the publicly owned utility of the local
39 agency and each of the local agency and its publicly owned utility
40 is authorized to use its established collection policies and all rights

1 and remedies provided by law to enforce payment and collection
2 of the utility project charge. In no event shall a person liable for a
3 utility project charge be entitled or authorized to withhold payment,
4 in whole or in part, of the utility project charge for any reason.

5 (4) The authority shall determine whether adjustments to the
6 utility project charge relating to rate reduction bonds are required
7 upon the issuance of the rate reduction bonds and at least annually,
8 and at additional intervals as may be provided for in the financing
9 resolution or the documents relating to the rate reduction bonds.
10 Each adjustment shall be made and put into effect in accordance
11 with the financial calculation, formula, or other method that the
12 authority is to use to determine the utility project charge pursuant
13 to the financing resolution expeditiously after the authority's
14 determination that the adjustment is required.

15 (5) All revenues with respect to utility project property related
16 to rate reduction bonds, including payments of the utility project
17 charge, shall be applied first to the payment of the financing costs
18 of the related rate reduction bonds then due, including the funding
19 of reserves for the rate reduction bonds, with any excess being
20 applied as determined by the authority for the benefit of the utility
21 for which the rate reduction bonds were issued.

22 (6) The authority shall be obligated to impose and collect the
23 utility project charge relating to rate reduction bonds in amounts,
24 based on estimates of water usage subject to the utility project
25 charge, sufficient to pay on a timely basis the financing costs
26 associated with the rate reduction bonds when due. The pledge of
27 a utility project charge to secure the payment of rate reduction
28 bonds shall be irrevocable, and the State of California, the
29 authority, or any limited liability company acting pursuant to
30 subdivision (i) shall not reduce, impair, or otherwise adjust the
31 utility project charge, except that the authority shall implement
32 the periodic adjustments to the utility project charge relating to
33 rate reduction bonds as required by the applicable financing
34 resolution and the documents relating to the rate reduction bonds.
35 Revenue from a utility project charge shall be deemed special
36 revenue of the authority and shall not constitute revenue of the
37 local agency or its publicly owned utility for any purpose, including
38 without limitation, any dedication, commitment, or pledge of
39 revenue, receipts, or other income that the local agency or its

1 publicly owned utility has made or will make for the security of
2 any of its obligations.

3 (7) A utility project charge shall constitute a utility project
4 property when, and to the extent that, a financing resolution
5 authorizing the utility project charge has become effective in
6 accordance with its terms, and the utility project property shall
7 thereafter continuously exist as property for all purposes with all
8 of the rights and privileges of this section for the period, and to
9 the extent, provided in the financing resolution, but in any event
10 until all financing costs with respect to the related rate reduction
11 bonds are paid in full, including all arrearages thereon.

12 (8) Utility project property shall constitute a current property
13 right notwithstanding that the value of the property right will
14 depend on consumers using water or, in those instances where
15 consumers are customers of the publicly owned utility, the publicly
16 owned utility performing certain services.

17 (9) In the event a local agency for which rate reduction bonds
18 have been issued and remain outstanding ceases to provide water
19 distribution services, either directly or through its publicly owned
20 utility, references in this section to the local agency or to its
21 publicly owned utility shall be to the entity providing water
22 distribution service in lieu of the local agency and the entity shall
23 assume and perform all obligations of the local agency and its
24 publicly owned utility required by this section and the servicing
25 agreement with the local agency while the rate reduction bonds
26 remain outstanding.

27 (d) (1) Rate reduction bonds shall be within the parameters of
28 the financing set forth by the local agency pursuant to subdivision
29 (a) in connection with the rate reduction bonds and the proceeds
30 of the rate reduction bonds made available to the local agency or
31 its publicly owned utility shall be utilized for the utility project
32 identified in the application for financing of the utility project or
33 projects pursuant to subdivision (a).

34 (2) An authority shall authorize the issuance of rate reduction
35 bonds by a resolution of its governing body. Rate reduction bonds
36 shall be nonrecourse to the credit or any assets of the local agency
37 and the publicly owned utility for which the utility project is
38 financed and shall be payable from, and secured by a pledge of,
39 the utility project property relating to the rate reduction bonds and

1 any additional security or credit enhancement specified in the
2 documents relating to the rate reduction bonds.

3 (3) An authority issuing rate reduction bonds shall pledge the
4 utility project property relating to the rate reduction bonds as
5 security for the payment of the rate reduction bonds, which pledge
6 shall be made pursuant to, and with the effect set forth in Section
7 5451 of the Government Code. All rights of an authority with
8 respect to utility project property pledged as security for the
9 payment of rate reduction bonds shall be for the benefit of, and
10 enforceable by, the beneficiaries of the pledge to the extent
11 provided in the documents relating to the rate reduction bonds.

12 (4) To the extent that any interest in utility project property is
13 pledged as security for the payment of rate reduction bonds, the
14 applicable local agency or its publicly owned utility shall contract
15 with the authority, which contract shall be part of the utility project
16 property, that the local agency or its publicly owned utility will
17 continue to operate its publicly owned utility system that includes
18 the financed utility project to provide service to its customers, will,
19 as servicer, collect amounts in respect of the utility project charge
20 for the benefit and account of the authority and the beneficiaries
21 of the pledge of the utility project charge and will account for and
22 remit these amounts to, or for the account of, the authority.

23 (5) Notwithstanding any other law, any requirement under this
24 section, a financing resolution, any other resolution of the authority,
25 or the provisions of the documents relating to rate reduction bonds
26 to the effect that the authority shall take action with respect to the
27 utility project property relating to the rate reduction bonds shall
28 be binding upon the authority, as its governing body may be
29 constituted from time to time, and the authority shall have no power
30 or right to rescind, alter, or amend any resolution or document
31 containing the requirement.

32 (6) Notwithstanding any law, except as otherwise provided in
33 this section with respect to adjustments to a utility project charge,
34 the recovery of the financing costs for the rate reduction bonds
35 from the utility project charge shall be irrevocable and the authority
36 shall not have the power either by rescinding, altering, or amending
37 the applicable financing resolution or otherwise, to revalue or
38 revise for ratemaking purposes the financing costs of rate reduction
39 bonds, determine that the financing costs for the related rate
40 reduction bonds or the utility project charge is unjust or

1 unreasonable, or in any way reduce or impair the value of utility
2 project property that includes the utility project charge, either
3 directly or indirectly; nor shall the amount of revenues arising with
4 respect to the financing costs for the related rate reduction bonds
5 or the utility project charge be subject to reduction, impairment,
6 postponement, or termination for any reason until all financing
7 costs to be paid from the utility project charge are fully met and
8 discharged. Except as otherwise provided in this section with
9 respect to adjustments to a utility project charge, the State of
10 California does hereby pledge and agree with the owners of rate
11 reduction bonds that the State of California shall neither limit nor
12 alter the financing costs or the utility project property, including
13 the utility project charge, relating to the rate reduction bonds, or
14 any rights in, to or under, the utility project property until all
15 financing costs with respect to the rate reduction bonds are fully
16 met and discharged. This section does not preclude limitation or
17 alteration if and when adequate provision shall be made by law
18 for the protection of the owners. The authority is authorized to
19 include this pledge and undertaking by the State of California in
20 the governing documents for rate reduction bonds. Notwithstanding
21 any other provision of this section, the authority shall make the
22 adjustments to the utility project charge relating to rate reduction
23 bonds provided by this section and the documents related to those
24 rate reduction bonds as may be necessary to ensure timely payment
25 of all financing costs with respect to the rate reduction bonds. The
26 adjustments shall not impose the utility project charge upon classes
27 of customers which were not subject to the utility project charge
28 pursuant to the financing resolution imposing the utility project
29 charge.

30 (e) (1) Financing costs in connection with rate reduction bonds
31 do not constitute a debt or liability of the State of California or of
32 any political subdivision thereof, other than the special obligation
33 of the authority, and do not constitute a pledge of the full faith and
34 credit of the State of California or any of its political subdivisions,
35 including the authority, but are payable solely from the funds
36 provided therefor under this section and in the documents relating
37 to the rate reduction bonds. This subdivision shall in no way
38 preclude guarantees or credit enhancements in connection with
39 rate reduction bonds. All the rate reduction bonds shall contain on
40 the face thereof a statement to the following effect:

1 Neither the full faith and credit nor the taxing power of the State
2 of California or any political subdivision thereof is pledged to the
3 payment of the principal of, or interest on, this bond.

4 (2) The issuance of rate reduction bonds shall not directly,
5 indirectly, or contingently obligate the State of California or any
6 political subdivision thereof to levy or to pledge any form of
7 taxation to pay the rate reduction bonds or to make any
8 appropriation for their payment.

9 (f) (1) Utility project property shall constitute property for all
10 purposes, including for contracts securing rate reduction bonds,
11 whether or not the revenues and proceeds arising with respect
12 thereto have accrued.

13 (2) Subject to the terms of the pledge document with respect to
14 a pledge of utility project property, the validity and relative priority
15 of a pledge created or authorized under this section is not defeated
16 or adversely affected by the commingling of revenues arising with
17 respect to the utility project property with other funds of the local
18 agency or the publicly owned utility collecting a utility project
19 charge on behalf of an authority.

20 (g) (1) There shall exist a statutory lien on the utility project
21 property relating to rate reduction bonds. Upon the effective date
22 of the financing resolution relating to rate reduction bonds, there
23 shall exist a first priority statutory lien on all utility project
24 property, then existing or, thereafter arising, to secure the payment
25 of the rate reduction bonds. This lien shall arise pursuant to law
26 by operation of this section automatically without any action on
27 the part of the authority, the local agency or its publicly owned
28 utility, or any other person. This lien shall secure the payment of
29 all financing costs, then existing or subsequently arising, to the
30 holders of the rate reduction bonds, the trustee or representative
31 for the holders of the rate reduction bonds, and any other entity
32 specified in the financing resolution or the documents relating to
33 the rate reduction bonds. This lien shall attach to the utility project
34 property regardless of who shall own, or shall subsequently be
35 determined to own, the utility project property including any local
36 agency or its publicly owned utility, the authority, or any other
37 person. This lien shall be valid and enforceable against the owner
38 of the utility project property and all third parties upon the
39 effectiveness of the financing resolution without any further public
40 notice.

1 (2) The statutory lien on utility project property created by this
2 section is a continuously perfected lien on all revenues and
3 proceeds arising with respect thereto, whether or not the revenues
4 or proceeds have accrued. Utility project property shall constitute
5 property for all purposes, including for contracts securing rate
6 reduction bonds, whether or not the revenues or proceeds arising
7 with respect thereto have accrued.

8 (3) In addition, the authority may require, in a financing
9 resolution creating utility project property, that, in the event of
10 default by the local agency or its publicly owned utility, in payment
11 of revenues arising with respect to the utility project property, the
12 authority, upon the application by the beneficiaries of the statutory
13 lien, and without limiting any other remedies available to the
14 beneficiaries by reason of the default, shall order the sequestration
15 and payment to the beneficiaries of revenues arising with respect
16 to the utility project property.

17 (h) Notwithstanding any other law, an authority that has financed
18 a utility project through the issuance of rate reduction bonds is not
19 authorized, and no governmental officer or organization shall be
20 empowered to authorize the authority, to become a debtor in a case
21 under the United States Bankruptcy Code (11 U.S.C. Sec. 1 et
22 seq.) or to become the subject of any similar case or proceeding
23 under any other law, whether federal or State of California, as long
24 as any payment obligation from utility project property remains
25 with respect to the rate reduction bonds.

26 (i) An authority may elect to effect a financing of a utility project
27 pursuant to this section through a single member limited liability
28 company formed by the authority by authorizing the company to
29 adopt the financing resolution and the authority's issuing rate
30 reduction bonds payable from, and secured by a pledge of, amounts
31 paid by the company to the authority from the applicable utility
32 project property pursuant to an agreement. The provisions of
33 subdivisions (f) and (g) shall apply to and be the exclusive method
34 of perfecting a pledge of utility project property by the company
35 securing the payment of financing costs under any agreement of
36 the company in connection with the issuance of rate reduction
37 bonds. Reference to the authority in this section and in all related
38 defined terms shall mean or include the company as necessary to
39 implement this subdivision.

1 SEC. 4. Section 6590 of the Government Code is amended to
2 read:

3 6590. The authority may, from time to time, issue its bonds in
4 the principal amount as the authority determines necessary to
5 provide sufficient funds for its purposes, which may include, but
6 shall not be limited to, providing funds for bond purchase
7 agreements, payment of the purchase price of VLF receivables,
8 payment of the purchase price of Proposition 1A receivables,
9 financing utility projects, payment of interest on bonds of the
10 authority, establishment of reserves to secure the bonds, and other
11 expenditures of the authority incident to issuance of the bonds.
12 The authority may also issue bonds for the purpose of making
13 loans to local agencies, to the extent those local agencies are
14 authorized by law to borrow moneys, or to purchase VLF
15 receivables from local agencies as provided in Section 6588.5, or
16 to purchase Proposition 1A receivables as provided in Section
17 6588.6, and the loan or sale proceeds shall be used by the local
18 agencies to pay for public capital improvements, working capital,
19 or insurance programs. The aggregate principal amount of all bonds
20 issued pursuant to this section that are backed by Proposition 1A
21 receivables shall not exceed two billion two hundred fifty million
22 dollars (\$2,250,000,000), and that issuance shall be approved by
23 the Department of Finance and the Treasurer.

24 In the case of any authority in existence on January 1, 1988, no
25 loans shall be made to local agencies for working capital or
26 insurance, unless that purpose is first approved by resolution of
27 the governing body of the authority by unanimous vote of all
28 members of the governing body.

29 SEC. 5. Section 6591 of the Government Code is amended to
30 read:

31 6591. (a) The authority is authorized from time to time to issue
32 bonds to provide funds to achieve its purposes.

33 (b) Bonds may be authorized to finance any of the following:

34 (1) A single public capital improvement, utility projects, working
35 capital, purchase of VLF receivables, purchase of Proposition 1A
36 receivables, or insurance program for a single local agency.

37 (2) A series of public capital improvements, utility projects,
38 working capital, purchases of VLF receivables, purchase of
39 Proposition 1A receivables, or insurance program for a single local
40 agency.

1 (3) A single public capital improvement, utility projects, working
2 capital, purchases of Proposition 1A receivables, or purchases of
3 VLF receivables or insurance program for two or more local
4 agencies.

5 (4) A series of public capital improvements, utility projects,
6 working capital, purchases of VLF receivables or purchases of
7 Proposition 1A receivables or insurance programs for two or more
8 local agencies.

9 (c) Bonds issued for the purpose of financing working capital
10 shall be used to make loans to local agencies for any of the
11 purposes for which a local agency may borrow money pursuant
12 to Section 53852. The loans shall be repaid in accordance with the
13 terms of Section 53854.

14 (d) Except as otherwise expressly provided by the authority,
15 every issue of its bonds shall be general obligations of the authority
16 payable from any revenues or moneys of the authority available
17 therefor and not otherwise pledged. These revenues or moneys
18 may include the proceeds of additional bonds, subject only to any
19 agreements with the holders of particular bonds pledging any
20 particular revenues or moneys. Notwithstanding that the bonds
21 may be payable from a special fund, these bonds shall be deemed
22 to be negotiable instruments for all purposes, subject only to the
23 bond registration provisions.

24 (e) (1) The bonds may be issued as serial bonds or as term
25 bonds, or the authority may issue bonds of both types. The bonds
26 shall be authorized by resolution of the authority and shall, as
27 provided by the resolution or indenture pursuant to which the bonds
28 are issued, meet all of the following conditions:

29 (A) Bear the date of issuance.

30 (B) Bear the time of maturity, not exceeding 50 years from their
31 date of issuance.

32 (C) Bear the rate of interest, either fixed or variable, and, if
33 variable, not in excess of the maximum rate of interest specified
34 therein.

35 (D) Be payable as to principal and interest at the time or times
36 provided.

37 (E) Be in the denominations and in the form provided.

38 (F) Carry the registration privileges provided.

39 (G) Be executed in the manner provided.

1 (H) Be payable in lawful money of the United States at the place
2 or places provided within or without the state.

3 (I) Be subject to the terms of redemption provided.

4 (2) Notwithstanding paragraph (1), the bonds backed by
5 Proposition 1A receivables shall have a maturity date no later than
6 August 1, 2013.

7 (3) For bonds backed by Proposition 1A receivables, both of
8 the following shall apply:

9 (A) The option to call shall be exercised upon receipt by the
10 authority of a timely written notification from the Director of
11 Finance, but no earlier than 30 days after delivery by the director
12 of a written notice of the intent to do so to the Joint Legislative
13 Budget Committee.

14 (B) The bonds may bear interest payable on periodic interest
15 payment dates or may accrue interest to their maturity date or any
16 combination thereof, subject to the approval of the Department of
17 Finance and the State Treasurer pursuant to subdivision (x) of
18 Section 6588.

19 (f) The bonds shall be sold by the authority at the time and in
20 the manner set out in the authority's resolution. The sale may be
21 a public or private sale, and for price or prices, and on terms and
22 conditions as the authority determines proper, after giving due
23 consideration to the recommendations of any local agency to be
24 assisted from the proceeds of the bonds. Pending preparation of
25 the definitive bonds, the authority may issue interim receipts,
26 certificates, or temporary bonds which shall be exchanged for
27 definitive bonds. For bonds backed by Proposition 1A receivables,
28 the authority shall use its best efforts to obtain the lowest overall
29 cost of the bonds, and shall certify that it so used its best efforts.
30 The authority shall, in consultation with the Treasurer and
31 Department of Finance, structure the sale of the bonds backed by
32 Proposition 1A receivables and shall include those terms and
33 conditions approved by the Treasurer and the Department of
34 Finance.

35 (g) In the case of bonds issued by an authority, on or after
36 January 1, 1995, for the purpose of purchasing bonds of a local
37 agency, all of the bonds of the local agency shall be purchased by
38 the authority from the proceeds of the authority bonds within 90
39 days of the date of issuance of the authority bonds. Nothing in this

1 subdivision shall be construed to preclude an authority from issuing
2 parity bonds at any time.

3 SEC. 6. Section 6592 of the Government Code is amended to
4 read:

5 6592. Any resolution authorizing any bonds or any issue of
6 bonds may contain the following provisions, which shall be a part
7 of the contract with the holders of the bonds to be authorized:

8 (a) Provisions pledging the full faith and credit of the authority,
9 or pledging all or any part of the revenues of any public capital
10 improvements, or any revenue-producing contract or contracts
11 made by the authority with any local agency, any VLF receivables
12 purchased pursuant to Section 6588.5, any utility project property,
13 any Proposition 1A receivables purchased pursuant to Section
14 6588.6, or any other moneys of the authority, to secure the payment
15 of the bonds, and of any special account, subject to those
16 agreements with bondholders as may then exist.

17 (b) Provisions setting out the rentals, fees, purchase payments,
18 loan repayments, and other charges, and the amounts to be raised
19 in each year thereby, and the use and disposition of the revenues.

20 (c) Provisions setting aside reserves or sinking funds, and the
21 regulation and disposition thereof.

22 (d) Limitations on the right of the authority or its agent to restrict
23 and regulate the use of the public capital improvements to be
24 financed out of the proceeds of the bonds or any particular issue
25 of bonds.

26 (e) Limitations on the purpose to which the proceeds of sale of
27 any issue of bonds may be applied, and pledging the proceeds to
28 secure the payment of the bonds or any issue of the bonds.

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

32 (g) The procedure, if any, by which the terms of any contract
33 with bondholders may be amended or abrogated, the amount of
34 bonds and the holders thereof that are required to give consent
35 thereto, and the manner in which the consent may be given.

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

38 (i) Definitions of acts or omissions to act which constitute a
39 default in the duties of the authority to holders of its obligations,

1 and providing the rights and remedies of the holders in the event
2 of a default.

3 (j) The mortgaging of any public capital improvements and the
4 site thereof for the purpose of securing the bondholders.

5 (k) The mortgaging of land, improvements, or other assets
6 owned by a local agency for the purpose of securing the
7 bondholders.

8 (l) Procedures for the selection of public capital improvements
9 to be financed with the proceeds of the bonds authorized by the
10 resolution, if the bonds are to be sold in advance of designating
11 the public capital improvements and the local agency to receive
12 the financing.

13 SEC. 7. Section 6599.3 of the Government Code is amended
14 to read:

15 6599.3. Notwithstanding any other provision of law, an action
16 may be brought under Chapter 9 (commencing with Section 860)
17 of Title 10 of Part 2 of the Code of Civil Procedure, to determine
18 the validity of any bonds issued under this article to finance the
19 purchase of bonds for local agencies, the financing of public capital
20 improvements or utility projects, or the purchase of VLF
21 receivables pursuant to Section 6588.5 or Proposition 1A
22 receivables pursuant to Section 6588.6 and any contracts of sale
23 of VLF receivables or Proposition 1A receivables or utility project
24 property entered into by any local agency, and any related
25 documents. If an action is commenced, the action shall be brought
26 in the jurisdiction in which the authority maintains its principal
27 office and is not required to be brought in the jurisdiction or
28 jurisdictions of any of the local agencies. However, publication of
29 summons, as provided in Section 861 of the Code of Civil
30 Procedure, shall be made in the county in which the authority
31 maintains its principal office and in each county in which any local
32 agency that has sold bonds to the authority, for which a public
33 capital improvement is being financed or that has entered into a
34 sales agreement for a VLF receivable or a Proposition 1A
35 receivable where the authority is located.

36 SEC. 8. This act and all grants of power and authority in this
37 act shall be liberally construed to effectuate their purposes, and
38 all incidental powers necessary to carry into effect the provisions
39 of this act are expressly granted to, and conferred upon, public
40 entities.

1 SEC. 9. The provisions of this act are severable. If any
2 provision of this act or its application is held invalid, that invalidity
3 shall not affect other provisions or applications that can be given
4 effect without the invalid provision or application.

O