

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN SENATE JULY 9, 2013

AMENDED IN SENATE JUNE 19, 2013

AMENDED IN ASSEMBLY APRIL 15, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 850**

**Introduced by Assembly Member Nazarian**

February 21, 2013

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An act to amend Sections 6585, 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 specified joint powers authorities, 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 terminate the authority to issue rate reduction bonds pursuant to these provisions after December 31, 2020. The bill would provide that the rate reduction bonds are secured by utility project property, as defined.

The bill would authorize the 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 require ~~an authority to obtain the approval of the California Pollution Control Financing Authority to review each issue of rate reduction bonds for financing costs of a utility project and to determine whether the issue is qualified for issuance, as prescribed, before financing costs of a utility project with the rate reduction bonds. The bill would authorize the 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 authority to enter into a servicing agreement with the local agency for the collection of the utility project charge. The bill would require the California Pollution Control Financing Authority to establish procedures for the expeditious review of a proposed issuance, including, but not limited to, the establishment of reasonable application fees to reimburse the California Pollution Control Financing Authority for costs incurred, as specified. The bill would require the California Pollution Control Financing Authority to submit a prescribed report of its activities for the preceding calendar year to the Legislature no later than March 31 of each year.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 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.

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

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

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

9 (1) Bonds, including, but not limited to, assessment bonds,  
10 redevelopment agency bonds, government-issued mortgage bonds,  
11 and industrial development bonds.

12 (2) Notes, including bond, revenue, tax, or grant anticipation  
13 notes.

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

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

17 (d) “Conservation or reclamation purposes” mean a utility  
18 project designed to reduce the amount of potable water to be  
19 supplied by a publicly owned utility or reduce the amount of water  
20 imported by the publicly owned utility, including without  
21 limitation, storm water capture and treatment, water recycling,  
22 development of local groundwater resources, groundwater  
23 recharging, and water reclamation.

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

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

31 (2) The cost of demolishing or removing any buildings or  
32 structures on land so acquired, including the cost of acquiring any  
33 lands to which the buildings or structures may be moved, and the  
34 cost of all machinery and equipment.

35 (3) Finance charges.

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

38 (5) Provisions for working capital, reserves for principal and  
39 interest and for extensions, enlargements, additions, replacements,  
40 renovations, and improvements.

1 (6) The cost of architectural, engineering, financial and legal  
2 services, plans, specifications, estimates, and administrative  
3 expenses.

4 (7) Other expenses necessary or incidental to determining the  
5 feasibility of constructing any project or incidental to the  
6 construction or acquisition or financing of any public capital  
7 improvement or utility project.

8 (f) “Customer” means a person or entity receiving water through  
9 facilities of a publicly owned utility.

10 (g) “Financing costs” mean any of the following:

11 (1) Interest and redemption premiums that are payable on rate  
12 reduction bonds.

13 (2) The cost of retiring the principal of rate reduction bonds,  
14 whether at maturity, including acceleration of maturity upon an  
15 event of default, or upon redemption, including sinking fund  
16 redemption.

17 (3) A cost related to issuing or servicing rate reduction bonds,  
18 including, but not limited to, servicing fees, trustee fees, legal fees,  
19 administrative fees, bond counsel fees, bond placement or  
20 underwriting fees, remarketing fees, broker dealer fees, independent  
21 manager fees, payment under an interest rate swap agreement,  
22 financial adviser fees, accounting report fees, engineering report  
23 fees, and rating agency fees.

24 (4) A payment or expense associated with a bond insurance  
25 policy, financial guaranty or a contract, agreement, or other credit  
26 enhancement for rate reduction bonds or a contract, agreement, or  
27 other financial agreement entered into in connection with rate  
28 reduction bonds.

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

31 (h) (1) “Financing resolution” means a resolution adopted by  
32 the governing body of an authority financing a utility project with  
33 rate reduction bonds that establishes and imposes a utility project  
34 charge in connection with the rate reduction bonds in accordance  
35 with Section 6588.7

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

38 (i) “Legislative body” means the governing body of a local  
39 agency.

1 (j) “Local agency” means a party to the agreement creating the  
2 authority, or an agency or subdivision of that party, sponsoring a  
3 project of public capital improvements, or any city, county, city  
4 and county, authority, district, or public corporation of this state.

5 (k) “Mandate” means a requirement, imposed by a mandating  
6 entity by any means, including without limitation, a statute, rule,  
7 regulation, an administrative or judicial order, a building, operating,  
8 or licensing requirement or condition, or an agreement with, or  
9 license or permit from, the mandating entity, on a facility of a  
10 publicly owned utility or a facility operated in whole or in part for  
11 the benefit of a publicly owned utility, or on the operations of the  
12 publicly owned utility, or on the water pumped, acquired, or  
13 supplied by the publicly owned utility.

14 (l) (1) “Mandating entity” means the United States; a state of  
15 the United States; an agency, department, commission, or other  
16 subdivision of the United States or a state of the United States; a  
17 court of the United States or a state of the United States; or any  
18 other body or organization, that has jurisdiction over the operations  
19 of a publicly owned utility; the facility of a publicly owned utility,  
20 or a facility operated in whole or in part for the benefit of a publicly  
21 owned utility; or the water pumped, acquired or sold by a publicly  
22 owned utility.

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

25 (m) “Proposition 1A receivable” means the right to payment of  
26 moneys due or to become due to a local agency, pursuant to clause  
27 (iii) of subparagraph (B) of paragraph (1) of subdivision (a) of  
28 Section 25.5 of Article XIII of the California Constitution and  
29 Section 100.06 of the Revenue and Taxation Code.

30 (n) “Public capital improvements” means one or more projects  
31 specified in Section 6546.

32 (o) “Publicly owned utility” means a utility furnishing water  
33 service to not less than 25,000 retail customers that is owned and  
34 operated by a local agency or a department or other subdivision  
35 of a local agency and includes any successor to the powers and  
36 functions of the department or other subdivision.

37 (p) “Rate reduction bonds” mean bonds that are issued by an  
38 authority, the proceeds of which are used directly or indirectly to  
39 pay or reimburse a local agency or its publicly owned utility for  
40 the payment of the costs of a utility project, and that are secured

1 by a pledge of, and are payable from, utility project property as  
2 provided in Section 6588.7.

3 (q) “Revenue” means income and receipts of the authority from  
4 any of the following:

5 (1) A bond purchase agreement.

6 (2) Bonds acquired by the authority.

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

9 (4) Projects financed by the authority.

10 (5) Grants and other sources of income.

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

12 (7) Proposition 1A receivables purchased pursuant to Section  
13 6588.6.

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

17 (r) “Utility project” means the acquisition, construction,  
18 installation, retrofitting, rebuilding, or other addition to, or  
19 improvement of, any equipment, device, structure, improvement,  
20 process, facility, technology, rights or property, located either  
21 within, or outside of, the State of California, and that is used, or  
22 to be used, in connection with the operations of a publicly owned  
23 utility for conservation or reclamation purposes or in response to  
24 a mandate.

25 (s) “Utility project charge” means a charge paid or to be paid  
26 by customers of a publicly owned utility to pay financing costs of  
27 rate reduction bonds issued to finance a utility project for a publicly  
28 owned utility that is imposed pursuant to Section 6588.7, including  
29 any adjustment of the charge pursuant to Section 6588.7.

30 (t) “Utility project property” means the property right created  
31 pursuant to Section 6588.7, including without limitation, the right,  
32 title, and interest of an authority for any of the following:

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

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

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

4 (u) “VLF receivable” means the right to payment of moneys  
5 due or to become due to a local agency out of funds payable in  
6 connection with vehicle license fees to a local agency pursuant to  
7 Section 10754.11 of the Revenue and Taxation Code.

8 (v) “Working capital” means money to be used by, or on behalf  
9 of, a local agency for any purpose for which a local agency may  
10 borrow money pursuant to Section 53852, or for any purpose for  
11 which a VLF receivable or a Proposition 1A receivable sold to an  
12 authority could have been used by the local agency.

13 SEC. 2. Section 6588.7 is added to the Government Code, to  
14 read:

15 6588.7. (a) An authority whose financing activities are limited  
16 to financing utility projects and projects for the use or benefit of  
17 public water agencies may finance utility projects as provided in  
18 this section, including the issuance of rate reduction bonds and the  
19 imposition and adjustment of utility project charges.

20 (b) (1) A local agency that owns and operates a publicly owned  
21 utility may apply to an authority specified in subdivision (a) to  
22 finance costs of a utility project for the publicly owned utility with  
23 the proceeds of rate reduction bonds if at the time of application,  
24 bonds payable from revenues of the publicly owned utility are, or  
25 upon issuance would be, rated investment grade by a nationally  
26 recognized rating agency. In its application to an authority for the  
27 financing, the local agency shall specify the utility project to be  
28 financed by the rate reduction bonds, the maximum principal  
29 amount, the maximum interest rate, and the maximum stated terms  
30 of the rate reduction bonds.

31 ~~(2) An authority shall obtain the approval of the California~~  
32 ~~Pollution Control Financing Authority, as defined in Section 44504~~  
33 ~~of the Health and Safety Code, before financing costs of a utility~~  
34 ~~project with rate reduction bonds. The California Pollution Control~~  
35 ~~Financing Authority shall consider a project for financing with~~  
36 ~~rate reduction bonds upon the filing of an application by an~~  
37 ~~authority, on the terms and conditions the California Pollution~~  
38 ~~Control Financing Authority shall determine. The California~~  
39 ~~Pollution Control Financing Authority shall establish procedures~~  
40 ~~for the expeditious review of applications, including, but not~~

1 ~~limited to, establishment of reasonable application fees to~~  
2 ~~reimburse the California Pollution Control Financing Authority~~  
3 ~~for costs incurred in administering applications received pursuant~~  
4 ~~to this section. The review may be concurrent with an authority's~~  
5 ~~processing of an application for financing, so as to allow for the~~  
6 ~~issuance of rate reduction bonds as quickly as feasible.~~  
7 ~~Notwithstanding any other law, the California Pollution Control~~  
8 ~~Financing Authority does not have the authority to alter or modify~~  
9 ~~any term or condition related to the utility project property. The~~  
10 ~~California Pollution Control Financing Authority shall approve a~~  
11 ~~project for financing with rate reduction bonds if the financing~~

12 *(2) In order to allow the state to review the issuance of rate*  
13 *reduction bonds, collect data, ensure transparency, and conduct*  
14 *an independent analysis of the effectiveness of the use of rate*  
15 *reduction bonds pursuant to this section, the California Pollution*  
16 *Control Financing Authority, as defined in Section 44504 of the*  
17 *Health and Safety Code, shall review each issue of bonds and shall*  
18 *determine whether the issue is qualified for issuance under the*  
19 *provisions of this section. The California Pollution Control*  
20 *Financing Authority shall determine that an issue of rate reduction*  
21 *bonds is qualified for issuance under this section, if the issuance*  
22 *satisfies all of the following:*

23 *(A) The ~~financing~~ issuance meets the criteria specified in*  
24 *paragraphs (1) to (3), inclusive, of subdivision (c).*

25 *(B) The projected financing costs, as defined in subdivision (g)*  
26 *of Section 6585, fall within the normal range of financing costs*  
27 *for comparable types of debt issuance.*

28 ~~*(3) If the California Pollution Control Financing Authority does*~~  
29 ~~*not adopt a resolution either approving the financing or declining*~~  
30 ~~*to approve the financing within 60 days of receiving an application*~~  
31 ~~*for approval of the financing of a utility project with rate reduction*~~  
32 ~~*bonds, paragraph (2) shall not apply to the financing of the utility*~~  
33 ~~*project with rate reduction bonds.*~~

34 *(3) The California Pollution Control Financing Authority shall*  
35 *establish procedures for the expeditious review of a proposed*  
36 *issuance pursuant to this section, including, but not limited to, the*  
37 *establishment of reasonable application fees to reimburse the*  
38 *California Pollution Control Financing Authority for costs incurred*  
39 *in administering this section.*

1 (4) *The California Pollution Control Financing Authority shall*  
2 *provide an explanation in writing for any refusal to qualify a*  
3 *proposed issuance but may not alter or modify any term or*  
4 *condition related to the utility project property.*

5 (5) *The California Pollution Control Financing Authority shall*  
6 *take action on any completed application submitted to it pursuant*  
7 *to this section no later than the next meeting of the California*  
8 *Pollution Control Financing Authority that occurs after at least*  
9 *60 days following receipt of the application.*

10 (6) *The review and qualification pursuant to this section may*  
11 *be concurrent with an authority's processing of an application for*  
12 *financing so as to allow for the issuance of rate reduction bonds*  
13 *as quickly as feasible.*

14 (7) *Notwithstanding any other provision of law, the California*  
15 *Pollution Control Financing Authority may adopt regulations*  
16 *relating to this section as emergency regulations in accordance*  
17 *with Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
18 *Division 3. For purposes of Chapter 3.5 (commencing with Section*  
19 *11340), including Section 11349.6, the adoption of the regulations*  
20 *shall be considered by the Office of Administrative Law to be*  
21 *necessary for the immediate preservation of the public peace,*  
22 *health and safety, and general welfare.*

23 (8) *Annually no later than March 31, the California Pollution*  
24 *Control Financing Authority shall submit to the Legislature a*  
25 *report of its activities pursuant to this section for the preceding*  
26 *calendar year ended December 31. The California Pollution*  
27 *Control Financing Authority shall require information from*  
28 *applicants to ensure that the necessary data is available to*  
29 *complete this report. The report may be submitted as a part of the*  
30 *report required pursuant to Section 44538 of the Health and Safety*  
31 *Code. The report shall include all of the following:*

32 (A) *A listing of applications received.*

33 (B) *A listing of proposed issuances qualified under the*  
34 *provisions of this section.*

35 (C) *A report of bonds sold, the interest rates on the bonds,*  
36 *whether the bond sales were pursuant to public bid or were*  
37 *negotiated, and any rating given the bonds by a nationally*  
38 *recognized securities rating organization.*

39 (D) *A specification of proposed issuances qualified but not yet*  
40 *issued.*

1 (E) A comparison of the interest rates and transactional costs  
 2 on issuances qualified under this section with interest rates on  
 3 comparable types of debt issuance occurring at or near the same  
 4 time as the issuances.

5 (9) (A) The requirement for submitting a report imposed under  
 6 paragraph (8) is inoperative on December 31, 2020.

7 (B) A report to be submitted pursuant to paragraph (8) shall  
 8 be submitted in compliance with Section 9795.

9 (c) A local agency shall not apply to an authority for financing  
 10 of a utility project pursuant to this section unless the legislative  
 11 body of the local agency has determined all of the following:

12 (1) The project to be financed is a utility project.

13 (2) The local agency is electing to finance costs of the utility  
 14 project pursuant to this section and the financing costs associated  
 15 with the financing are to be paid from utility project property,  
 16 including the utility project charge for the rate reduction bonds  
 17 issued for the utility project in accordance with this section.

18 (3) Based on information available to, and projections used by,  
 19 the legislative body, the rates of the publicly owned utility plus  
 20 the utility project charge resulting from the financing of the utility  
 21 project with rate reduction bonds are expected to be lower than  
 22 the rates of the publicly owned utility if the utility project was  
 23 financed with bonds payable from revenues of the publicly owned  
 24 utility.

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

36 (A) The addition of a separate charge to the bill of each customer  
 37 of the publicly owned utility in the class or classes of customers  
 38 specified in the financing resolution.

39 (B) A description of the financial calculation, formula, or other  
 40 method that the authority is to use to determine the utility project

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

23 (C) Notwithstanding any other provision of this section, in no  
24 event shall a utility project charge exceed the maximum rate  
25 permitted under Article XIII D of the California Constitution.

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

1 information concerning the publicly owned utility required by the  
2 authority in connection with the initial establishment and the  
3 adjustment of the utility project charge.

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

32 (3) The timely and complete payment of all utility project  
33 charges by a person liable for the charges shall be a condition of  
34 receiving water service from the publicly owned utility of the local  
35 agency and each of the local agencies and their publicly owned  
36 utilities is authorized to use its established collection policies and  
37 all rights and remedies provided by law to enforce payment and  
38 collection of the utility project charge. In no event shall a person  
39 liable for a utility project charge be entitled or authorized to

1 withhold payment, in whole or in part, of the utility project charge  
2 for any reason.

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

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

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

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

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

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

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

31 (2) An authority shall authorize the issuance of rate reduction  
32 bonds by a resolution of its governing body. An authority issuing  
33 rate reduction bonds shall include in its preliminary notice and  
34 final report for the rate reduction bonds submitted to the California  
35 Debt and Investment Advisory Commission pursuant to Section  
36 8855 a statement that the rate reduction bonds are being issued  
37 pursuant to this section. An authority issuing rate reduction bonds  
38 shall include in its final report for the rate reduction bonds  
39 submitted to the California Debt and Investment Advisory  
40 Commission pursuant to Section 8855 the savings realized by

1 issuing the rate reduction bonds rather than bonds payable from  
2 the revenues of the publicly owned utility for whose benefit the  
3 rate reduction bonds were issued. Rate reduction bonds shall be  
4 nonrecourse to the credit or any assets of the local agency and the  
5 publicly owned utility for which the utility project is financed and  
6 shall be payable from, and secured by a pledge of, the utility project  
7 property relating to the rate reduction bonds and any additional  
8 security or credit enhancement specified in the documents relating  
9 to the rate reduction bonds.

10 (3) An authority issuing rate reduction bonds shall pledge the  
11 utility project property relating to the rate reduction bonds as  
12 security for the payment of the rate reduction bonds, which pledge  
13 shall be made pursuant to, and with the effect set forth in Section  
14 5451 of the Government Code. All rights of an authority with  
15 respect to utility project property pledged as security for the  
16 payment of rate reduction bonds shall be for the benefit of, and  
17 enforceable by, the beneficiaries of the pledge to the extent  
18 provided in the documents relating to the rate reduction bonds.

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

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

39 (6) Notwithstanding any law, except as otherwise provided in  
40 this section with respect to adjustments to a utility project charge,

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

37 (f) (1) Financing costs in connection with rate reduction bonds  
38 do not constitute a debt or liability of the State of California or of  
39 any political subdivision thereof, other than the special obligation  
40 of the authority, and do not constitute a pledge of the full faith and

1 credit of the State of California or any of its political subdivisions,  
2 including the authority, but are payable solely from the funds  
3 provided therefor under this section and in the documents relating  
4 to the rate reduction bonds. This subdivision shall in no way  
5 preclude guarantees or credit enhancements in connection with  
6 rate reduction bonds. All the rate reduction bonds shall contain on  
7 the face thereof a statement to the following effect:

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

11 (2) The issuance of rate reduction bonds shall not directly,  
12 indirectly, or contingently obligate the State of California or any  
13 political subdivision thereof to levy or to pledge any form of  
14 taxation to pay the rate reduction bonds or to make any  
15 appropriation for their payment.

16 (g) (1) Utility project property shall constitute property for all  
17 purposes, including for contracts securing rate reduction bonds,  
18 whether or not the revenues and proceeds arising with respect  
19 thereto have accrued.

20 (2) Subject to the terms of the pledge document with respect to  
21 a pledge of utility project property, the validity and relative priority  
22 of a pledge created or authorized under this section is not defeated  
23 or adversely affected by the commingling of revenues arising with  
24 respect to the utility project property with other funds of the local  
25 agency or the publicly owned utility collecting a utility project  
26 charge on behalf of an authority.

27 (h) (1) There shall exist a statutory lien on the utility project  
28 property relating to rate reduction bonds. Upon the effective date  
29 of the financing resolution relating to rate reduction bonds, there  
30 shall exist a first priority statutory lien on all utility project  
31 property, then existing or, thereafter arising, to secure the payment  
32 of the rate reduction bonds. This lien shall arise pursuant to law  
33 by operation of this section automatically without any action on  
34 the part of the authority, the local agency or its publicly owned  
35 utility, or any other person. This lien shall secure the payment of  
36 all financing costs, then existing or subsequently arising, to the  
37 holders of the rate reduction bonds, the trustee or representative  
38 for the holders of the rate reduction bonds, and any other entity  
39 specified in the financing resolution or the documents relating to  
40 the rate reduction bonds. This lien shall attach to the utility project

1 property regardless of who shall own, or shall subsequently be  
2 determined to own, the utility project property including any local  
3 agency or its publicly owned utility, the authority, or any other  
4 person. This lien shall be valid and enforceable against the owner  
5 of the utility project property and all third parties upon the  
6 effectiveness of the financing resolution without any further public  
7 notice.

8 (2) The statutory lien on utility project property created by this  
9 section is a continuously perfected lien on all revenues and  
10 proceeds arising with respect thereto, whether or not the revenues  
11 or proceeds have accrued. Utility project property shall constitute  
12 property for all purposes, including for contracts securing rate  
13 reduction bonds, whether or not the revenues or proceeds arising  
14 with respect thereto have accrued.

15 (3) In addition, the authority may require, in a financing  
16 resolution creating utility project property, that, in the event of  
17 default by the local agency or its publicly owned utility, in payment  
18 of revenues arising with respect to the utility project property, the  
19 authority, upon the application by the beneficiaries of the statutory  
20 lien, and without limiting any other remedies available to the  
21 beneficiaries by reason of the default, shall order the sequestration  
22 and payment to the beneficiaries of revenues arising with respect  
23 to the utility project property.

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

33 (j) An authority may elect to effect a financing of a utility project  
34 pursuant to this section through a single member limited liability  
35 company formed by the authority by authorizing the company to  
36 adopt the financing resolution and the authority's issuing rate  
37 reduction bonds payable from, and secured by a pledge of, amounts  
38 paid by the company to the authority from the applicable utility  
39 project property pursuant to an agreement. The provisions of  
40 subdivisions (g) and (h) shall apply to and be the exclusive method

1 of perfecting a pledge of utility project property by the company  
2 securing the payment of financing costs under any agreement of  
3 the company in connection with the issuance of rate reduction  
4 bonds. Reference to the authority in this section and in all related  
5 defined terms shall mean or include the company as necessary to  
6 implement this subdivision.

7 (k) After December 31, 2020, the authority to issue rate  
8 reduction bonds under this section terminates.

9 SEC. 3. Section 6590 of the Government Code is amended to  
10 read:

11 6590. The authority may, from time to time, issue its bonds in  
12 the principal amount as the authority determines necessary to  
13 provide sufficient funds for its purposes, which may include, but  
14 shall not be limited to, providing funds for bond purchase  
15 agreements, payment of the purchase price of VLF receivables,  
16 payment of the purchase price of Proposition 1A receivables,  
17 financing utility projects, payment of interest on bonds of the  
18 authority, establishment of reserves to secure the bonds, and other  
19 expenditures of the authority incident to issuance of the bonds.  
20 The authority may also issue bonds for the purpose of making  
21 loans to local agencies, to the extent those local agencies are  
22 authorized by law to borrow moneys, or to purchase VLF  
23 receivables from local agencies as provided in Section 6588.5, or  
24 to purchase Proposition 1A receivables as provided in Section  
25 6588.6, and the loan or sale proceeds shall be used by the local  
26 agencies to pay for public capital improvements, working capital,  
27 or insurance programs. The aggregate principal amount of all bonds  
28 issued pursuant to this section that are backed by Proposition 1A  
29 receivables shall not exceed two billion two hundred fifty million  
30 dollars (\$2,250,000,000), and that issuance shall be approved by  
31 the Department of Finance and the Treasurer.

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

37 SEC. 4. Section 6591 of the Government Code is amended to  
38 read:

39 6591. (a) The authority is authorized from time to time to issue  
40 bonds to provide funds to achieve its purposes.

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

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

5 (2) A series of public capital improvements, utility projects,  
6 working capital, purchases of VLF receivables, purchase of  
7 Proposition 1A receivables, or insurance program for a single local  
8 agency.

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

13 (4) A series of public capital improvements, utility projects,  
14 working capital, purchases of VLF receivables or purchases of  
15 Proposition 1A receivables or insurance programs for two or more  
16 local agencies.

17 (c) Bonds issued for the purpose of financing working capital  
18 shall be used to make loans to local agencies for any of the  
19 purposes for which a local agency may borrow money pursuant  
20 to Section 53852. The loans shall be repaid in accordance with the  
21 terms of Section 53854.

22 (d) Except as otherwise expressly provided by the authority,  
23 every issue of its bonds shall be general obligations of the authority  
24 payable from any revenues or moneys of the authority available  
25 therefor and not otherwise pledged. These revenues or moneys  
26 may include the proceeds of additional bonds, subject only to any  
27 agreements with the holders of particular bonds pledging any  
28 particular revenues or moneys. Notwithstanding that the bonds  
29 may be payable from a special fund, these bonds shall be deemed  
30 to be negotiable instruments for all purposes, subject only to the  
31 bond registration provisions.

32 (e) (1) The bonds may be issued as serial bonds or as term  
33 bonds, or the authority may issue bonds of both types. The bonds  
34 shall be authorized by resolution of the authority and shall, as  
35 provided by the resolution or indenture pursuant to which the bonds  
36 are issued, meet all of the following conditions:

37 (A) Bear the date of issuance.

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

- 1 (C) Bear the rate of interest, either fixed or variable, and, if  
2 variable, not in excess of the maximum rate of interest specified  
3 therein.
- 4 (D) Be payable as to principal and interest at the time or times  
5 provided.
- 6 (E) Be in the denominations and in the form provided.
- 7 (F) Carry the registration privileges provided.
- 8 (G) Be executed in the manner provided.
- 9 (H) Be payable in lawful money of the United States at the place  
10 or places provided within or without the state.
- 11 (I) Be subject to the terms of redemption provided.
- 12 (2) Notwithstanding paragraph (1), the bonds backed by  
13 Proposition 1A receivables shall have a maturity date no later than  
14 August 1, 2013.
- 15 (3) For bonds backed by Proposition 1A receivables, both of  
16 the following shall apply:
- 17 (A) The option to call shall be exercised upon receipt by the  
18 authority of a timely written notification from the Director of  
19 Finance, but no earlier than 30 days after delivery by the director  
20 of a written notice of the intent to do so to the Joint Legislative  
21 Budget Committee.
- 22 (B) The bonds may bear interest payable on periodic interest  
23 payment dates or may accrue interest to their maturity date or any  
24 combination thereof, subject to the approval of the Department of  
25 Finance and the State Treasurer pursuant to subdivision (x) of  
26 Section 6588.
- 27 (f) The bonds shall be sold by the authority at the time and in  
28 the manner set out in the authority's resolution. The sale may be  
29 a public or private sale, and for price or prices, and on terms and  
30 conditions as the authority determines proper, after giving due  
31 consideration to the recommendations of any local agency to be  
32 assisted from the proceeds of the bonds. Pending preparation of  
33 the definitive bonds, the authority may issue interim receipts,  
34 certificates, or temporary bonds which shall be exchanged for  
35 definitive bonds. For bonds backed by Proposition 1A receivables,  
36 the authority shall use its best efforts to obtain the lowest overall  
37 cost of the bonds, and shall certify that it so used its best efforts.  
38 The authority shall, in consultation with the Treasurer and  
39 Department of Finance, structure the sale of the bonds backed by  
40 Proposition 1A receivables and shall include those terms and

1 conditions approved by the Treasurer and the Department of  
2 Finance.

3 (g) In the case of bonds issued by an authority, on or after  
4 January 1, 1995, for the purpose of purchasing bonds of a local  
5 agency, all of the bonds of the local agency shall be purchased by  
6 the authority from the proceeds of the authority bonds within 90  
7 days of the date of issuance of the authority bonds. Nothing in this  
8 subdivision shall be construed to preclude an authority from issuing  
9 parity bonds at any time.

10 SEC. 5. Section 6592 of the Government Code is amended to  
11 read:

12 6592. Any resolution authorizing any bonds or any issue of  
13 bonds may contain the following provisions, which shall be a part  
14 of the contract with the holders of the bonds to be authorized:

15 (a) Provisions pledging the full faith and credit of the authority,  
16 or pledging all or any part of the revenues of any public capital  
17 improvements, or any revenue-producing contract or contracts  
18 made by the authority with any local agency, any VLF receivables  
19 purchased pursuant to Section 6588.5, any utility project property,  
20 any Proposition 1A receivables purchased pursuant to Section  
21 6588.6, or any other moneys of the authority, to secure the payment  
22 of the bonds, and of any special account, subject to those  
23 agreements with bondholders as may then exist.

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

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

29 (d) Limitations on the right of the authority or its agent to restrict  
30 and regulate the use of the public capital improvements to be  
31 financed out of the proceeds of the bonds or any particular issue  
32 of bonds.

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

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

39 (g) The procedure, if any, by which the terms of any contract  
40 with bondholders may be amended or abrogated, the amount of

1 bonds and the holders thereof that are required to give consent  
2 thereto, and the manner in which the consent may be given.

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

5 (i) Definitions of acts or omissions to act which constitute a  
6 default in the duties of the authority to holders of its obligations,  
7 and providing the rights and remedies of the holders in the event  
8 of a default.

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

11 (k) The mortgaging of land, improvements, or other assets  
12 owned by a local agency for the purpose of securing the  
13 bondholders.

14 (l) Procedures for the selection of public capital improvements  
15 to be financed with the proceeds of the bonds authorized by the  
16 resolution, if the bonds are to be sold in advance of designating  
17 the public capital improvements and the local agency to receive  
18 the financing.

19 SEC. 6. Section 6599.3 of the Government Code is amended  
20 to read:

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

1 sales agreement for a VLF receivable or a Proposition 1A  
2 receivable where the authority is located.

3 SEC. 7. This act and all grants of power and authority in this  
4 act shall be liberally construed to effectuate their purposes, and  
5 all incidental powers necessary to carry into effect the provisions  
6 of this act are expressly granted to, and conferred upon, public  
7 entities.

8 SEC. 8. The provisions of this act are severable. If any  
9 provision of this act or its application is held invalid, that invalidity  
10 shall not affect other provisions or applications that can be given  
11 effect without the invalid provision or application.

O