

Assembly Bill No. 850

Passed the Assembly September 6, 2013

Chief Clerk of the Assembly

Passed the Senate September 3, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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. 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.

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

SECTION 1. Section 6585 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Finance charges.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) A bond purchase agreement.
- (2) Bonds acquired by the authority.
- (3) Loans installment sale agreements, and other revenue-producing agreements entered into by the authority.
- (4) Projects financed by the authority.
- (5) Grants and other sources of income.
- (6) VLF receivables purchased pursuant to Section 6588.5.
- (7) Proposition 1A receivables purchased pursuant to Section 6588.6.

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

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

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

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

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

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

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

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

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

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

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

(b) (1) A local agency that owns and operates a publicly owned utility may apply to an authority specified in subdivision (a) to finance costs of a utility project for the publicly owned utility with the proceeds of rate reduction bonds if at the time of application, bonds payable from revenues of the publicly owned utility are, or upon issuance would be, rated investment grade by a nationally

recognized rating agency. In its application to an authority for the financing, the local agency shall specify the utility project to be financed by the rate reduction bonds, the maximum principal amount, the maximum interest rate, and the maximum stated terms of the rate reduction bonds.

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

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

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

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

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

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

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

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

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

(A) A listing of applications received.

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

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

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

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

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

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

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

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

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

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

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

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

(B) A description of the financial calculation, formula, or other method that the authority is to use to determine the utility project charge. The calculation, formula or other method shall include a periodic adjustment method to the then current utility project charge, to be applied at least annually, that shall be utilized by the authority to correct for any overcollection or undercollection of financing costs from the utility project charge or any other adjustment necessary to ensure timely payment of the financing costs of the rate reduction bonds, including, but not limited to, the adjustment of the utility project charge to pay any debt service coverage requirement for the rate reduction bonds. The financial calculation, formula, or other method, including the periodic adjustment method, established in the financing resolution pursuant to this section, and the allocation of utility project charges to, and

among, customers of the publicly owned utility shall be decided solely by the governing body of the authority and shall be final and conclusive. In no event shall the periodic adjustment method established in the financing resolution be applied less frequently than required by the financing resolution and the documents relating to the applicable rate reduction bonds. Once the financial calculation, formula, or other method for determining the utility project charge, and the periodic adjustment method, have been established in the financing resolution and have become final and conclusive as provided in this section, they shall not be changed.

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

(D) A requirement that the authority enter into a servicing agreement for the collection of the utility project charge with the local agency for which the financing is undertaken or its publicly owned utility and the local agency or its publicly owned utility shall act as a servicing agent for purposes of collecting the utility project charge as long as the servicing agreement remains in effect. Moneys collected by the local agency or its publicly owned utility, acting as a servicing agent on behalf of the authority, as a utility project charge shall be held in trust for the exclusive benefit of the persons entitled to the financing costs to be paid, directly or indirectly, from the utility project charge and shall not lose their character as revenues of the authority by virtue of possession by the local agency or its publicly owned utility. The local agency or its publicly owned utility shall provide the authority with the information as to estimated sales of water and any other information concerning the publicly owned utility required by the authority in connection with the initial establishment and the adjustment of the utility project charge.

(2) The determination of the legislative body of the local agency that a project to be financed with rate reduction bonds is a utility project shall be final and conclusive and the rate reduction bonds issued to finance the utility project and the utility project charge imposed relating to the rate reduction bonds shall be valid and enforceable in accordance with the terms of the financing resolution and the documents relating to the rate reduction bonds. The authority shall require, in its financing resolution with respect to a utility project charge, that as long as a customer in the class or

classes of customers specified in the financing resolution receive water through the facilities of the publicly owned utility, the customer shall pay the utility project charge regardless of whether or not the customer has an agreement to purchase water from a person or entity other than the publicly owned utility. The utility project charge shall be a nonbypassable charge to all customers of the publicly owned utility in the class or classes of customers specified in the financing resolution at the time of adoption of the financing resolution and all future customers in that class or classes. If a customer of the publicly owned utility that is subject to a utility project charge enters into an agreement to purchase water from a person or entity other than the publicly owned utility, the customer shall remain liable for the payment of its share of the utility project charge as if it had not entered into the agreement. The liability may be discharged by the continued payment of its share of the utility project charge as it accrues or by a one-time payment, as determined by the authority. All provisions of a financing resolution adopted pursuant to this subdivision shall be binding on the authority.

(3) The timely and complete payment of all utility project charges by a person liable for the charges shall be a condition of receiving water service from the publicly owned utility of the local agency and each of the local agencies and their publicly owned utilities is authorized to use its established collection policies and all rights and remedies provided by law to enforce payment and collection of the utility project charge. In no event shall a person liable for a utility project charge be entitled or authorized to withhold payment, in whole or in part, of the utility project charge for any reason.

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

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

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

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

(8) Utility project property shall constitute a current property right notwithstanding that the value of the property right will depend on consumers using water or, in those instances where

consumers are customers of the publicly owned utility, the publicly owned utility performing certain services.

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

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

(2) An authority shall authorize the issuance of rate reduction bonds by a resolution of its governing body. An authority issuing rate reduction bonds shall include in its preliminary notice and final report for the rate reduction bonds submitted to the California Debt and Investment Advisory Commission pursuant to Section 8855 a statement that the rate reduction bonds are being issued pursuant to this section. An authority issuing rate reduction bonds shall include in its final report for the rate reduction bonds submitted to the California Debt and Investment Advisory Commission pursuant to Section 8855 the savings realized by issuing the rate reduction bonds rather than bonds payable from the revenues of the publicly owned utility for whose benefit the rate reduction bonds were issued. Rate reduction bonds shall be nonrecourse to the credit or any assets of the local agency and the publicly owned utility for which the utility project is financed and shall be payable from, and secured by a pledge of, the utility project property relating to the rate reduction bonds and any additional security or credit enhancement specified in the documents relating to the rate reduction bonds.

(3) An authority issuing rate reduction bonds shall pledge the utility project property relating to the rate reduction bonds as security for the payment of the rate reduction bonds, which pledge

shall be made pursuant to, and with the effect set forth in Section 5451 of the Government Code. All rights of an authority with respect to utility project property pledged as security for the payment of rate reduction bonds shall be for the benefit of, and enforceable by, the beneficiaries of the pledge to the extent provided in the documents relating to the rate reduction bonds.

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

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

(6) Notwithstanding any law, except as otherwise provided in this section with respect to adjustments to a utility project charge, the recovery of the financing costs for the rate reduction bonds from the utility project charge shall be irrevocable and the authority shall not have the power either by rescinding, altering, or amending the applicable financing resolution or otherwise, to revalue or revise for ratemaking purposes the financing costs of rate reduction bonds, determine that the financing costs for the related rate reduction bonds or the utility project charge is unjust or unreasonable, or in any way reduce or impair the value of utility project property that includes the utility project charge, either directly or indirectly; nor shall the amount of revenues arising with respect to the financing costs for the related rate reduction bonds or the utility project charge be subject to reduction, impairment,

postponement, or termination for any reason until all financing costs to be paid from the utility project charge are fully met and discharged. Except as otherwise provided in this section with respect to adjustments to a utility project charge, the State of California does hereby pledge and agree with the owners of rate reduction bonds that the State of California shall neither limit nor alter the financing costs or the utility project property, including the utility project charge, relating to the rate reduction bonds, or any rights in, to or under, the utility project property until all financing costs with respect to the rate reduction bonds are fully met and discharged. This section does not preclude limitation or alteration if and when adequate provision shall be made by law for the protection of the owners. The authority is authorized to include this pledge and undertaking by the State of California in the governing documents for rate reduction bonds. Notwithstanding any other provision of this section, the authority shall make the adjustments to the utility project charge relating to rate reduction bonds provided by this section and the documents related to those rate reduction bonds as may be necessary to ensure timely payment of all financing costs with respect to the rate reduction bonds. The adjustments shall not impose the utility project charge upon classes of customers which were not subject to the utility project charge pursuant to the financing resolution imposing the utility project charge.

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

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

(2) The issuance of rate reduction bonds shall not directly, indirectly, or contingently obligate the State of California or any

political subdivision thereof to levy or to pledge any form of taxation to pay the rate reduction bonds or to make any appropriation for their payment.

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

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

(h) (1) There shall exist a statutory lien on the utility project property relating to rate reduction bonds. Upon the effective date of the financing resolution relating to rate reduction bonds, there shall exist a first priority statutory lien on all utility project property, then existing or, thereafter arising, to secure the payment of the rate reduction bonds. This lien shall arise pursuant to law by operation of this section automatically without any action on the part of the authority, the local agency or its publicly owned utility, or any other person. This lien shall secure the payment of all financing costs, then existing or subsequently arising, to the holders of the rate reduction bonds, the trustee or representative for the holders of the rate reduction bonds, and any other entity specified in the financing resolution or the documents relating to the rate reduction bonds. This lien shall attach to the utility project property regardless of who shall own, or shall subsequently be determined to own, the utility project property including any local agency or its publicly owned utility, the authority, or any other person. This lien shall be valid and enforceable against the owner of the utility project property and all third parties upon the effectiveness of the financing resolution without any further public notice.

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

reduction bonds, whether or not the revenues or proceeds arising with respect thereto have accrued.

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

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

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

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

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

6590. The authority may, from time to time, issue its bonds in the principal amount as the authority determines necessary to

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

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

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

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

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

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

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

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

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

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

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

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

(A) Bear the date of issuance.

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

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

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

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

(F) Carry the registration privileges provided.

(G) Be executed in the manner provided.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved _____, 2013

Governor