

AMENDED IN ASSEMBLY APRIL 17, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1206

Introduced by Assembly Member Morrell

February 22, 2013

An act to amend, *repeal, and add* Sections 16522 and 53651 of the Government Code, relating to public funds.

LEGISLATIVE COUNSEL'S DIGEST

AB 1206, as amended, Morrell. State and local agency funds: security for deposits.

Existing law requires a bank, in order to be eligible to receive demand or time deposits of state funds, to deposit security with the Treasurer and specifies the securities that may be used for this purpose. Existing law includes specified letters of credit issued by the Federal Home Loan Bank of San Francisco within the list of securities appropriate for deposit. Existing law provides a similar list of securities in connection with the funds of local agencies.

This bill, *until January 1, 2019*, would revise the reference to letters of credit issued by the Federal Home Loan Bank of San Francisco in the provisions described above to refer instead to a letter of credit issued by a federal home loan bank.

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

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

1 SECTION 1. Section 16522 of the Government Code is
2 amended to read:

3 16522. The following securities may be received as security
4 for demand and time deposits:

5 (a) Bonds, notes, or other obligations of the United States, or
6 those for which the faith and credit of the United States are pledged
7 for the payment of principal and interest, including the guaranteed
8 portions of small business administration loans, so long as those
9 loans are obligations for which the faith and credit of the United
10 States are pledged for the payment of principal and interest.

11 (b) Notes or bonds or any obligations of a local public agency
12 (as defined in the United States Housing Act of 1949) or any
13 obligations of a public housing agency (as defined in the United
14 States Housing Act of 1937) for which the faith and credit of the
15 United States are pledged for the payment of principal and interest.

16 (c) Bonds of this state or of any county, city, town, metropolitan
17 water district, municipal utility district, municipal water district,
18 bridge and highway district, flood control district, school district,
19 water district, water conservation district or irrigation district within
20 this state, and, in addition, revenue or tax anticipation notes, and
21 revenue bonds payable solely out of the revenues from a
22 revenue-producing property owned, controlled or operated by this
23 state, or such local agency or district, or by a department, board,
24 agency, or authority thereof.

25 (d) Registered warrants of this state.

26 (e) Bonds, consolidated bonds, collateral trust debentures,
27 consolidated debentures, or other obligations issued by the United
28 States Postal Service, federal land banks or federal intermediate
29 credit banks established under the Federal Farm Loan Act, as
30 amended, debentures and consolidated debentures issued by the
31 Central Bank for Cooperatives and banks for cooperatives
32 established under the Farm Credit Act of 1933, as amended,
33 consolidated obligations of the Federal Home Loan Banks
34 established under the Federal Home Loan Bank Act, bonds,
35 debentures and other obligations of the Federal National Mortgage
36 Association and of the Government National Mortgage Association
37 established under the National Housing Act as amended, in the
38 bonds of any federal home loan bank established under said act,

1 bonds, debentures, and other obligations of the Federal Home Loan
2 Mortgage Corporation established under the Emergency Home
3 Finance Act of 1970, and in bonds, notes, and other obligations
4 issued by the Tennessee Valley Authority under the Tennessee
5 Valley Authority Act, as amended.

6 (f) Bonds and notes of the California Housing Finance Agency
7 issued pursuant to Chapter 7 (commencing with Section 41700)
8 of Part 3 of Division 31 of the Health and Safety Code.

9 (g) Promissory notes secured by first mortgages and first trust
10 deeds upon residential real property located in California, provided
11 that:

12 (1) Notwithstanding Section 16521, the promissory notes shall
13 at all times be in an amount in value at least 50 percent in excess
14 of the amount deposited with the bank;

15 (2) The Treasurer issues regulations, establishes procedures for
16 determining the value of the promissory notes and develops
17 standards necessary to protect the security of the deposits so
18 collateralized;

19 (3) The depository may exercise, enforce, or waive any right or
20 power granted to it by promissory note, mortgage, or deed of trust;
21 and

22 (4) The following may not be used as security for deposits:

23 (i)

24 (A) Any promissory note on which any payment is more than
25 90 days past due,

26 (ii)

27 (B) Any promissory note secured by a mortgage or deed of trust
28 as to which there is a lien prior to the mortgage or deed of trust,
29 or

30 (iii)

31 (C) Any promissory note secured by a mortgage or deed of trust
32 as to which a notice of default has been recorded pursuant to
33 Section 2924 of the Civil Code or an action has been commenced
34 pursuant to Section 725a of the Code of Civil Procedure.

35 (h) Bonds issued by the State of Israel.

36 (i) Obligations issued, assumed, or guaranteed by the
37 International Bank for Reconstruction and Development, the
38 Inter-American Development Bank, the Asian Development Bank,
39 the African Development Bank, the International Finance

1 Corporation, or the Government Development Bank of Puerto
2 Rico.

3 (j) Any municipal securities, as defined by Section 3(a)(29) of
4 the Securities Exchange Act of June 6, 1934, (15 U.S.C. 78, as
5 amended), which are issued by this state or any local agency
6 thereof.

7 (k) Letters of credit issued by a federal home loan bank, which
8 shall be in the form and shall contain provisions as the Treasurer
9 may prescribe, and shall include the following terms:

10 (1) The Treasurer shall be the beneficiary of the letter of credit.

11 (2) The letter of credit shall be clean and irrevocable, and shall
12 provide that the Treasurer may draw upon it up to the total amount
13 in the event of the failure of the bank or if the bank refuses to
14 permit the withdrawal of funds by the Treasurer or any other
15 authorized state officer or employee.

16 *This section shall remain in effect only until January 1, 2019,*
17 *and as of that date is repealed, unless a later enacted statute, that*
18 *is enacted before January 1, 2019, deletes or extends that date.*

19 *SEC. 2. Section 16522 is added to the Government Code, to*
20 *read:*

21 *16522. (a) The following securities may be received as security*
22 *for demand and time deposits:*

23 *(1) Bonds, notes, or other obligations of the United States, or*
24 *those for which the faith and credit of the United States are pledged*
25 *for the payment of principal and interest, including the guaranteed*
26 *portions of small business administration loans, so long as those*
27 *loans are obligations for which the faith and credit of the United*
28 *States are pledged for the payment of principal and interest.*

29 *(2) Notes or bonds or any obligations of a local public agency*
30 *(as defined in the United States Housing Act of 1949) or any*
31 *obligations of a public housing agency (as defined in the United*
32 *States Housing Act of 1937) for which the faith and credit of the*
33 *United States are pledged for the payment of principal and interest.*

34 *(3) Bonds of this state or of any county, city, town, metropolitan*
35 *water district, municipal utility district, municipal water district,*
36 *bridge and highway district, flood control district, school district,*
37 *water district, water conservation district or irrigation district*
38 *within this state, and, in addition, revenue or tax anticipation notes,*
39 *and revenue bonds payable solely out of the revenues from a*
40 *revenue-producing property owned, controlled or operated by this*

1 *state, or such local agency or district, or by a department, board,*
2 *agency, or authority thereof.*

3 *(4) Registered warrants of this state.*

4 *(5) Bonds, consolidated bonds, collateral trust debentures,*
5 *consolidated debentures, or other obligations issued by the United*
6 *States Postal Service, federal land banks or federal intermediate*
7 *credit banks established under the Federal Farm Loan Act, as*
8 *amended, debentures and consolidated debentures issued by the*
9 *Central Bank for Cooperatives and banks for cooperatives*
10 *established under the Farm Credit Act of 1933, as amended,*
11 *consolidated obligations of the Federal Home Loan Banks*
12 *established under the Federal Home Loan Bank Act, bonds,*
13 *debentures and other obligations of the Federal National Mortgage*
14 *Association and of the Government National Mortgage Association*
15 *established under the National Housing Act as amended, in the*
16 *bonds of any federal home loan bank established under said act,*
17 *bonds, debentures, and other obligations of the Federal Home*
18 *Loan Mortgage Corporation established under the Emergency*
19 *Home Finance Act of 1970, and in bonds, notes, and other*
20 *obligations issued by the Tennessee Valley Authority under the*
21 *Tennessee Valley Authority Act, as amended.*

22 *(6) Bonds and notes of the California Housing Finance Agency*
23 *issued pursuant to Chapter 7 (commencing with Section 41700)*
24 *of Part 3 of Division 31 of the Health and Safety Code.*

25 *(7) Promissory notes secured by first mortgages and first trust*
26 *deeds upon residential real property located in California,*
27 *provided that:*

28 *(A) Notwithstanding Section 16521, the promissory notes shall*
29 *at all times be in an amount in value at least 50 percent in excess*
30 *of the amount deposited with the bank;*

31 *(B) The Treasurer issues regulations, establishes procedures*
32 *for determining the value of the promissory notes and develops*
33 *standards necessary to protect the security of the deposits so*
34 *collateralized;*

35 *(C) The depository may exercise, enforce, or waive any right*
36 *or power granted to it by promissory note, mortgage, or deed of*
37 *trust; and*

38 *(D) The following may not be used as security for deposits:*

39 *(i) Any promissory note on which any payment is more than 90*
40 *days past due,*

1 (ii) Any promissory note secured by a mortgage or deed of trust
2 as to which there is a lien prior to the mortgage or deed of trust,
3 or

4 (iii) Any promissory note secured by a mortgage or deed of trust
5 as to which a notice of default has been recorded pursuant to
6 Section 2924 of the Civil Code or an action has been commenced
7 pursuant to Section 725a of the Code of Civil Procedure.

8 (8) Bonds issued by the State of Israel.

9 (9) Obligations issued, assumed, or guaranteed by the
10 International Bank for Reconstruction and Development, the
11 Inter-American Development Bank, the Asian Development Bank,
12 the African Development Bank, the International Finance
13 Corporation, or the Government Development Bank of Puerto
14 Rico.

15 (10) Any municipal securities, as defined by Section 3(a)(29)
16 of the Securities Exchange Act of June 6, 1934, (15 U.S.C. 78, as
17 amended), which are issued by this state or any local agency
18 thereof.

19 (11) Letters of credit issued by the Federal Home Loan Bank
20 of San Francisco, which shall be in the form and shall contain
21 provisions as the Treasurer may prescribe, and shall include the
22 following terms:

23 (A) The Treasurer shall be the beneficiary of the letter of credit.

24 (B) The letter of credit shall be clean and irrevocable, and shall
25 provide that the Treasurer may draw upon it up to the total amount
26 in the event of the failure of the bank or if the bank refuses to
27 permit the withdrawal of funds by the Treasurer or any other
28 authorized state officer or employee.

29 (b) This section shall be operative January 1, 2019.

30 ~~SEC. 2.~~

31 SEC. 3. Section 53651 of the Government Code is amended
32 to read:

33 53651. Eligible securities are any of the following:

34 (a) United States Treasury notes, bonds, bills or certificates of
35 indebtedness, or obligations for which the faith and credit of the
36 United States are pledged for the payment of principal and interest,
37 including the guaranteed portions of small business administration
38 loans, so long as the loans are obligations for which the faith and
39 credit of the United States are pledged for the payment of principal
40 and interest.

1 (b) Notes or bonds or any obligations of a local public agency
2 (as defined in the United States Housing Act of 1949) or any
3 obligations of a public housing agency (as defined in the United
4 States Housing Act of 1937) for which the faith and credit of the
5 United States are pledged for the payment of principal and interest.

6 (c) Bonds of this state or of any local agency or district of the
7 State of California having the power, without limit as to rate or
8 amount, to levy taxes or assessments to pay the principal and
9 interest of the bonds upon all property within its boundaries subject
10 to taxation or assessment by the local agency or district, and in
11 addition, limited obligation bonds pursuant to Article 4
12 (commencing with Section 50665) of Chapter 3 of Division 1,
13 senior obligation bonds pursuant to Article 5 (commencing with
14 Section 53387) of Chapter 2.7, and revenue bonds and other
15 obligations payable solely out of the revenues from a
16 revenue-producing property owned, controlled or operated by the
17 state, local agency or district or by a department, board, agency
18 or authority thereof.

19 (d) Bonds of any public housing agency (as defined in the United
20 States Housing Act of 1937, as amended) as are secured by a pledge
21 of annual contributions under an annual contribution contract
22 between the public housing agency and the Public Housing
23 Administration if such contract shall contain the covenant by the
24 Public Housing Administration which is authorized by subsection
25 (b) of Section 22 of the United States Housing Act of 1937, as
26 amended, and if the maximum sum and the maximum period
27 specified in the contract pursuant to that subsection 22(b) shall not
28 be less than the annual amount and the period for payment which
29 are requisite to provide for the payment when due of all
30 installments of principal and interest on the obligations.

31 (e) Registered warrants of this state.

32 (f) Bonds, consolidated bonds, collateral trust debentures,
33 consolidated debentures, or other obligations issued by the United
34 States Postal Service, federal land banks or federal intermediate
35 credit banks established under the Federal Farm Loan Act, as
36 amended, debentures and consolidated debentures issued by the
37 Central Bank for Cooperatives and banks for cooperatives
38 established under the Farm Credit Act of 1933, as amended,
39 consolidated obligations of the federal home loan banks established
40 under the Federal Home Loan Bank Act, bonds, debentures and

1 other obligations of the Federal National Mortgage Association
2 or of the Government National Mortgage Association established
3 under the National Housing Act, as amended, bonds of any federal
4 home loan bank established under that act, bonds, debentures and
5 other obligations of the Federal Home Loan Mortgage Corporation
6 established under the Emergency Home Finance Act of 1970, and
7 obligations of the Tennessee Valley Authority.

8 (g) Notes, tax anticipation warrants or other evidence of
9 indebtedness issued pursuant to Article 7 (commencing with
10 Section 53820), Article 7.5 (commencing with Section 53840) or
11 Article 7.6 (commencing with Section 53850) of this Chapter 4.

12 (h) State of California notes.

13 (i) Bonds, notes, certificates of indebtedness, warrants or other
14 obligations issued by: (1) any state of the United States (except
15 this state), or the Commonwealth of Puerto Rico, or any local
16 agency thereof having the power to levy taxes, without limit as to
17 rate or amount, to pay the principal and interest of such obligations,
18 or (2) any state of the United States (except this state), or the
19 Commonwealth of Puerto Rico, or a department, board, agency
20 or authority thereof except bonds which provide for or are issued
21 pursuant to a law which may contemplate a subsequent legislative
22 appropriation as an assurance of the continued operation and
23 solvency of the department, board, agency or authority but which
24 does not constitute a valid and binding obligation for which the
25 full faith and credit of such state or the Commonwealth of Puerto
26 Rico are pledged, which are payable solely out of the revenues
27 from a revenue-producing source owned, controlled or operated
28 thereby; provided the obligations issued by an entity described in
29 (1), above, are rated in one of the three highest grades, and such
30 obligations issued by an entity described in (2), above, are rated
31 in one of the two highest grades by a nationally recognized
32 investment service organization that has been engaged regularly
33 in rating state and municipal issues for a period of not less than
34 five years.

35 (j) Obligations issued, assumed or guaranteed by the
36 International Bank for Reconstruction and Development,
37 Inter-American Development Bank, the Government Development
38 Bank of Puerto Rico, the Asian Development Bank, the
39 International Finance Corporation, or the African Development
40 Bank.

1 (k) Participation certificates of the Export-Import Bank of the
2 United States.

3 (l) Bonds and notes of the California Housing Finance Agency
4 issued pursuant to Chapter 7 (commencing with Section 51350)
5 of Part 3 of Division 31 of the Health and Safety Code.

6 (m) Promissory notes secured by first mortgages and first trust
7 deeds which comply with Section 53651.2.

8 (n) Any bonds, notes, warrants, or other evidences of
9 indebtedness of a nonprofit corporation issued to finance the
10 construction of a school building or school buildings pursuant to
11 a lease or agreement with a school district entered into in
12 compliance with the provisions of Section 39315 or 81345 of the
13 Education Code, and also any bonds, notes, warrants or other
14 evidences of indebtedness issued to refinance those bonds, notes,
15 warrants, or other evidences of indebtedness as specified in Section
16 39317 of the Education Code.

17 (o) Any municipal securities, as defined by Section 3(a)(29) of
18 the Securities Exchange Act of June 6, 1934, (15 U.S.C. Sec. 78,
19 as amended), which are issued by this state or any local agency
20 thereof.

21 (p) With the consent of the treasurer, letters of credit issued by
22 a federal home loan bank that comply with Section 53651.6.

23 *This section shall remain in effect only until January 1, 2019,*
24 *and as of that date is repealed, unless a later enacted statute, that*
25 *is enacted before January 1, 2019, deletes or extends that date.*

26 *SEC. 4. Section 53651 is added to the Government Code, to*
27 *read:*

28 *53651. (a) Eligible securities are any of the following:*

29 *(1) United States Treasury notes, bonds, bills or certificates of*
30 *indebtedness, or obligations for which the faith and credit of the*
31 *United States are pledged for the payment of principal and interest,*
32 *including the guaranteed portions of small business administration*
33 *loans, so long as the loans are obligations for which the faith and*
34 *credit of the United States are pledged for the payment of principal*
35 *and interest.*

36 *(2) Notes or bonds or any obligations of a local public agency*
37 *(as defined in the United States Housing Act of 1949) or any*
38 *obligations of a public housing agency (as defined in the United*
39 *States Housing Act of 1937) for which the faith and credit of the*
40 *United States are pledged for the payment of principal and interest.*

1 (3) *Bonds of this state or of any local agency or district of the*
2 *State of California having the power, without limit as to rate or*
3 *amount, to levy taxes or assessments to pay the principal and*
4 *interest of the bonds upon all property within its boundaries subject*
5 *to taxation or assessment by the local agency or district, and in*
6 *addition, limited obligation bonds pursuant to Article 4*
7 *(commencing with Section 50665) of Chapter 3 of Division 1,*
8 *senior obligation bonds pursuant to Article 5 (commencing with*
9 *Section 53387) of Chapter 2.7, and revenue bonds and other*
10 *obligations payable solely out of the revenues from a*
11 *revenue-producing property owned, controlled or operated by the*
12 *state, local agency or district or by a department, board, agency*
13 *or authority thereof.*

14 (4) *Bonds of any public housing agency (as defined in the United*
15 *States Housing Act of 1937, as amended) as are secured by a*
16 *pledge of annual contributions under an annual contribution*
17 *contract between the public housing agency and the Public*
18 *Housing Administration if such contract shall contain the covenant*
19 *by the Public Housing Administration which is authorized by*
20 *subsection (b) of Section 22 of the United States Housing Act of*
21 *1937, as amended, and if the maximum sum and the maximum*
22 *period specified in the contract pursuant to that subsection 22(b)*
23 *shall not be less than the annual amount and the period for*
24 *payment which are requisite to provide for the payment when due*
25 *of all installments of principal and interest on the obligations.*

26 (5) *Registered warrants of this state.*

27 (6) *Bonds, consolidated bonds, collateral trust debentures,*
28 *consolidated debentures, or other obligations issued by the United*
29 *States Postal Service, federal land banks or federal intermediate*
30 *credit banks established under the Federal Farm Loan Act, as*
31 *amended, debentures and consolidated debentures issued by the*
32 *Central Bank for Cooperatives and banks for cooperatives*
33 *established under the Farm Credit Act of 1933, as amended,*
34 *consolidated obligations of the federal home loan banks established*
35 *under the Federal Home Loan Bank Act, bonds, debentures and*
36 *other obligations of the Federal National Mortgage Association*
37 *or of the Government National Mortgage Association established*
38 *under the National Housing Act, as amended, bonds of any federal*
39 *home loan bank established under that act, bonds, debentures and*
40 *other obligations of the Federal Home Loan Mortgage Corporation*

1 *established under the Emergency Home Finance Act of 1970, and*
2 *obligations of the Tennessee Valley Authority.*

3 *(7) Notes, tax anticipation warrants or other evidence of*
4 *indebtedness issued pursuant to Article 7 (commencing with Section*
5 *53820), Article 7.5 (commencing with Section 53840) or Article*
6 *7.6 (commencing with Section 53850) of this Chapter 4.*

7 *(8) State of California notes.*

8 *(9) Bonds, notes, certificates of indebtedness, warrants or other*
9 *obligations issued by: (A) any state of the United States (except*
10 *this state), or the Commonwealth of Puerto Rico, or any local*
11 *agency thereof having the power to levy taxes, without limit as to*
12 *rate or amount, to pay the principal and interest of such*
13 *obligations, or (B) any state of the United States (except this state),*
14 *or the Commonwealth of Puerto Rico, or a department, board,*
15 *agency or authority thereof except bonds which provide for or are*
16 *issued pursuant to a law which may contemplate a subsequent*
17 *legislative appropriation as an assurance of the continued*
18 *operation and solvency of the department, board, agency or*
19 *authority but which does not constitute a valid and binding*
20 *obligation for which the full faith and credit of such state or the*
21 *Commonwealth of Puerto Rico are pledged, which are payable*
22 *solely out of the revenues from a revenue-producing source owned,*
23 *controlled or operated thereby; provided the obligations issued*
24 *by an entity described in (A), above, are rated in one of the three*
25 *highest grades, and such obligations issued by an entity described*
26 *in (B), above, are rated in one of the two highest grades by a*
27 *nationally recognized investment service organization that has*
28 *been engaged regularly in rating state and municipal issues for a*
29 *period of not less than five years.*

30 *(10) Obligations issued, assumed or guaranteed by the*
31 *International Bank for Reconstruction and Development,*
32 *Inter-American Development Bank, the Government Development*
33 *Bank of Puerto Rico, the Asian Development Bank, the*
34 *International Finance Corporation, or the African Development*
35 *Bank.*

36 *(11) Participation certificates of the Export-Import Bank of the*
37 *United States.*

38 *(12) Bonds and notes of the California Housing Finance Agency*
39 *issued pursuant to Chapter 7 (commencing with Section 51350)*
40 *of Part 3 of Division 31 of the Health and Safety Code.*

- 1 (13) *Promissory notes secured by first mortgages and first trust*
2 *deeds which comply with Section 53651.2.*
- 3 (14) *Any bonds, notes, warrants, or other evidences of*
4 *indebtedness of a nonprofit corporation issued to finance the*
5 *construction of a school building or school buildings pursuant to*
6 *a lease or agreement with a school district entered into in*
7 *compliance with the provisions of Section 39315 or 81345 of the*
8 *Education Code, and also any bonds, notes, warrants or other*
9 *evidences of indebtedness issued to refinance those bonds, notes,*
10 *warrants, or other evidences of indebtedness as specified in Section*
11 *39317 of the Education Code.*
- 12 (15) *Any municipal securities, as defined by Section 3(a)(29)*
13 *of the Securities Exchange Act of June 6, 1934, (15 U.S.C. Sec.*
14 *78, as amended), which are issued by this state or any local agency*
15 *thereof.*
- 16 (16) *With the consent of the treasurer, letters of credit issued*
17 *by the Federal Home Loan Bank of San Francisco which comply*
18 *with Section 53651.6.*
- 19 (b) *This section shall be operative January 1, 2019.*