

ASSEMBLY BILL

No. 1668

Introduced by Assembly Member Wieckowski

February 12, 2014

An act to amend Sections 94110, 94140, 94143, 94144, 94146, and 94149 of, and to add Section 94145.5 to, the Education Code, relating to educational facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1668, as introduced, Wieckowski. Educational facilities: California Educational Facilities Authority.

(1) Existing law, the California Educational Facilities Authority Act, establishes the California Educational Facilities Authority for purposes of, among other things, providing private institutions of higher education within the state an additional means by which to expand, enlarge, and establish certain educational facilities, finance those facilities, and refinance existing facilities. Under the act, existing law defines “bond” to mean bonds, notes, debentures, or other securities of the authority issued pursuant to the act.

This bill would instead define “bond” to mean bonds, notes, debentures, securities, or other evidences of indebtedness of the authority issued pursuant to the act.

(2) Existing law provides that the authority has the power to, among other things, receive and accept, from any federal or other public agency or governmental entity, grants or loans for or in aid of the acquisition or construction of any project, and to receive and accept aid or contributions from any other source, of either money, property, labor,

or other things of value, to be held, used, and applied only for the purposes for which the grants, loans, and contributions may be made.

This bill would instead provide that the authority has the power to, among other things, receive and accept from any source, loans, contributions, or grants for, or in aid of, the acquisition, construction, financing, or refinancing of a project, or any portion of a project, in money, property, labor, or other things of value.

(3) Existing law authorizes the authority, from time to time, to, among other things, issue its negotiable notes and negotiable bonds for any corporate purpose. Existing law also authorizes the authority to issue negotiable bond anticipation notes in anticipation of the sale of the negotiable bonds.

This bill would instead authorize the authority, from time to time, to, among other things, issue notes and bonds for any corporate purpose. The bill would authorize the authority to issue bond anticipation notes in anticipation of the sale of the bonds.

(4) Existing law, in the discretion of the authority, authorizes any bonds issued under the act to be secured by a trust agreement by and between the authority and a corporate trustee or trustees, as specified. Existing law authorizes the trust agreement or resolution providing for the issuance of bonds to contain any provisions the authority deems reasonable and proper for the security of the bondholders, including any provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper.

This bill would provide that any provision the authority may include in a trust agreement or resolution providing for the issuance of bonds under the act may also be included in a bond and the provision shall have the same effect.

(5) Existing law requires a bond issued under the provisions of the act to contain on its face a statement to the effect that, among other things, neither the state nor the authority shall be obligated to pay the bond or the interest on the bond except from the revenues of the project, or the portion of the project, for which the bond is issued.

This bill would require the statement described above to be included on the bond, but not necessarily on its face.

(6) Existing law requires all moneys received pursuant to the authority of the act to be deemed to be trust funds to be held and applied solely as provided in the act, whether as proceeds from the sale or bonds or as revenues.

This bill would instead require all moneys received pursuant to the authority of the act to be deemed to be trust funds to be held and applied solely as provided for in the act, whether as proceeds from selling or incurring bonds or as revenues. The bill would also make numerous nonsubstantive changes to these provisions.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 94110 of the Education Code is amended
2 to read:
3 94110. As used in this chapter, the following words and terms
4 have the following meanings, unless the context indicates or
5 requires another or different meaning or intent:
6 (a) "Authority" means the California Educational Facilities
7 Authority created by this chapter or any board, body, commission,
8 department, or officer succeeding to the principal functions of the
9 authority or to whom the power conferred upon the authority by
10 this chapter is given by law.
11 (b) "Bond" means bonds, notes, debentures, ~~or other securities,~~
12 ~~or other evidences of indebtedness~~ of the authority issued pursuant
13 to this chapter.
14 (c) "Cost," as applied to a project or portion ~~thereof~~ *of a project*
15 financed under this chapter, means all, or any part of, the cost of
16 construction and acquisition of lands, structures, real or personal
17 property, rights, rights-of-way, franchises, easements, and interests
18 acquired or used for a project, the cost of demolishing or removing
19 buildings or structures on acquired land, including the cost of
20 acquiring lands to which the buildings or structures may be moved,
21 the cost of machinery and equipment, financing charges, interest
22 ~~prior to, before,~~ during, and for a period after completion of, the
23 construction as determined by the authority, provisions for working
24 capital, reserves for principal and interest and for extension,
25 enlargements, additions, replacements, renovations and
26 improvements, the cost of engineering, financial and legal services,
27 plans, specifications, studies, surveys, estimates, administrative
28 expenses, and other expenses necessary or incidental to determining

1 the feasibility of constructing a project or incident to the
2 construction or acquisition or financing of a project.

3 (d) “Dormitory” means a housing unit with necessary and usual
4 attendant and related facilities and equipment.

5 (e) (1) “Educational facility” means a dormitory, dining hall,
6 student union, administration building, academic building, library,
7 laboratory, research facility, classroom, health care facility
8 (including for an institution of higher education that maintains and
9 operates a school of medicine, structures or facilities designed to
10 provide services as a hospital or clinic, whether the hospital or
11 clinic is operated directly by the institution of higher education or
12 by a separate nonprofit corporation, the members of which consist
13 of the educational institution or the members of its governing
14 body), faculty and staff housing, parking, maintenance, storage,
15 or utility facilities, and other related structures or facilities used
16 for student instruction, conducting research, or operating an
17 institution for higher education, and related facilities and
18 equipment.

19 (2) “Educational facility” does not include a facility used, or to
20 be used, for sectarian instruction or as a place for religious worship,
21 or a facility used, or to be used, primarily in connection with a part
22 of the program of a school or department of divinity.

23 (f) “Faculty and staff housing” means a residential unit owned
24 by a participating college or participating nonprofit entity for use
25 by an individual holding a faculty appointment or a staff position
26 at a public university, public college, or participating college.

27 (g) “Participating nonprofit entity” means an entity within the
28 meaning of paragraph (3) of subsection (c) of Section 501 of Title
29 26 of the United States Code that, pursuant to this chapter for the
30 purpose of owning student, faculty, or staff housing, as approved
31 by, and for participation with, the authority, undertakes the
32 financing and construction or acquisition of student, faculty, or
33 staff housing, on real property owned or leased by the entity, for
34 the benefit of a public college, public university, or participating
35 private college. The authority may determine any additional
36 qualifications of a participating nonprofit entity through regulations
37 or guidelines.

38 (h) “Participating private college” or “participating college”
39 means a private college that participates with the authority in
40 undertaking the financing and construction or acquisition of a

1 project and does not restrict the admission of a student based on
2 his or her race or ethnicity, provided that the financing does not
3 violate Section 5 of Article XVI of the California Constitution or
4 the establishment clause of the First Amendment to the United
5 States Constitution.

6 (i) (1) “Private college” means an institution for higher
7 education other than a public college, situated within the state and
8 that, by virtue of law or charter, is a nonprofit private or
9 independent degree-granting educational institution that is
10 regionally accredited and empowered to provide a program of
11 education beyond the high school level.

12 (2) For purposes of obtaining financing under this chapter,
13 “private college” also includes either of the following:

14 (A) A nonprofit affiliate, established on or ~~prior to~~ *before*
15 January 1, 2005, of one or more private colleges, as defined in
16 paragraph (1), the sole or primary purpose of which is to provide
17 administrative or other support services to an affiliated private
18 college or private colleges, and that undertakes the financing of a
19 project for the exclusive use and benefit of one or more of the
20 affiliated private colleges.

21 (B) A private nonprofit research organization engaged in basic
22 research and advanced education at the predoctoral and
23 postdoctoral levels through personnel situated within the state, but
24 only if the organization previously has borrowed the proceeds of
25 bonds or other obligations previously issued by the authority.

26 (j) (1) “Project” means a dormitory or an educational facility,
27 faculty or staff housing, or any combination thereof, or any function
28 concerning student loans, or interests ~~therein~~, *in student loans*, as
29 determined by the authority.

30 (2) For a participating nonprofit entity, “project” means the
31 construction or acquisition of student housing or faculty and staff
32 housing. The authority, in consultation with the top administrative
33 officials and the participating nonprofit entity, shall develop and
34 adopt regulations to ensure, to the greatest extent practicable, that
35 each project involving a participating nonprofit entity is used to
36 house students, faculty, or staff of the participating private college,
37 public college, or public university. The student, faculty, or staff
38 housing shall meet all of the following criteria:

1 (A) Upon completion or acquisition of the project, the project
2 will be owned by a participating nonprofit entity and located on
3 real property owned, or leased by, that entity.

4 (B) The top administrative official of the public university,
5 public college, or participating private college that the project is
6 intended to benefit, verifies the need for housing and financing
7 assistance in a specific area pursuant to subparagraph (D).

8 (C) The project is monitored on an annual basis by the authority
9 to ensure that it meets the requirements of subparagraph (E) and
10 all other regulatory agreements entered into by the authority.

11 (D) The project is located within a five-mile radius of the
12 boundary of a campus or satellite center of the public college,
13 public university, or participating private college that the project
14 is intended to benefit. The participating nonprofit entity may
15 request approval from the top official of the institution for a project
16 that is located outside the five-mile radius, provided that all of the
17 following criteria are met:

18 (i) There are no available and feasible sites within the five-mile
19 radius.

20 (ii) The project is near a mass transit destination.

21 (iii) The time required to commute from campus to the mass
22 transit destination, as estimated by the top administrative official,
23 typically does not exceed 30 minutes.

24 (E) (i) The project includes and maintains for 40 years a
25 restriction to the grant deed on the real property on which the
26 student or faculty and staff housing is to be located. The grant deed
27 shall accomplish all of the following:

28 (I) Give the public college, public university, or participating
29 private college that the project is intended to benefit the right, but
30 not the obligation, to purchase the property at fair market value.

31 (II) Ensure that students, faculty, or staff of the affected campus
32 will have first right of refusal to all available units.

33 (III) Require that, to the greatest extent feasible, at least 50
34 percent of student residents will meet the criteria for need-based
35 financial assistance, as determined by the top administrative official
36 of the affected campus.

37 (IV) Require that all contracts for construction and renovation
38 of the proposed project shall be subject to, and comply with the
39 provisions referenced in, Section 10128 of the Public Contract
40 Code.

(ii) For purposes of this subparagraph, the authority, through regulation or rule, shall define “student” and “faculty,” taking into consideration enrollment status requirements and employment status requirements. The definitions of “student” and “faculty” may be different for each participating campus.

(k) “Public college” means a community college.

(l) “Public university” means any campus of the University of California, the California State University, or the Hastings College of the Law.

(m) “Student housing” means a residential unit owned by a participating nonprofit entity, and located on real property owned by that entity, for use by an individual enrolled at a public college, public university, or participating private college.

(n) “Student loan” means a loan having terms and conditions acceptable to the authority that is made to finance or refinance the costs of attendance at a private college or a public college and that is approved by the authority, if the loan is originated pursuant to a program that is approved by the authority.

(o) “Top administrative official” means the chancellor in the case of a campus of the University of California, the dean in the case of the Hastings College of the Law, the president in the case of a campus of the California State University, the president in the case of a campus of the California Community Colleges, or the president or highest ranking official in the case of a participating private college.

SEC. 2. Section 94140 of the Education Code is amended to read:

94140. The authority shall have power to do all of the following:

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

(b) Adopt and have an official common seal and alter it at pleasure.

(c) Sue and be sued in its own name, and plead and be impleaded.

(d) Borrow money, issue bonds and notes and other obligations of the authority, and provide for the rights of the holders thereof as provided in this chapter.

1 (e) Acquire, lease as lessee, hold, and dispose of real and
2 personal property or any interest therein, in the exercise of its
3 powers and the performance of its duties under this chapter.

4 (f) Acquire, in the name of the authority by purchase or
5 otherwise, on the terms and conditions and in the manner as it
6 deems proper, any land or interest ~~therein~~ *in land* and other
7 property that it determines is reasonably necessary for ~~any a~~
8 project, including any lands held by ~~any a~~ county, municipality,
9 or other governmental subdivision of the ~~state~~; *and state*, to hold
10 and use the ~~same property~~, and to sell, convey, lease, or otherwise
11 dispose of *the acquired* property ~~so acquired~~, *that is* no longer
12 necessary for the authority's purposes.

13 (g) Receive and accept, from any ~~federal or other public agency~~
14 ~~or governmental entity, grants or loans for or in aid of the~~
15 ~~acquisition or construction of any project, and to receive and accept~~
16 ~~aid or contributions from any other source, of either source, loans,~~
17 ~~contributions, or grants for, or in aid of, the acquisition,~~
18 ~~construction, financing, or refinancing of a project, or any portion~~
19 ~~of a project, in money, property, labor, or other things of value;~~
20 ~~to be held, used, and applied only for the purposes for which the~~
21 ~~grants, loans, and contributions may be made.~~

22 (h) Prepare, or cause to be prepared, plans, specifications,
23 designs, and estimates of costs for the construction and equipment
24 of projects for participating colleges and participating nonprofit
25 entities under this chapter, and from time to time to modify those
26 plans, specifications, designs, or estimates.

27 (i) By contract or contracts, or by its own employees, to
28 construct, acquire, reconstruct, rehabilitate and improve, and
29 furnish and equip, projects for participating colleges and
30 participating nonprofit entities.

31 (j) Employ consulting engineers, architects, accountants,
32 construction and financial experts, superintendents, and other
33 employees and agents that may be necessary in its judgment and
34 to fix their compensation.

35 (k) Determine the location and character of any project to be
36 undertaken pursuant to this chapter, and construct, reconstruct,
37 repair, lease, as lessee or lessor, the ~~same~~; *project*, enter into
38 contracts for any or all of those ~~purposes~~; *purposes*, and designate
39 a participating private college or participating nonprofit entity as
40 its agent to determine the location and character of a project

1 undertaken by the participating private college or participating
2 nonprofit entity under this chapter and, as the agent of the authority,
3 construct, reconstruct, maintain, repair, operate, lease, as lessee
4 or lessor, and regulate the ~~same~~, *project* and, as agent of the
5 authority, to enter into contracts for any and all of those purposes
6 including contracts for the management and operation of the
7 project.

8 (l) Establish rules and regulations for the use of a project, or
9 any portion ~~thereof~~ *of a project*, and to designate a participating
10 private college or participating nonprofit entity as its agent to
11 establish rules and regulations for the use of a project undertaken
12 by the participating private college or participating nonprofit entity.

13 (m) Generally establish, revise from time to time, and charge
14 and collect, rates, rents, fees, and other charges for the use of and
15 for the services furnished or to be furnished by a project, or any
16 portion ~~thereof~~ *of a project*, and contract with holders of its bonds
17 and with any other person, party, association, corporation, or other
18 body, public or private, in respect thereof.

19 (n) Enter into any and all agreements or contracts, execute any
20 and all instruments, and do and perform any and all acts or things
21 necessary, convenient, or desirable for the purposes of the authority
22 or to carry out any power expressly given in this chapter.

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

28 (p) Charge, and equitably apportion among participating private
29 colleges and participating nonprofit entities, its administrative
30 costs and expenses incurred in the exercise of the powers and duties
31 conferred by this chapter.

32 (q) Finance, directly or through an intermediary, or purchase
33 or take assignments of, or make commitments to finance, directly
34 or through an intermediary, or purchase or to take assignments of,
35 student loans, to contract in advance for those student loans, and
36 to contract in advance for that financing, purchase, or assignment,
37 and to pay any amounts payable in respect thereto. A student loan
38 shall be eligible for financing or purchase by the authority or for
39 assignment hereunder regardless of the repayment status of the
40 loan. ~~Any~~ A pledge made to secure authority financing for student

1 loan project purposes shall be valid and binding from the time the
2 pledge is made. The revenues and receipts of property or interest
3 in the property pledged and thereafter received by the authority,
4 a participating college or public institution of higher education, a
5 servicer, a trustee, or a custodian shall immediately be subject to
6 the lien of the pledge without any physical delivery thereof or
7 further act, and the lien of ~~any~~ a pledge shall be valid and binding
8 against all parties having claims of any kind in tort, contract, or
9 otherwise against the authority, participating college or public
10 institution of higher education, servicer, trustee, or custodian
11 irrespective of whether the parties have notice thereof. Neither the
12 resolution nor any other instrument by which a pledge is created
13 need be recorded.

14 (r) Hold or invest in student loans, create pools of student loans,
15 and sell bonds bearing interest on a taxable or tax-exempt basis or
16 other interests backed by the pools of student loans.

17 (s) Contract or otherwise provide for the distribution, processing,
18 origination, purchase, sale, servicing, securing, and collection of
19 student loans, the payment of fees, charges, and administrative
20 expenses in connection ~~therewith~~, *with student loans*, and the
21 funding of reserves required or provided for in any resolution
22 authorizing, or trust agreement securing, authority financing for
23 student loan purposes.

24 (t) Assist in providing support to participating colleges or
25 participating nonprofit entities to enhance the market acceptance
26 of potential bond issues by the authority, including securing
27 probable or actual credit ratings from nationally recognized bond
28 rating agencies, providing or obtaining liquidity or credit
29 enhancement, providing or securing bond reserve funds, performing
30 any other action deemed necessary by the authority, and incurring
31 necessary expenses, payable from available authority funds, for
32 any of these purposes.

33 SEC. 3. Section 94143 of the Education Code is amended to
34 read:

35 94143. The authority is authorized from time to time to issue
36 its ~~negotiable~~ notes for any corporate purpose and renew from time
37 to time any notes by the issuance of new notes, whether the notes
38 to be renewed have or have not matured. The authority may issue
39 notes partly to renew notes or to discharge other obligations then
40 outstanding and partly for any other purpose. The notes may be

1 authorized, sold, executed and delivered in the same manner as
2 bonds. ~~Any~~ A resolution or resolutions authorizing notes of the
3 authority or any issue ~~thereof~~ *of notes of the authority* may contain
4 any provisions ~~which~~ *that* the authority is authorized to include in
5 ~~any~~ a resolution or resolutions authorizing bonds of the authority
6 or any issue ~~thereof~~, *of bonds of the authority*, and the authority
7 may include in ~~any~~ *the* notes any terms, covenants or conditions
8 ~~which~~ *that* it is authorized to include in ~~any~~ bonds. ~~All such notes~~
9 *Notes issued by the authority* shall be payable from revenues of
10 the authority or other moneys available ~~therefor~~ *for payment of*
11 *notes* and not otherwise pledged, subject only to any contractual
12 rights of the holders of ~~any~~ *of* its notes or other obligations then
13 outstanding.

14 SEC. 4. Section 94144 of the Education Code is amended to
15 read:

16 94144. (a) The authority is authorized from time to time to
17 issue its ~~negotiable~~ bonds for any corporate purpose. In anticipation
18 of the sale of ~~those~~ *the* bonds, the authority may issue ~~negotiable~~
19 bond anticipation notes and may renew the ~~same~~ *bond anticipation*
20 *notes* from time to time. The *bond anticipation* notes shall be paid
21 from any revenues of the authority or other moneys available
22 ~~therefor~~ *for payment of bond anticipation notes* and not otherwise
23 pledged, or from the proceeds of sale of the bonds of the authority
24 in anticipation of which ~~they~~ *the bond anticipation notes* were
25 issued. The *bond anticipation* notes shall be issued in the same
26 manner as the bonds. The *bond anticipation* notes and the
27 resolution or resolutions authorizing the ~~same~~ *bond anticipation*
28 *notes* may contain any provisions, conditions, or limitations which
29 a bond resolution of the authority may contain.

30 (b) Except as may otherwise be expressly provided by the
31 authority, every issue of its bonds or notes shall be general
32 obligations of the authority payable from any revenues or moneys
33 of the authority available ~~therefor~~ *for payment of the bonds or*
34 *notes* and not otherwise pledged, subject only to any agreements
35 with the holders of particular bonds or notes pledging any particular
36 revenues or moneys and subject to any agreements with any
37 participating institution. ~~Notwithstanding that those bonds or notes~~
38 ~~may be payable from a special fund, they~~ *Negotiable bonds and*
39 *notes* shall be and be deemed to be, for all purposes, negotiable
40 instruments, *notwithstanding the fact that the negotiable bonds or*

1 *notes may be payable from a special fund*, subject only to the
2 provisions of ~~those~~ *the* bonds or notes for registration.

3 (c) (1) The bonds may be issued as serial bonds or as term
4 bonds, or the authority, in its discretion, may issue bonds of both
5 types. The bonds shall be authorized by resolution of the authority,
6 and shall bear the date or dates, mature at a time or times, not
7 exceeding 50 years from their respective dates, bear interest at the
8 rate or rates, be payable at the time or times, be in denominations,
9 be in a form, either coupon or registered, carry registration
10 privileges, be executed in a manner, be payable in lawful money
11 of the United States of America at a place or places, and be subject
12 to the terms of redemption that the resolution or resolutions may
13 provide. The bonds or notes may be sold by the ~~State~~ Treasurer at
14 public sale, or the authority, after giving due consideration to the
15 recommendations of the participating institution or participating
16 nonprofit entity, may direct the ~~State~~ Treasurer to sell the bonds
17 or notes at private sale.

18 (2) In the case of public sale, both of the following shall occur:

19 (A) The bonds specified in the resolution shall be sold by the
20 State Treasurer, at a time fixed by him or her, and upon notice that
21 he or she may deem advisable, or at the time to which the sale
22 shall have been continued, at public sale, upon sealed bids, to the
23 bidder whose bid will result in the lowest net interest cost on
24 account of the bonds.

25 (B) If no bids are received, or if the ~~State~~ Treasurer determines
26 that the bids are not satisfactory, the ~~State~~ Treasurer may reject all
27 bids received, if any, and either readvertise or sell the bonds at
28 private sale.

29 (3) Pending preparation of the definitive bonds, the authority
30 may issue interim receipts or certificates that shall be exchanged
31 for the definitive bonds.

32 (d) ~~Any~~ *A* resolution or resolutions authorizing ~~any~~ bonds or
33 ~~any~~ *an* issue of bonds may contain provisions, which shall be a
34 part of the contract with the holders of the bonds to be authorized,
35 as to all of the following:

36 (1) Pledging the full faith and credit of the authority or pledging
37 all or any part of the revenues of a project or any
38 revenue-producing contract or contracts made by the authority
39 with any individual, partnership, corporation, or association or
40 other body, public or private, to secure the payment of the bonds

1 or of any particular issue of bonds, subject to those agreements
2 with bondholders that may then exist.

3 (2) ~~The rentals, rents, fees, and other charges to be charged, and~~
4 ~~the amounts to be raised in each year thereby, by the rents, fees,~~
5 ~~and other charges to be charged, and the use and disposition of~~
6 ~~the revenues.~~

7 (3) The setting aside of reserves or sinking funds, and the
8 regulation and disposition ~~thereof, of the reserves or sinking funds.~~

9 (4) Limitations on the right of the authority or its agent to restrict
10 and regulate the use of the project.

11 (5) Limitations on the purpose to which the proceeds of sale of
12 ~~any an~~ issue of bonds then or thereafter to be issued may be applied
13 and pledging ~~those the~~ proceeds of sale to secure the payment of
14 the bonds or ~~any an~~ issue of the bonds.

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

18 (7) The procedure, if any, by which the terms of ~~any a~~ contract
19 with bondholders may be amended or abrogated, the amount of
20 bonds the holders of which must consent thereto, and the manner
21 in which that consent may be given.

22 (8) Limitations on the amount of moneys derived from the
23 project to be expended for operating, administrative, or other
24 expenses of the authority.

25 (9) Defining the acts or omissions to act that constitute a default
26 in the duties of the authority to holders of its obligations, and
27 providing the rights and remedies of the holders in the event of a
28 default.

29 (10) The mortgaging of a project and the site ~~thereof of the~~
30 ~~project~~ for the purpose of securing the bondholders.

31 (e) ~~Neither the members~~ *Members* of the authority, ~~nor any~~
32 ~~person and persons~~ executing the bonds or notes; shall *not* be liable
33 personally on the bonds or notes or be subject to any personal
34 liability or accountability by reason of the issuance ~~thereof, of the~~
35 ~~bonds or notes.~~

36 (f) The authority shall have ~~power out of any funds available~~
37 ~~therefor the power~~ to purchase its bonds or notes *out of any funds*
38 *available for purchasing its bonds or notes.* The authority may
39 hold, pledge, cancel, or resell the bonds, subject to and in
40 accordance with agreements with bondholders.

1 SEC. 5. Section 94145.5 is added to the Education Code, to
2 read:

3 94145.5. Any provision the authority may include in a trust
4 agreement of or resolution providing for the issuance of bonds
5 pursuant to this chapter may also be included in a bond and the
6 provision shall have the same effect.

7 SEC. 6. Section 94146 of the Education Code is amended to
8 read:

9 94146. (a) Bonds issued under the provisions of this chapter
10 shall not be deemed to constitute a debt or liability of the state or
11 of any political subdivision ~~thereof of the state~~, or a pledge of the
12 faith and credit of the state or of any political subdivision other
13 than the authority, but shall be payable solely from the funds herein
14 provided. All bonds shall contain ~~on the face thereof~~ a statement
15 to the effect that neither the State of California nor the authority
16 shall be obligated to pay the ~~same bond~~ or the interest ~~thereon on~~
17 ~~the bond~~ except from revenues of the project, or the portion ~~thereof~~
18 ~~of the project~~, for which ~~they the bonds~~ are issued and that neither
19 the faith and credit nor the taxing power of the ~~State of California~~
20 ~~state~~ or of any political subdivision ~~thereof of the state~~ is pledged
21 to the payment of the principal of, or the interest on, the bonds.

22 (b) The issuance of bonds under the provisions of this chapter
23 shall not directly ~~or~~, indirectly, or contingently obligate the state
24 or any political subdivision ~~thereof of the state~~ to levy or to pledge
25 any form of taxation whatever therefor or to make ~~any an~~
26 appropriation for ~~their payment~~. ~~No provision of this section~~
27 ~~payment of the bonds. This section shall not prevent or be construed~~
28 ~~to prevent the authority from pledging its full faith and credit, or~~
29 ~~the full faith and credit of a participating private college or~~
30 ~~participating nonprofit entity, to the payment of bonds or issue of~~
31 ~~bonds authorized pursuant to this chapter.~~

32 SEC. 7. Section 94149 of the Education Code is amended to
33 read:

34 94149. All moneys received pursuant to the authority of this
35 chapter, whether as proceeds from ~~the sale of selling or incurring~~
36 bonds, or as ~~revenues, revenue~~, shall be deemed to be trust funds
37 to be held and applied solely as provided in this chapter. ~~Until~~
38 ~~Notwithstanding any other law, until the funds are applied as~~
39 ~~provided in this chapter, and notwithstanding any other provision~~
40 ~~of law~~, the moneys may be invested in any obligations or securities

1 authorized by resolutions of the authority authorizing the issuance
2 of the bonds. ~~Any~~ *An* officer with whom, or any bank or trust
3 company with which, the moneys are deposited shall act as trustee
4 of the moneys and shall hold and apply the moneys for the purposes
5 hereof, subject to any regulations adopted pursuant to this chapter
6 and the resolution authorizing the issuance of any bonds or the
7 trust agreement securing the bonds.

8 SEC. 8. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety within
10 the meaning of Article IV of the Constitution and shall go into
11 immediate effect. The facts constituting the necessity are:

12 In order to prevent the loss of additional revenue, it is necessary
13 that this bill go into immediate effect.