

AMENDED IN SENATE JULY 1, 2014
AMENDED IN SENATE JUNE 19, 2014
AMENDED IN ASSEMBLY MAY 15, 2014
AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2046

Introduced by Assembly Member Gomez

February 20, 2014

An act to amend, *repeal, and add* Section 6588 of the Government Code, relating to joint exercise of powers, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2046, as amended, Gomez. Joint exercise of powers: financing.

The Joint Exercise of Powers Act authorizes the legislative or other governing bodies of 2 or more public agencies to jointly exercise by agreement any power common to the contracting parties, as specified, and authorizes a joint powers authority to exercise various powers, including, among others, the power to issue bonds, including bonds bearing interest, to pay the cost of any public capital improvement, working capital, or liability or other insurance program, as specified.

This bill would, *until January 1, 2021*, authorize a joint powers authority to issue or cause to be issued bonds and enter into a loan agreement for the financing or refinancing of a project that is situated in another state, including working capital related to that project, if the project and its financing meets certain conditions. *This bill would require the Legislative Analyst, on or before January 1, 2020, to prepare and*

submit to the Legislature a report on the issuance of those bonds and the financing of those projects. This bill would require, no later than July 1, 2019, authorities that issue those bonds to provide information concerning the bonds, the projects financed, the public benefits accruing to this state and such other information requested by the Legislative Analyst’s Office for the purpose of preparing the report.

~~The Personal Income Tax Law imposes a tax on an individual taxpayer’s taxable income for the taxable year, but excludes certain items of income from the computation of tax. That law, in conformity with federal income tax laws, exempts from tax interest on bonds issued by this state or a local government in this state. The Joint Exercise of Powers Act also provides that all bonds issued by a joint powers authority and the interest thereon or income therefrom are exempt from all taxation in this state, except as otherwise provided.~~

~~This bill would provide that the interest on an issue of bonds as described above would not be exempt from tax and would be included in gross income under the Personal Income Tax Law, unless specified conditions are met.~~

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 6588 of the Government Code is amended
- 2 to read:
- 3 6588. In addition to other powers specified in an agreement
- 4 pursuant to Article 1 (commencing with Section 6500) and Article
- 5 2 (commencing with Section 6540), the authority may do any or
- 6 all of the following:
- 7 (a) Adopt bylaws for the regulation of its affairs and the conduct
- 8 of its business.
- 9 (b) Sue and be sued in its own name.
- 10 (c) (1) Issue bonds, including, at the option of the authority,
- 11 bonds bearing interest, to pay the cost of any public capital
- 12 improvement, working capital, or liability or other insurance
- 13 program.
- 14 (2) (A) In addition to paragraph (1), for any purpose for which
- 15 an authority may execute and deliver or cause to be executed and

1 delivered certificates of participation in a lease or installment sale
2 agreement with any public or private entity, the authority, at its
3 option, may issue or cause to be issued bonds, rather than
4 certificates of participation, and enter into a loan agreement with
5 the public or private entity.

6 (B) (i) Notwithstanding Sections 6586 and 6586.5 or any other
7 law, an authority may issue or cause to be issued bonds and enter
8 into a loan agreement, pursuant to subparagraph (A), for the
9 financing or refinancing of a project that is situated in another
10 state, including working capital related to that project, if all of the
11 following apply:

12 (I) The project is owned, developed, or operated by a private
13 entity.

14 (II) The issuance of bonds by the authority and the financing
15 of the project is approved by resolution, order, or other official
16 action of the city, county, or other public body with land use
17 planning authority over the project, or of the state in which the
18 project is situated. This clause does not apply to the issuance of
19 refunding bonds if a prior financing or refinancing of the project
20 was approved by the city, county, public body, or state.

21 ~~(III) The authority finds, based on the facts and circumstances~~
22 ~~attendant to the project or the financing or refinancing of the~~
23 ~~project, that the issuance of the bonds or the financing or~~
24 ~~refinancing of the project will result in a substantial public benefit~~
25 ~~to, and are for a public purpose of, the citizens of this state.~~

26 ~~(IV) As of July 1, 2014, the authority had at~~

27 ~~(III) The authority has at least 70 25 local agency members and~~
28 ~~the authority had has issued bonds and entered into loan agreements~~
29 ~~to finance at least 25 separate projects.~~

30 ~~(ii) Notwithstanding Section 6575 of the Government Code and~~
31 ~~Section 17133 of the Revenue and Taxation Code or any other~~
32 ~~law, the interest on an issue of bonds pursuant to this subparagraph~~
33 ~~shall not be exempt from tax, and shall be included in gross income~~
34 ~~under Part 10 (commencing with Section 17001) of Division 2 of~~
35 ~~the Revenue and Taxation Code, unless one or more of the~~
36 ~~following is satisfied:~~

37 ~~(IV) The authority finds, based on the facts and circumstances~~
38 ~~attendant to the project or the financing or refinancing of the~~
39 ~~project, that the issuance of the bonds or the financing or~~

1 *refinancing of the project will result in a substantial public benefit*
 2 *to this state because one or more of the following is satisfied:*

3 ~~(I)~~

4 *(ia) At least 20 percent of the net proceeds of the issue are*
 5 *allocated to the financing of one or more projects, including*
 6 *working capital related thereto, located in this state.*

7 ~~(II)~~

8 *(ib) The borrower of the bond proceeds has its principal place*
 9 *of business in this state and, if that borrower is subject to income*
 10 *or franchise tax in this state or any other state, that borrower has*
 11 *paid to this state for the most recent tax year income or franchise*
 12 *tax of at least fifty thousand dollars (\$50,000) or one-half of its*
 13 *total income or franchise tax liability to all states, whichever is*
 14 *less. If the borrower has little or no assets other than the project*
 15 *to be financed and is owned by another company or companies,*
 16 *then the company or companies that own a majority of interest in*
 17 *the borrower shall have its or their principal place of business in*
 18 *this state.*

19 *(ic) The borrower of the bond proceeds or a controlled group*
 20 *of which it is a member has at least 50 full-time equivalent*
 21 *employees in this state.*

22 *(id) The borrower of the bond proceeds or a controlled group*
 23 *of which it is a member has paid to this state for the most recent*
 24 *tax year income or franchise tax of at least one hundred thousand*
 25 *dollars (\$100,000).*

26 ~~(III)~~

27 *(ie) In the case of the financing of one or more multifamily*
 28 *rental housing projects, the developer of that project or projects*
 29 *has its principal place of business in this state, and any such*
 30 *developer subject to personal or corporate income tax in California*
 31 *or other states has paid to this state for the most recent tax year*
 32 *income or franchise tax of at least fifty thousand dollars (\$50,000)*
 33 *or one-half of its total income or franchise tax liability to all states,*
 34 *whichever is less.*

35 ~~(iii)~~

36 *(ii) For purposes of this subparagraph, the following definitions*
 37 *apply:*

38 *(I) “Controlled group” means a group of corporations,*
 39 *partnerships, limited liability companies or other persons that are*

1 *wholly owned or controlled by a single corporation, partnership,*
2 *limited liability company, or other person.*

3 ~~(I)~~

4 (II) “Developer” means a corporation, partnership, limited
5 liability company, or other person that is the initial controlling
6 party within the legal entity that owns the multifamily rental
7 housing project to be financed with proceeds of the bonds and that
8 is expected to be the primary economic beneficiary of, and to take
9 the primary economic risks related to, development and
10 performance of the project.

11 ~~(II)~~

12 (III) “Financing” shall include refinancing of bonds of the
13 authority or of bonds issued by any other state or local entity
14 located within this state.

15 ~~(III)~~

16 (IV) “Issue” shall have the same meaning as in U.S. Treasury
17 Regulations Section 1.150-1(c), as in effect on July 1, 2014.

18 ~~(IV)~~

19 (V) “Net proceeds of an issue” means the aggregate principal
20 amount of that issue, less the amount of that issue allocated to
21 original issue discount, issuance costs, reserve funds, and credit
22 enhancement costs.

23 (VI) “Principal place of business” of an entity means the
24 principal place from which the trade or business of the entity is
25 directed or managed.

26 (iii) *The Legislative Analyst shall, on or before January 1, 2020,*
27 *prepare and submit to the Legislature a report on the issuance of*
28 *bonds and the financing of projects pursuant to this subparagraph.*
29 *No later than July 1, 2019, authorities that issue bonds pursuant*
30 *to this subparagraph shall provide information concerning those*
31 *bonds, the projects financed, the public benefits accruing to this*
32 *state, and such other information requested by the Legislative*
33 *Analyst’s Office for the purpose of preparing the report. The report*
34 *may include recommendations for modifying or extending the*
35 *application of this subparagraph.*

36 (d) Engage the services of private consultants to render
37 professional and technical assistance and advice in carrying out
38 the purposes of this article.

39 (e) As provided by applicable law, employ and compensate
40 bond counsel, financial consultants, and other advisers determined

- 1 necessary by the authority in connection with the issuance and sale
 2 of any bonds.
- 3 (f) Contract for engineering, architectural, accounting, or other
 4 services determined necessary by the authority for the successful
 5 development of a public capital improvement.
- 6 (g) Pay the reasonable costs of consulting engineers, architects,
 7 accountants, and construction, land-use, recreation, and
 8 environmental experts employed by any sponsor or participant if
 9 the authority determines those services are necessary for the
 10 successful development of public capital improvements.
- 11 (h) Take title to, sell by installment sale or otherwise, or lease
 12 lands, structures, real or personal property, rights, rights-of-way,
 13 franchises, easements, and other interests in lands that are located
 14 within the state that the authority determines are necessary or
 15 convenient for the financing of public capital improvements, or
 16 any portion thereof.
- 17 (i) Receive and accept from any source, loans, contributions,
 18 or grants, in either money, property, labor, or other things of value,
 19 for, or in aid of, the construction financing, or refinancing of public
 20 capital improvement, or any portion thereof or for the financing
 21 of working capital or insurance programs, or for the payment of
 22 the principal of and interest on bonds if the proceeds of those bonds
 23 are used for one or more of the purposes specified in this section.
- 24 (j) Make secured or unsecured loans to any local agency in
 25 connection with the financing of capital improvement projects,
 26 working capital or insurance programs in accordance with an
 27 agreement between the authority and the local agency. However,
 28 no loan shall exceed the total cost of the public capital
 29 improvements, working capital or insurance needs of the local
 30 agency as determined by the local agency and by the authority.
- 31 (k) Make secured or unsecured loans to any local agency in
 32 accordance with an agreement between the authority and the local
 33 agency to refinance indebtedness incurred by the local agency in
 34 connection with public capital improvements undertaken and
 35 completed.
- 36 (l) Mortgage all or any portion of its interest in public capital
 37 improvements and the property on which any project is located,
 38 whether owned or thereafter acquired, including the granting of a
 39 security interest in any property, tangible or intangible.

1 (m) Assign or pledge all or any portion of its interests in
2 mortgages, deeds of trust, indentures of mortgage or trust, or
3 similar instruments, notes, and security interests in property,
4 tangible or intangible, of a local agency to which the authority has
5 made loans, and the revenues therefrom, including payment or
6 income from any interest owned or held by the authority, for the
7 benefit of the holders of bonds issued to finance public capital
8 improvements. The pledge of moneys, revenues, accounts, contract
9 rights, or rights to payment of any kind made by or to the authority
10 pursuant to the authority granted in this part shall be valid and
11 binding from the time the pledge is made for the benefit of the
12 pledgees and successors thereto, against all parties irrespective of
13 whether the parties have notice of the claim.

14 (n) Lease the public capital improvements being financed to a
15 local agency, upon terms and conditions that the authority deems
16 proper; charge and collect rents therefor; terminate any lease upon
17 the failure of the lessee to comply with any of the obligations of
18 the lease; include in any lease provisions that the lessee shall have
19 options to renew the lease for a period or periods, and at rents as
20 determined by the authority; purchase or sell by an installment
21 agreement or otherwise any or all of the public capital
22 improvements; or, upon payment of all the indebtedness incurred
23 by the authority for the financing or refinancing of the public
24 capital improvements, the authority may convey any or all of the
25 project to the lessee or lessees.

26 (o) Charge and apportion to local agencies that benefit from its
27 services the administrative costs and expenses incurred in the
28 exercise of the powers authorized by this article. These fees shall
29 be set at a rate sufficient to recover, but not exceed, the authority's
30 costs of issuance and administration. The fee charged to each local
31 obligation acquired by the pool shall not exceed that obligation's
32 proportionate share of those costs. The level of these fees shall be
33 disclosed to the California Debt and Investment Advisory
34 Commission pursuant to Section 6599.1.

35 (p) Issue, obtain, or aid in obtaining, from any department or
36 agency of the United States or of the state, or any private company,
37 any insurance or guarantee to, or for, the payment or repayment
38 of interest or principal, or both, or any part thereof, on any loan,
39 lease, or obligation or any instrument evidencing or securing the
40 same, made or entered into pursuant to this article.

- 1 (q) Notwithstanding any other provision of this article, enter
- 2 into any agreement, contract, or any other instrument with respect
- 3 to any insurance or guarantee; accept payment in the manner and
- 4 form as provided therein in the event of default by a local agency;
- 5 and assign any insurance or guarantee that acts as security for the
- 6 authority’s bonds.
- 7 (r) Enter into any agreement or contract, execute any instrument,
- 8 and perform any act or thing necessary, convenient, or desirable
- 9 to carry out any power authorized by this article.
- 10 (s) Invest any moneys held in reserve or sinking funds, or any
- 11 moneys not required for immediate use or disbursement, in
- 12 obligations that are authorized by law for the investment of trust
- 13 funds.
- 14 (t) At the request of affected local agencies, combine and pledge
- 15 revenues to public capital improvements for repayment of one or
- 16 more series of bonds issued pursuant to this article.
- 17 (u) Delegate to any of its individual parties or other responsible
- 18 individuals the power to act on its behalf subject to its general
- 19 direction, guidelines, and oversight.
- 20 (v) Purchase, with the proceeds of its bonds or its revenue, bonds
- 21 issued by any local agency at public or negotiated sale. Bonds
- 22 purchased pursuant to this subdivision may be held by the authority
- 23 or sold to public or private purchasers at public or negotiated sale,
- 24 in whole or in part, separately or together with other bonds issued
- 25 by the authority.
- 26 (w) Purchase, with the proceeds of its bonds or its revenue, VLF
- 27 receivables sold to the authority pursuant to Section 6588.5. VLF
- 28 receivables so purchased may be pledged to the payment of bonds
- 29 issued by the authority or may be resold to public or private
- 30 purchasers at public or negotiated sale, in whole or in part,
- 31 separately or together with other VLF receivables purchased by
- 32 the authority.
- 33 (x) (1) Purchase, with the proceeds of its bonds or its revenue,
- 34 Proposition 1A receivables pursuant to Section 6588.6. Proposition
- 35 1A receivables so purchased may be pledged to the payment of
- 36 bonds issued by the authority or may be resold to public or private
- 37 purchasers at public or negotiated sales, in whole or in part,
- 38 separately or together with other Proposition 1A receivables
- 39 purchased by the authority.

1 (2) (A) All entities subject to a reduction of ad valorem property
2 tax revenues required under Section 100.06 of the Revenue and
3 Taxation Code pursuant to the suspension set forth in Section
4 100.05 of the Revenue and Taxation Code shall be afforded the
5 opportunity to sell their Proposition 1A receivables to the authority.

6 (B) If these entities offer Proposition 1A receivables to the
7 authority for purchase and duly authorize the sale of the Proposition
8 1A receivables pursuant to documentation approved by the
9 authority, the authority shall purchase all Proposition 1A
10 receivables so offered to the extent it can sell bonds therefor. If
11 the authority does not purchase all Proposition 1A receivables
12 offered, it shall purchase a pro rata share of each entity's offered
13 Proposition 1A receivables.

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

18 (3) For purposes of meeting costs incurred in performing its
19 duties relative to the purchase and sale of Proposition 1A
20 receivables, the authority shall be authorized to charge a fee to
21 each entity from which it purchases a Proposition 1A receivable.
22 The fee shall be computed based on the percentage value of the
23 Proposition 1A receivable purchased from each entity, in relation
24 to the value of all Proposition 1A receivables purchased by the
25 authority. The amount of the fee shall be paid from the proceeds
26 of the bonds and shall be included in the principal amount of the
27 bonds.

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

- 1 (A) Applied to pay the costs of issuance of the bonds.
- 2 (B) Deposited in a trust account that is pledged to bondholders
- 3 and used solely for the payment of interest on, or for repayment
- 4 of, the bonds.
- 5 (5) (A) In connection with any financing backed by Proposition
- 6 1A receivables, the Treasurer may retain financial advisors, legal
- 7 counsel, and other consultants to assist in performing the duties
- 8 required by this chapter and related to that financing.
- 9 (B) Notwithstanding any other law, none of the following shall
- 10 apply to any agreements entered into by the Treasurer pursuant to
- 11 subparagraph (A) in connection with any Proposition 1A financing:
- 12 (i) Section 11040 of the Government Code.
- 13 (ii) Section 10295 of the Public Contract Code.
- 14 (iii) Article 3 (commencing with Section 10300) and Article 4
- 15 (commencing with Section 10335) of, Chapter 2 of Part 2 of
- 16 Division 2 of the Public Contract Code, except for the authority
- 17 of the Department of Finance under Section 10336 of the Public
- 18 Contract Code to direct a state agency to transmit to it a contract
- 19 for review, and except for Section 10348.5 of the Public Contract
- 20 Code.
- 21 (C) Any costs incurred by the Treasurer in connection with any
- 22 Proposition 1A financing shall be reimbursed out of the proceeds
- 23 of the financing.
- 24 (y) Set any other terms and conditions on any purchase or sale
- 25 pursuant to this section as it deems by resolution to be necessary,
- 26 appropriate, and in the public interest, in furtherance of the
- 27 purposes of this article.
- 28 (z) *This section shall remain in effect only until January 1, 2021,*
- 29 *and as of that date is repealed.*
- 30 *SEC. 2. Section 6588 is added to the Government Code, to*
- 31 *read:*
- 32 *6588. In addition to other powers specified in an agreement*
- 33 *pursuant to Article 1 (commencing with Section 6500) and Article*
- 34 *2 (commencing with Section 6540), the authority may do any or*
- 35 *all of the following:*
- 36 *(a) Adopt bylaws for the regulation of its affairs and the conduct*
- 37 *of its business.*
- 38 *(b) Sue and be sued in its own name.*
- 39 *(c) Issue bonds, including, at the option of the authority, bonds*
- 40 *bearing interest, to pay the cost of any public capital improvement,*

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

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

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

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

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

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

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

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

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

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

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

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

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

38 *(o) Charge and apportion to local agencies that benefit from*
39 *its services the administrative costs and expenses incurred in the*
40 *exercise of the powers authorized by this article. These fees shall*

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

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

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

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

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

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

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

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

38 *(w) Purchase, with the proceeds of its bonds or its revenue, VLF*
39 *receivables sold to the authority pursuant to Section 6588.5. VLF*
40 *receivables so purchased may be pledged to the payment of bonds*

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

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

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

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

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

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

39 (4) Terms and conditions of any and all fees and expenses
40 charged by the authority, or those it contracts with, and the terms

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

12 (A) *Applied to pay the costs of issuance of the bonds.*
13 (B) *Deposited in a trust account that is pledged to bondholders*
14 *and used solely for the payment of interest on, or for repayment*
15 *of, the bonds.*

16 (5) (A) *In connection with any financing backed by Proposition*
17 *1A receivables, the Treasurer may retain financial advisors, legal*
18 *counsel, and other consultants to assist in performing the duties*
19 *required by this chapter and related to that financing.*

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

24 (i) *Section 11040 of the Government Code.*
25 (ii) *Section 10295 of the Public Contract Code.*
26 (iii) *Article 3 (commencing with Section 10300) and Article 4*
27 *(commencing with Section 10335) of, Chapter 2 of Part 2 of*
28 *Division 2 of the Public Contract Code, except for the authority*
29 *of the Department of Finance under Section 10336 of the Public*
30 *Contract Code to direct a state agency to transmit to it a contract*
31 *for review, and except for Section 10348.5 of the Public Contract*
32 *Code.*

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

36 (y) *Set any other terms and conditions on any purchase or sale*
37 *pursuant to this section as it deems by resolution to be necessary,*
38 *appropriate, and in the public interest, in furtherance of the*
39 *purposes of this article.*

40 (z) *This section shall become operative on January 1, 2021.*

1 ~~SEC. 2.~~

2 *SEC. 3.* This act is an urgency statute necessary for the
3 immediate preservation of the public peace, health, or safety within
4 the meaning of Article IV of the Constitution and shall go into
5 immediate effect. The facts constituting the necessity are:

6 In order to timely provide essential bonding authority for the
7 funding of multistate, public-private projects that are necessary to
8 ensure California’s national and international competitiveness and
9 public benefits in this state, it is necessary that this act take effect
10 immediately.