

AMENDED IN SENATE AUGUST 4, 2014

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.

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

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: ~~yes~~-no. 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
 16 delivered certificates of participation in a lease or installment sale
 17 agreement with any public or private entity, the authority, at its
 18 option, may issue or cause to be issued bonds, rather than
 19 certificates of participation, and enter into a loan agreement with
 20 the public or private entity.
 21 (B) (i) Notwithstanding Sections 6586 and 6586.5 or any other
 22 law, an authority may issue or cause to be issued bonds and enter
 23 into a loan agreement, pursuant to subparagraph (A), for the
 24 financing or refinancing of a project that is situated in another

1 state, including working capital related to that project, if all of the
2 following apply:

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

5 (II) The issuance of bonds by the authority and the financing
6 of the project is approved by resolution, order, or other official
7 action of the city, county, or other public body with land use
8 planning authority over the project, or of the state in which the
9 project is situated. This clause does not apply to the issuance of
10 refunding bonds if a prior financing or refinancing of the project
11 was approved by the city, county, public body, or state.

12 (III) The authority has at least 25 local agency members and
13 the authority has issued bonds and entered into loan agreements
14 to finance at least 25 separate projects.

15 (IV) The authority finds, based on the facts and circumstances
16 attendant to the project or the financing or refinancing of the
17 project, that the issuance of the bonds or the financing or
18 refinancing of the project will result in a substantial public benefit
19 to this state because one or more of the following is satisfied:

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

23 (ib) The borrower of the bond proceeds has its principal place
24 of business in this state and, if that borrower is subject to income
25 or franchise tax in this state or any other state, that borrower has
26 paid to this state for the most recent tax year income or franchise
27 tax of at least fifty thousand dollars (\$50,000) or one-half of its
28 total income or franchise tax liability to all states, whichever is
29 less. If the borrower has little or no assets other than the project
30 to be financed and is owned by another company or companies,
31 then the company or companies that own a majority of interest in
32 the borrower shall have its or their principal place of business in
33 this state.

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

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

1 (ie) In the case of the financing of one or more multifamily
2 rental housing projects, the developer of that project or projects
3 has its principal place of business in this state, and any such
4 developer subject to personal or corporate income tax in California
5 or other states has paid to this state for the most recent tax year
6 income or franchise tax of at least fifty thousand dollars (\$50,000)
7 or one-half of its total income or franchise tax liability to all states,
8 whichever is less.

9 (ii) For purposes of this subparagraph, the following definitions
10 apply:

11 (I) “Controlled group” means a group of corporations,
12 partnerships, limited liability companies or other persons that are
13 wholly owned or controlled by a single corporation, partnership,
14 limited liability company, or other person.

15 (II) “Developer” means a corporation, partnership, limited
16 liability company, or other person that is the initial controlling
17 party within the legal entity that owns the multifamily rental
18 housing project to be financed with proceeds of the bonds and that
19 is expected to be the primary economic beneficiary of, and to take
20 the primary economic risks related to, development and
21 performance of the project.

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

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

27 (V) “Net proceeds of an issue” means the aggregate principal
28 amount of that issue, less the amount of that issue allocated to
29 original issue discount, issuance costs, reserve funds, and credit
30 enhancement costs.

31 (VI) “Principal place of business” of an entity means the
32 principal place from which the trade or business of the entity is
33 directed or managed.

34 (iii) The Legislative Analyst shall, on or before January 1, 2020,
35 prepare and submit to the Legislature a report on the issuance of
36 bonds and the financing of projects pursuant to this subparagraph.
37 No later than July 1, 2019, authorities that issue bonds pursuant
38 to this subparagraph shall provide information concerning those
39 bonds, the projects financed, the public benefits accruing to this
40 state, and such other information requested by the Legislative

1 Analyst’s Office for the purpose of preparing the report. The report
2 may include recommendations for modifying or extending the
3 application of this subparagraph.

4 (d) Engage the services of private consultants to render
5 professional and technical assistance and advice in carrying out
6 the purposes of this article.

7 (e) As provided by applicable law, employ and compensate
8 bond counsel, financial consultants, and other advisers determined
9 necessary by the authority in connection with the issuance and sale
10 of any bonds.

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

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

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

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

32 (j) Make secured or unsecured loans to any local agency in
33 connection with the financing of capital improvement projects,
34 working capital or insurance programs in accordance with an
35 agreement between the authority and the local agency. However,
36 no loan shall exceed the total cost of the public capital
37 improvements, working capital or insurance needs of the local
38 agency as determined by the local agency and by the authority.

39 (k) Make secured or unsecured loans to any local agency in
40 accordance with an agreement between the authority and the local

1 agency to refinance indebtedness incurred by the local agency in
 2 connection with public capital improvements undertaken and
 3 completed.

4 (l) Mortgage all or any portion of its interest in public capital
 5 improvements and the property on which any project is located,
 6 whether owned or thereafter acquired, including the granting of a
 7 security interest in any property, tangible or intangible.

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

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

33 (o) Charge and apportion to local agencies that benefit from its
 34 services the administrative costs and expenses incurred in the
 35 exercise of the powers authorized by this article. These fees shall
 36 be set at a rate sufficient to recover, but not exceed, the authority's
 37 costs of issuance and administration. The fee charged to each local
 38 obligation acquired by the pool shall not exceed that obligation's
 39 proportionate share of those costs. The level of these fees shall be

1 disclosed to the California Debt and Investment Advisory
2 Commission pursuant to Section 6599.1.

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

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

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

18 (s) Invest any moneys held in reserve or sinking funds, or any
19 moneys not required for immediate use or disbursement, in
20 obligations that are authorized by law for the investment of trust
21 funds.

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

25 (u) Delegate to any of its individual parties or other responsible
26 individuals the power to act on its behalf subject to its general
27 direction, guidelines, and oversight.

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

34 (w) Purchase, with the proceeds of its bonds or its revenue, VLF
35 receivables sold to the authority pursuant to Section 6588.5. VLF
36 receivables so purchased may be pledged to the payment of bonds
37 issued by the authority or may be resold to public or private
38 purchasers at public or negotiated sale, in whole or in part,
39 separately or together with other VLF receivables purchased by
40 the authority.

1 (x) (1) Purchase, with the proceeds of its bonds or its revenue,
2 Proposition 1A receivables pursuant to Section 6588.6. Proposition
3 1A receivables so purchased may be pledged to the payment of
4 bonds issued by the authority or may be resold to public or private
5 purchasers at public or negotiated sales, in whole or in part,
6 separately or together with other Proposition 1A receivables
7 purchased by the authority.

8 (2) (A) All entities subject to a reduction of ad valorem property
9 tax revenues required under Section 100.06 of the Revenue and
10 Taxation Code pursuant to the suspension set forth in Section
11 100.05 of the Revenue and Taxation Code shall be afforded the
12 opportunity to sell their Proposition 1A receivables to the authority.

13 (B) If these entities offer Proposition 1A receivables to the
14 authority for purchase and duly authorize the sale of the Proposition
15 1A receivables pursuant to documentation approved by the
16 authority, the authority shall purchase all Proposition 1A
17 receivables so offered to the extent it can sell bonds therefor. If
18 the authority does not purchase all Proposition 1A receivables
19 offered, it shall purchase a pro rata share of each entity's offered
20 Proposition 1A receivables.

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

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

35 (4) Terms and conditions of any and all fees and expenses
36 charged by the authority, or those it contracts with, and the terms
37 and conditions of sales of Proposition 1A receivables and bonds
38 issued pursuant to this subdivision, including the terms of optional
39 early redemption provisions, if any, shall be approved by the
40 Treasurer and the Director of Finance, who shall not unreasonably

1 withhold their approval. The aggregate principal amount of all
2 bonds issued pursuant to this subdivision shall not exceed two
3 billion two hundred fifty million dollars (\$2,250,000,000), and the
4 rate of interest paid on those bonds shall not exceed 8 percent per
5 annum. The authority shall exercise its best efforts to obtain the
6 lowest cost financing possible. Any and all premium obtained shall
7 be used for either of the following:

8 (A) Applied to pay the costs of issuance of the bonds.

9 (B) Deposited in a trust account that is pledged to bondholders
10 and used solely for the payment of interest on, or for repayment
11 of, the bonds.

12 (5) (A) In connection with any financing backed by Proposition
13 1A receivables, the Treasurer may retain financial advisors, legal
14 counsel, and other consultants to assist in performing the duties
15 required by this chapter and related to that financing.

16 (B) Notwithstanding any other law, none of the following shall
17 apply to any agreements entered into by the Treasurer pursuant to
18 subparagraph (A) in connection with any Proposition 1A financing:

19 (i) Section 11040 of the Government Code.

20 (ii) Section 10295 of the Public Contract Code.

21 (iii) Article 3 (commencing with Section 10300) and Article 4
22 (commencing with Section 10335) of, Chapter 2 of Part 2 of
23 Division 2 of the Public Contract Code, except for the authority
24 of the Department of Finance under Section 10336 of the Public
25 Contract Code to direct a state agency to transmit to it a contract
26 for review, and except for Section 10348.5 of the Public Contract
27 Code.

28 (C) Any costs incurred by the Treasurer in connection with any
29 Proposition 1A financing shall be reimbursed out of the proceeds
30 of the financing.

31 (y) Set any other terms and conditions on any purchase or sale
32 pursuant to this section as it deems by resolution to be necessary,
33 appropriate, and in the public interest, in furtherance of the
34 purposes of this article.

35 (z) This section shall remain in effect only until January 1, 2021,
36 and as of that date is repealed.

37 SEC. 2. Section 6588 is added to the Government Code, to
38 read:

39 6588. In addition to other powers specified in an agreement
40 pursuant to Article 1 (commencing with Section 6500) and Article

- 1 2 (commencing with Section 6540), the authority may do any or
2 all of the following:
- 3 (a) Adopt bylaws for the regulation of its affairs and the conduct
4 of its business.
 - 5 (b) Sue and be sued in its own name.
 - 6 (c) Issue bonds, including, at the option of the authority, bonds
7 bearing interest, to pay the cost of any public capital improvement,
8 working capital, or liability or other insurance program. In addition,
9 for any purpose for which an authority may execute and deliver
10 or cause to be executed and delivered certificates of participation
11 in a lease or installment sale agreement with any public or private
12 entity, the authority, at its option, may issue or cause to be issued
13 bonds, rather than certificates of participation, and enter into a
14 loan agreement with the public or private entity.
 - 15 (d) Engage the services of private consultants to render
16 professional and technical assistance and advice in carrying out
17 the purposes of this article.
 - 18 (e) As provided by applicable law, employ and compensate
19 bond counsel, financial consultants, and other advisers determined
20 necessary by the authority in connection with the issuance and sale
21 of any bonds.
 - 22 (f) Contract for engineering, architectural, accounting, or other
23 services determined necessary by the authority for the successful
24 development of a public capital improvement.
 - 25 (g) Pay the reasonable costs of consulting engineers, architects,
26 accountants, and construction, land-use, recreation, and
27 environmental experts employed by any sponsor or participant if
28 the authority determines those services are necessary for the
29 successful development of public capital improvements.
 - 30 (h) Take title to, sell by installment sale or otherwise, or lease
31 lands, structures, real or personal property, rights, rights-of-way,
32 franchises, easements, and other interests in lands that are located
33 within the state that the authority determines are necessary or
34 convenient for the financing of public capital improvements, or
35 any portion thereof.
 - 36 (i) Receive and accept from any source, loans, contributions,
37 or grants, in either money, property, labor, or other things of value,
38 for, or in aid of, the construction financing, or refinancing of public
39 capital improvement, or any portion thereof or for the financing
40 of working capital or insurance programs, or for the payment of

1 the principal of and interest on bonds if the proceeds of those bonds
2 are used for one or more of the purposes specified in this section.

3 (j) Make secured or unsecured loans to any local agency in
4 connection with the financing of capital improvement projects,
5 working capital or insurance programs in accordance with an
6 agreement between the authority and the local agency. However,
7 no loan shall exceed the total cost of the public capital
8 improvements, working capital or insurance needs of the local
9 agency as determined by the local agency and by the authority.

10 (k) Make secured or unsecured loans to any local agency in
11 accordance with an agreement between the authority and the local
12 agency to refinance indebtedness incurred by the local agency in
13 connection with public capital improvements undertaken and
14 completed.

15 (l) Mortgage all or any portion of its interest in public capital
16 improvements and the property on which any project is located,
17 whether owned or thereafter acquired, including the granting of a
18 security interest in any property, tangible or intangible.

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

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

1 by the authority for the financing or refinancing of the public
2 capital improvements, the authority may convey any or all of the
3 project to the lessee or lessees.

4 (o) Charge and apportion to local agencies that benefit from its
5 services the administrative costs and expenses incurred in the
6 exercise of the powers authorized by this article. These fees shall
7 be set at a rate sufficient to recover, but not exceed, the authority's
8 costs of issuance and administration. The fee charged to each local
9 obligation acquired by the pool shall not exceed that obligation's
10 proportionate share of those costs. The level of these fees shall be
11 disclosed to the California Debt and Investment Advisory
12 Commission pursuant to Section 6599.1.

13 (p) Issue, obtain, or aid in obtaining, from any department or
14 agency of the United States or of the state, or any private company,
15 any insurance or guarantee to, or for, the payment or repayment
16 of interest or principal, or both, or any part thereof, on any loan,
17 lease, or obligation or any instrument evidencing or securing the
18 same, made or entered into pursuant to this article.

19 (q) Notwithstanding any other provision of this article, enter
20 into any agreement, contract, or any other instrument with respect
21 to any insurance or guarantee; accept payment in the manner and
22 form as provided therein in the event of default by a local agency;
23 and assign any insurance or guarantee that acts as security for the
24 authority's bonds.

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

28 (s) Invest any moneys held in reserve or sinking funds, or any
29 moneys not required for immediate use or disbursement, in
30 obligations that are authorized by law for the investment of trust
31 funds.

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

35 (u) Delegate to any of its individual parties or other responsible
36 individuals the power to act on its behalf subject to its general
37 direction, guidelines, and oversight.

38 (v) Purchase, with the proceeds of its bonds or its revenue, bonds
39 issued by any local agency at public or negotiated sale. Bonds
40 purchased pursuant to this subdivision may be held by the authority

1 or sold to public or private purchasers at public or negotiated sale,
2 in whole or in part, separately or together with other bonds issued
3 by the authority.

4 (w) Purchase, with the proceeds of its bonds or its revenue, VLF
5 receivables sold to the authority pursuant to Section 6588.5. VLF
6 receivables so purchased may be pledged to the payment of bonds
7 issued by the authority or may be resold to public or private
8 purchasers at public or negotiated sale, in whole or in part,
9 separately or together with other VLF receivables purchased by
10 the authority.

11 (x) (1) Purchase, with the proceeds of its bonds or its revenue,
12 Proposition 1A receivables pursuant to Section 6588.6. Proposition
13 1A receivables so purchased may be pledged to the payment of
14 bonds issued by the authority or may be resold to public or private
15 purchasers at public or negotiated sales, in whole or in part,
16 separately or together with other Proposition 1A receivables
17 purchased by the authority.

18 (2) (A) All entities subject to a reduction of ad valorem property
19 tax revenues required under Section 100.06 of the Revenue and
20 Taxation Code pursuant to the suspension set forth in Section
21 100.05 of the Revenue and Taxation Code shall be afforded the
22 opportunity to sell their Proposition 1A receivables to the authority.

23 (B) If these entities offer Proposition 1A receivables to the
24 authority for purchase and duly authorize the sale of the Proposition
25 1A receivables pursuant to documentation approved by the
26 authority, the authority shall purchase all Proposition 1A
27 receivables so offered to the extent it can sell bonds therefor. If
28 the authority does not purchase all Proposition 1A receivables
29 offered, it shall purchase a pro rata share of each entity's offered
30 Proposition 1A receivables.

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

35 (3) For purposes of meeting costs incurred in performing its
36 duties relative to the purchase and sale of Proposition 1A
37 receivables, the authority shall be authorized to charge a fee to
38 each entity from which it purchases a Proposition 1A receivable.
39 The fee shall be computed based on the percentage value of the
40 Proposition 1A receivable purchased from each entity, in relation

1 to the value of all Proposition 1A receivables purchased by the
2 authority. The amount of the fee shall be paid from the proceeds
3 of the bonds and shall be included in the principal amount of the
4 bonds.

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

18 (A) Applied to pay the costs of issuance of the bonds.

19 (B) Deposited in a trust account that is pledged to bondholders
20 and used solely for the payment of interest on, or for repayment
21 of, the bonds.

22 (5) (A) In connection with any financing backed by Proposition
23 1A receivables, the Treasurer may retain financial advisors, legal
24 counsel, and other consultants to assist in performing the duties
25 required by this chapter and related to that financing.

26 (B) Notwithstanding any other law, none of the following shall
27 apply to any agreements entered into by the Treasurer pursuant to
28 subparagraph (A) in connection with any Proposition 1A financing:

29 (i) Section 11040 of the Government Code.

30 (ii) Section 10295 of the Public Contract Code.

31 (iii) Article 3 (commencing with Section 10300) and Article 4
32 (commencing with Section 10335) of, Chapter 2 of Part 2 of
33 Division 2 of the Public Contract Code, except for the authority
34 of the Department of Finance under Section 10336 of the Public
35 Contract Code to direct a state agency to transmit to it a contract
36 for review, and except for Section 10348.5 of the Public Contract
37 Code.

38 (C) Any costs incurred by the Treasurer in connection with any
39 Proposition 1A financing shall be reimbursed out of the proceeds
40 of the financing.

1 (y) Set any other terms and conditions on any purchase or sale
2 pursuant to this section as it deems by resolution to be necessary,
3 appropriate, and in the public interest, in furtherance of the
4 purposes of this article.

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

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

10 ~~In order to timely provide essential bonding authority for the~~
11 ~~funding of multistate, public-private projects that are necessary to~~
12 ~~ensure California's national and international competitiveness and~~
13 ~~public benefits in this state, it is necessary that this act take effect~~
14 ~~immediately.~~