

AMENDED IN SENATE JULY 2, 2014
AMENDED IN ASSEMBLY MAY 8, 2014
AMENDED IN ASSEMBLY APRIL 10, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2395

Introduced by Assembly Member Lowenthal
(Principal coauthor: Assembly Member Gorell)
(Principal coauthor: Senator Jackson)

February 21, 2014

An act to add Section 6087 to the Harbors and Navigation Code, relating to harbor districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2395, as amended, Lowenthal. Oxnard Harbor District: infrastructure projects: funding.

(1) Existing law prescribes procedures for the formation of harbor districts, and sets forth the powers of a district with regard to the operation, management, and development of harbor facilities in a district. Existing law authorizes the board of a harbor district, among other things, to borrow up to \$1,000,000 for the purposes of acquiring land for constructing or operating any work, project, or certain authorized facilities or for the making of improvements or the purchase of equipment for the maintenance of those facilities, as prescribed.

This bill would, notwithstanding that borrowing limit, authorize the Oxnard Harbor District to borrow money ~~and incur indebtedness and to accept financial or other assistance from the state or federal~~

~~government, if the proposed borrowing is not in excess of 15% of the district's total assets, specified, as described, is considered at a public hearing, and is approved by a 2/3 vote of the members of the board of harbor commissioners for the district. The bill would authorize the district to expend any funds made available to the district pursuant to those provisions for the acquisition of any interests in lands, as specified, and for projects involving the acquisition, construction, development, ownership, and leasing of port facilities, infrastructure, or other projects, as described by issuance of promissory notes, or execute conditional sales contracts to purchase personal property, in an amount or of a value not exceeding in the aggregate at any one time the sum of \$10,000,000, for the purposes of acquiring land for or constructing or operating any authorized work, project, or facility, or for the making of any improvement, or the purchase of equipment or for the maintenance of that equipment, in accordance with prescribed procedures.~~

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Oxnard Harbor District.

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

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

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) The Oxnard Harbor District owns and operates the Port of
- 4 Hueneme. Although the Port of Hueneme is the only deep-water
- 5 port between the major Pacific Ocean ports of northern and
- 6 southern California, its depth at present is only 35 feet at mean
- 7 lower low water (MLLW). A depth of at least 40 feet at MLLW
- 8 is necessary to provide the port with the capacity to accommodate
- 9 a wider variety of vessels to meet anticipated demands. As a result,
- 10 the Oxnard Harbor District needs to finance several significant
- 11 infrastructure projects over the next several decades to expand the
- 12 limited capacity of the port.
- 13 (b) The existing one-million-dollar (\$1,000,000) limit on the
- 14 borrowing of money set forth in Section 6084 of the Harbors and
- 15 Navigation Code impedes the Oxnard Harbor District's ability to
- 16 develop the infrastructure and systems necessary to continue the

1 development of the Port of Hueneme to expand the port’s capacity
2 and meet anticipated demands.

3 (c) In December 2013, the Oxnard Harbor District successfully
4 implemented the Shoreside Power Project, which will dramatically
5 cut pollutants from vessel emissions particle matter (PM) by 92
6 percent, nitrous oxide emissions by 98 percent, and greenhouse
7 gas emissions (carbon dioxide) by 55 percent, over the life of the
8 project. Further, the project will benefit shippers, truckers, terminal
9 operators, dock workers, and regional and national transportation
10 systems by extending the useful life of existing wharfs for up to
11 30 years.

12 (d) In Spring, 2012, the Oxnard Harbor District commissioned
13 a series of white papers as part of its commitment to providing the
14 maximum possible economic and social benefits to the people and
15 communities served by the Port of Hueneme. This commitment
16 includes a responsibility to address the environmental impacts of
17 port operations. The white papers are meant to help the port build
18 an environmental management program, and address all of the
19 following focus areas:

- 20 (1) Community engagement.
- 21 (2) Water quality.
- 22 (3) Marine resources.
- 23 (4) Air quality.
- 24 (5) Soil and sediment.
- 25 (6) Sustainability.

26 (e) The white papers that are described in subdivision (d)
27 document important accomplishments already achieved by the
28 Oxnard Harbor District, including all of the following:

- 29 (1) Active participation in community events and activities.
- 30 (2) Receipt of a \$4.5 million shoreside power grant for air
31 quality improvements.
- 32 (3) Implementation of phase 1 of a stormwater improvement
33 plan.
- 34 (4) Partnering with the United States Navy and the United States
35 Corps of Engineers (USACE) to construct the Confined Aquatic
36 Disposal Cell.
- 37 (5) ~~Actively~~ *Active* monitoring *of* water quality to mitigate
38 impacts to marine life.
- 39 (6) Replacement of conventional diesel-fueled maintenance
40 vehicles with low-emission propane-fueled trucks.

1 (f) Operations and activities at the Port of Hueneme contribute
 2 meaningfully, qualitatively, and quantitatively to the economic
 3 health and vitality of southern California and the rest of the state.
 4 It has been estimated that approximately 10,226 jobs statewide are
 5 either directly or indirectly related to activities at the Port of
 6 Hueneme, and the regional agricultural, automobile, and oil and
 7 gas industries in this state rely on the workers employed in these
 8 jobs and the port’s daily operations.

9 (g) The Oxnard Harbor District does not levy, or expend any
 10 funds generated by, local taxes, as most of its operations are funded
 11 directly through fees and other revenue the port generates from its
 12 users or tenants, and from occasional state and federal grants.

13 SEC. 2. Section 6087 is added to the Harbors and Navigation
 14 Code, to read:

15 ~~6087. (a) (1) Notwithstanding any other provision of this part,~~
 16 ~~the Oxnard Harbor District may borrow money and incur~~
 17 ~~indebtedness under this section and may accept financial or other~~
 18 ~~assistance from the state or federal government.~~

19 ~~(2) (A) The district shall not borrow an amount in excess of 15~~
 20 ~~percent of its total assets, as determined based on the estimated~~
 21 ~~value of the assets included in the Port of Hueneme Comprehensive~~
 22 ~~Annual Financial Report.~~

23 ~~(B) The district shall, prior to commencing any action to borrow~~
 24 ~~funds under this section, conduct a public hearing during which~~
 25 ~~the proposed borrowing is considered.~~

26 ~~(C) The district shall not seek to borrow any funds under this~~
 27 ~~section unless the proposed borrowing is approved by a $\frac{2}{3}$ vote~~
 28 ~~of the members of the board of harbor commissioners for the~~
 29 ~~district.~~

30 ~~(b) The district may expend any funds made available to the~~
 31 ~~district pursuant to subdivision (a) for the acquisition of any interest~~
 32 ~~in lands, in accordance with Section 6075, and for the acquisition,~~
 33 ~~construction, development, ownership, and leasing of port facilities,~~
 34 ~~infrastructure, and other projects, including, but not limited to,~~
 35 ~~harbor deepening, and for any other buildings, plants, equipment,~~
 36 ~~aids, facilities, and improvements necessary for, or incident to, the~~
 37 ~~accommodation and promotion of commerce and fisheries in the~~
 38 ~~district.~~

39 *6087. (a) (1) Notwithstanding the borrowing limit set forth*
 40 *in Section 6084, the Oxnard Harbor District may borrow money*

1 *by issuance of promissory notes, or execute conditional sales*
 2 *contracts to purchase personal property, in an amount or of a*
 3 *value not exceeding in the aggregate at any one time the sum of*
 4 *ten million dollars (\$10,000,000), for the purposes of acquiring*
 5 *land for and constructing or operating any work, project, or facility*
 6 *authorized by subdivision (d) of Section 6012 or Section 6075 or*
 7 *for the making of improvements or the purchase of equipment or*
 8 *for the maintenance thereof.*

9 *(2) All moneys borrowed pursuant to this section shall not be*
 10 *borrowed for a term exceeding five years, and the indebtednesses*
 11 *shall not incur a rate of interest in excess of 12 percent per annum.*
 12 *The indebtedness shall be authorized by a resolution of the board*
 13 *of commissioners adopted by a two-thirds vote of the members of*
 14 *the board.*

15 *(3) As a condition precedent to the borrowing of any money or*
 16 *the execution of any conditional sales contract, as provided in this*
 17 *section, in excess of one hundred thousand dollars (\$100,000), the*
 18 *board shall first by a two-thirds vote approve by resolution and*
 19 *have on file a report on the engineering and economic feasibility*
 20 *relating to the project contemplated for the expenditure of the*
 21 *borrowed money or conditional sales contract. The feasibility*
 22 *report shall be prepared and signed by an engineer or engineers*
 23 *licensed and registered under the laws of the State of California.*

24 *(4) The district shall budget, levy, and collect taxes and pay for*
 25 *all indebtedness without limitation by any other provision of this*
 26 *part.*

27 *(b) Subdivision (a) does not apply to any money borrowed from*
 28 *any agency or department of the United States government or of*
 29 *the State of California.*

30 SEC. 3. The Legislature finds and declares that a special law
 31 is necessary and that a general law cannot be made applicable
 32 within the meaning of Section 16 of Article IV of the California
 33 Constitution because of the unique circumstances applicable only
 34 to the Oxnard Harbor District.