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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 746

Introduced by Assembly Member Ting
(Coauthor: Assembly Member Chiu)
(Coauthors: Senators *Beall*, Hancock, Hill, and Leno)

February 25, 2015

An act to amend Sections 66703, 66704, 66704.05, and 66706 of the Government Code, relating to the San Francisco Bay Restoration Authority.

LEGISLATIVE COUNSEL'S DIGEST

AB 746, as amended, Ting. San Francisco Bay Restoration Authority.

(1) Existing law, the San Francisco Bay Restoration Authority Act, until January 1, 2029, establishes the San Francisco Bay Restoration Authority to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitat in the San Francisco Bay and along its shoreline. The act establishes a governing board of the authority composed of specified members, including a member who is a resident of the San Francisco Bay area with expertise in the implementation of the San Francisco Bay Conservancy Program, who serves as the chair. The act grants to the

board all powers that are necessary to carry out the act, including, among other things, the power to levy specified benefit assessments, special taxes, and property-related fees, and to issue revenue bonds and general obligation bonds. However, the act limits the total amount of outstanding indebtedness incurred pursuant to those provisions authorizing the issuance of general obligation bonds to 10% of the authority's total revenues in the preceding fiscal year. Existing law generally requires a district to reimburse the county elections official for the actual costs incurred in conducting an election for the district. However, the act authorizes, until January 1, 2017, the authority to reimburse only the incremental costs, as defined, that are incurred by the county elections official related to submitting a special tax measure to the voters.

This bill would delete the requirement that one member of the board, who serves as the chair, be a resident of the San Francisco Bay area with expertise in the implementation of the San Francisco Bay Conservancy Program and would instead require that member to be an elected official of a bayside city or county, or an elected member of a special district, with expertise in the implementation of the San Francisco Bay Conservancy Program. The bill would also delete the limit on the authority's total amount of outstanding general obligation bonded indebtedness and would, instead, prohibit the authority from having a total amount of outstanding bonded indebtedness that exceeds \$1,500,000,000. The bill would specify that the authority may incur general obligation bonded indebtedness for the acquisition or improvement of real property or for the funding or refunding of any outstanding bonded indebtedness incurred by the authority. The bill would extend to January 1, 2019, the operation of the provision authorizing the authority to reimburse county elections officials for only the incremental costs of submitting a special tax measure to the voters, expanded to apply to other specified measures that would generate revenues for the authority. The bill would postpone to January 1, 2049, the repeal date for the act, and would make related conforming changes. By imposing additional duties on local government officials with regard to implementation of the act, the bill would impose a state-mandated local program.

The act specifies that the special taxes are to be levied, and submitted to the voters, consistent with specified provisions of the California Constitution relating to voter approval for local tax levies and property-related fees, charges, and assessments.

This bill would instead specify that measures that will generate revenues are to be submitted to the voters, consistent with those requirements of the California Constitution and the requirements of the California Constitution relating to general obligation bond indebtedness and ad valorem taxes.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 66703 of the Government Code is
2 amended to read:

3 66703. (a) The authority shall be governed by a board
4 composed of seven voting members, as follows:

5 (1) One member shall be an elected official of a bayside city or
6 county, or an elected member of a special district, with expertise
7 in the implementation of Chapter 4.5 (commencing with Section
8 31160) of Division 21 of the Public Resources Code and shall
9 serve as the chair.

10 (2) One member shall be an elected official of a bayside city or
11 county in the North Bay. For purposes of this subdivision, the
12 North Bay consists of the Counties of Marin, Napa, Solano, and
13 Sonoma.

14 (3) One member shall be an elected official of a bayside city or
15 county in the East Bay. For purposes of this subdivision, the East
16 Bay consists of Contra Costa County and the portion of Alameda
17 County that is north of the southern boundary of the City of
18 Hayward, excluding the Delta primary zone.

19 (4) One member shall be an elected official of a bayside city or
20 county in the South Bay. For purposes of this subdivision, the
21 South Bay consists of Santa Clara County, the portion of Alameda
22 County that is south of the southern boundary of the City of
23 Hayward, and the portion of San Mateo County that is south of
24 the northern boundary of Redwood City.

1 (5) One member shall be an elected official of a bayside city or
2 county in the West Bay. For purposes of this subdivision, the West
3 Bay consists of the City and County of San Francisco and the
4 portion of San Mateo County that is north of the northern boundary
5 of Redwood City.

6 (6) Two members shall be elected officials of one or more of
7 the following:

8 (A) A bayside city or county.

9 (B) A regional park district, regional open-space district, or
10 regional park and open-space district pursuant to Article
11 3 (commencing with Section 5500) of Chapter 3 of Division 5 of
12 the Public Resources Code that owns or operates one or more San
13 Francisco Bay shoreline parcels.

14 (b) The Association of Bay Area Governments shall appoint
15 the members.

16 (c) Each member shall serve at the pleasure of his or her
17 appointing authority.

18 (d) A vacancy shall be filled by the Association of Bay Area
19 Governments within 90 days from the date on which the vacancy
20 occurs.

21 SEC. 2. Section 66704 of the Government Code is amended
22 to read:

23 66704. The authority has, and may exercise, all powers,
24 expressed or implied, that are necessary to carry out the intent and
25 purposes of this title, including, but not limited to, the power to
26 do all of the following:

27 (a) (1) Levy a benefit assessment, special tax levied pursuant
28 to Article 3.5 (commencing with Section 50075) of Chapter 1 of
29 Part 1 of Division 1 of Title 5, or property-related fee consistent
30 with the requirements of Articles XIII A, XIII C, and XIII D of the
31 California Constitution, including, but not limited to, a benefit
32 assessment levied pursuant to paragraph (2), except that a benefit
33 assessment, special tax, or property-related fee shall not be levied
34 pursuant to this subdivision after December 31, 2048.

35 (2) The authority may levy a benefit assessment pursuant to any
36 of the following:

37 (A) The Improvement Act of 1911 (Division 7 (commencing
38 with Section 5000) of the Streets and Highways Code).

1 (B) The Improvement Bond Act of 1915 (Division 10
2 (commencing with Section 8500) of the Streets and Highways
3 Code).

4 (C) The Municipal Improvement Act of 1913 (Division 12
5 (commencing with Section 10000) of the Streets and Highways
6 Code).

7 (D) The Landscaping and Lighting Act of 1972 (Part 2
8 (commencing with Section 22500) of Division 15 of the Streets
9 and Highways Code), notwithstanding Section 22501 of the Streets
10 and Highways Code.

11 (E) Any other statutory authorization.

12 (b) Apply for and receive grants from federal and state agencies.

13 (c) Solicit and accept gifts, fees, grants, and allocations from
14 public and private entities.

15 (d) Issue revenue bonds for any of the purposes authorized by
16 this title pursuant to the Revenue Bond Law of 1941 (Chapter 6
17 (commencing with Section 54300) of Part 1 of Division 2 of Title
18 5).

19 (e) Incur general obligation bonded indebtedness for the
20 acquisition or improvement of real property or for funding or
21 refunding of any outstanding indebtedness, subject to the following
22 requirements:

23 (1) The principal and interest of any general obligation bonded
24 indebtedness incurred pursuant to this subdivision shall be paid
25 and discharged prior to January 1, 2049.

26 (2) For purposes of incurring general obligation bonded
27 indebtedness pursuant to this subdivision, the authority shall
28 comply with the requirements of Article 11 (commencing with
29 Section 5790) of Chapter 4 of Division 5 of the Public Resources
30 Code. For purposes of this subdivision, all references in Article
31 11 (commencing with Section 5790) of Chapter 4 of Division 5
32 of the Public Resources Code to a board of directors shall mean
33 the board and all references to a district shall mean the authority.

34 (3) Notwithstanding any other law, the total amount of
35 outstanding bonded indebtedness the authority may incur pursuant
36 to this subdivision and subdivision (d) shall not exceed one billion
37 five hundred million dollars (\$1,500,000,000).

38 (f) Receive and manage a dedicated revenue source.

39 (g) Deposit or invest moneys of the authority in banks or
40 financial institutions in the state in accordance with state law.

1 (h) Sue and be sued, except as otherwise provided by law, in
2 all actions and proceedings, in all courts and tribunals of competent
3 jurisdiction.

4 (i) Engage counsel and other professional services.

5 (j) Enter into and perform all necessary contracts.

6 (k) Enter into joint powers agreements pursuant to the Joint
7 Exercise of Powers Act (Chapter 5 (commencing with Section
8 6500) of Division 7 of Title 1).

9 (l) Hire staff, define their qualifications and duties, and provide
10 a schedule of compensation for the performance of their duties.

11 (m) Use interim or temporary staff provided by appropriate state
12 agencies or the Association of Bay Area Governments. A person
13 who performs duties as interim or temporary staff shall not be
14 considered an employee of the authority.

15 SEC. 3. Section 66704.05 of the Government Code is amended
16 to read:

17 66704.05. (a) If the authority proposes a measure pursuant to
18 subdivision (a) or (e) of Section 66704 that will generate revenues,
19 the board of supervisors of the county or counties in which the
20 measure is proposed shall call a special election on the measure.
21 The special election shall be consolidated with the next regularly
22 scheduled statewide election and the measure shall be submitted
23 to the voters in the appropriate counties, consistent with the
24 requirements of Articles XIII A, XIII C, and XIII D of the California
25 Constitution, as applicable.

26 (b) (1) The authority is a district, as defined in Section 317 of
27 the Elections Code. Except as otherwise provided in this section,
28 a measure proposed by the authority that requires voter approval
29 shall be submitted to the voters of the authority in accordance with
30 the provisions of the Elections Code applicable to districts,
31 including the provisions of Chapter 4 (commencing with Section
32 9300) of Division 9 of the Elections Code.

33 (2) Because the authority has no revenues as of the effective
34 date of this paragraph, the appropriations limit for the authority
35 shall be originally established based on receipts from the initial
36 measure that would generate revenues for the authority pursuant
37 to subdivision (a), and that establishment of an appropriations limit
38 shall not be deemed a change in an appropriations limit for
39 purposes of Section 4 of Article XIII B of the California
40 Constitution.

1 (c) The authority shall file with the board of supervisors of each
2 county in which the measure shall appear on the ballot a resolution
3 of the authority requesting consolidation, and setting forth the
4 exact form of the ballot question, in accordance with Section 10403
5 of the Elections Code.

6 (d) The legal counsel for the authority shall prepare an impartial
7 analysis of the measure. The impartial analysis prepared by the
8 legal counsel for the authority shall be subject to review and
9 revision by the county counsel of the county that contains the
10 largest population, as determined by the most recent federal
11 decennial census, among those counties in which the measure will
12 be submitted to the voters.

13 (e) Each county included in the measure shall use the exact
14 ballot question, impartial analysis, and ballot language provided
15 by the authority. If two or more counties included in the measure
16 are required to prepare a translation of ballot materials into the
17 same language other than English, the county that contains the
18 largest population, as determined by the most recent federal
19 decennial census, among those counties that are required to prepare
20 a translation of ballot materials into the same language other than
21 English shall prepare the translation and that translation shall be
22 used by the other county or counties, as applicable.

23 (f) Notwithstanding Section 13116 of the Elections Code, if a
24 measure proposed by the authority pursuant to this article is
25 submitted to the voters of the authority in two or more counties,
26 the elections officials of those counties shall mutually agree to use
27 the same letter designation for the measure.

28 (g) The county clerk of each county shall report the results of
29 the special election to the authority.

30 (h) (1) Notwithstanding Section 10520 of the Elections Code,
31 for the first election at which the authority proposes a measure
32 pursuant to subdivision (a) or (e) of Section 66704 that would
33 generate revenues, the authority shall reimburse each county in
34 which that measure appears on the ballot only for the incremental
35 costs incurred by the county elections official related to submitting
36 the measure to the voters.

37 (2) For purposes of this subdivision, “incremental costs” include
38 all of the following:

39 (A) The cost to prepare, review, and revise the impartial analysis
40 of the measure that is required by subdivision (d).

1 (B) The cost to prepare a translation of ballot materials into a
2 language other than English by any county, as described in
3 subdivision (e).

4 (C) The additional costs that exceed the costs incurred for other
5 election races or ballot measures, if any, appearing on the same
6 ballot in each county in which the measure appears on the ballot,
7 including both of the following:

- 8 (i) The printing and mailing of ballot materials.
- 9 (ii) The canvass of the vote regarding the measure pursuant to
10 Division 15 of the Elections Code.

11 (3) This subdivision is repealed on January 1, 2019.

12 SEC. 4. Section 66706 of the Government Code is amended
13 to read:

14 66706. This title shall remain in effect only until January 1,
15 2049, and as of that date is repealed, unless a later enacted statute,
16 that is enacted before January 1, 2049, deletes or extends that date.

17 SEC. 5. The Legislature finds and declares that the San
18 Francisco Bay Restoration Authority has not assumed any existing
19 duties from another local or state government entity and has
20 received no state or local government revenues not counted toward
21 another entity’s appropriations limit. Therefore, the authority has
22 no associated appropriations limit pursuant to Article XIII B of the
23 California Constitution as of the date of enactment of this bill.

24 SEC. 6. The Legislature finds and declares that the changes
25 made by this act to subdivision (e) of Section 66704 of the
26 Government Code explicitly affirm the authority of the *San*
27 Francisco Bay Restoration Authority to incur general obligation
28 bonded indebtedness, so as to implement the Legislature’s intent
29 when the statute first became operative on January 1, 2009.

30 SEC. 7. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 a local agency or school district has the authority to levy service
33 charges, fees, or assessments sufficient to pay for the program or
34 level of service mandated by this act, within the meaning of Section
35 17556 of the Government Code.