

AMENDED IN ASSEMBLY FEBRUARY 9, 2016

AMENDED IN ASSEMBLY JUNE 23, 2015

AMENDED IN SENATE MAY 28, 2015

AMENDED IN SENATE MAY 19, 2015

AMENDED IN SENATE MAY 12, 2015

SENATE BILL

No. 710

Introduced by Senator Galgiani
(Coauthors: Senators Cannella and Huff)
(Coauthors: Assembly Members Chávez, Gomez, and Jones)

February 27, 2015

An act to amend, repeal, and add Section 6588 of, and to add Sections 6507.5 and 6507.7 to, the Government Code, relating to joint exercise of powers, and declaring the urgency thereof, to take effect immediately. *amend Section 10159.7 of the Business and Professions Code, relating to real estate licensees, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 710, as amended, Galgiani. ~~Joint exercise of powers.~~ *Real estate licensees: fictitious business names: team names.*

The Real Estate Law provides for the licensure and regulation of real estate brokers and real estate salespersons by the Bureau of Real Estate headed by the Real Estate Commissioner. That law requires advertising and solicitation materials using a fictitious business name or that contain a team name to display the responsible broker's identity, as provided. Existing law defines "responsible broker's identity" to mean a name and the associated license identification number under which

the responsible broker is currently licensed and conducts business in general or is a substantial division of the real estate firm, as specified.

This bill would revise the definition of “responsible broker’s identity” to mean the name, the associated license identification number, or both the name and associated license identification number.

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

~~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 until January 1, 2022, would 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, 2021, 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, 2020, 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 require a joint powers authority to comply with the California Public Records Act, the Ralph M. Brown Act, and the Bagley-Keene Open Meeting Act to the extent those acts are applicable to any member of the authority, and would provide that these provisions are declaratory of existing law. The bill would additionally prohibit a joint powers authority from utilizing any funds derived from bonds issued pursuant to the provisions of this bill for political purposes.~~

~~The Personal Income Tax Law and the Corporation Tax Law impose a tax on, or measured by, an individual and corporate taxpayer’s taxable income or net income for the taxable year, but excludes certain items of income from the computation of tax. Existing law exempts from personal income tax and the corporation income tax, but not the corporation franchise 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 bonds authorized by this bill would not be exempt from income taxes under those laws.~~

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

Vote: $\frac{2}{3}$. 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 10159.7 of the Business and Professions
2 Code is amended to read:

3 10159.7. (a) For the purposes of this article, the following
4 definitions shall apply:

5 (1) “Responsible broker’s identity” means ~~a name and~~ *the name,*
6 *or* the associated license identification number under which the
7 responsible broker is currently licensed by the bureau and conducts
8 business in general or is a substantial division of the real estate
9 ~~firm.~~ *firm, or both the name and the associated license*
10 *identification number.* Responsible broker’s identity does not
11 include a fictitious business name obtained pursuant to paragraph
12 (2) of subdivision (a) of Section 10159.5 or the use of a team name
13 pursuant to Section 10159.6.

14 (2) “Fictitious business name” means a professional identity or
15 brand name under which activity requiring a real estate license is
16 conducted and the use of which is subject to approval by the bureau
17 pursuant to Section 10159.5.

18 (3) “Ownership of a fictitious business name” means the right
19 to use, renew, and control the use of a fictitious business name
20 obtained in accordance with Section 10159.5.

21 (4) “Responsible broker” means the broker responsible for the
22 exercise of control and supervision of salespersons under Section
23 10159.2, or a licensee subject to discipline under subdivision (h)
24 of Section 10177 for failure to supervise activity requiring a real
25 estate license. The supervision of a salesperson required under this
26 part or any other law is limited to regulatory compliance and
27 consumer protection.

1 (5) “Team name” means a professional identity or brand name
 2 used by a salesperson, and one or more other real estate licensees,
 3 for the provision of real estate licensed services. Notwithstanding
 4 any other law, the use of a team name does not require that a
 5 separate license be issued for that name pursuant to Section
 6 10159.5. A team name does not constitute a fictitious business
 7 name for purposes of this part or any other law or for purposes of
 8 filing a fictitious business name statement with an application as
 9 required by subdivision (a) of Section 10159.5 if all of the
 10 following apply:

11 (A) The name is used by two or more real estate licensees who
 12 work together to provide licensed real estate services, or who
 13 represent themselves to the public as being a part of a team, group,
 14 or association to provide those services.

15 (B) The name includes the surname of at least one of the licensee
 16 members of the team, group, or association in conjunction with
 17 the term “associates,” “group,” or “team.”

18 (C) The name does not include any term or terms, such as “real
 19 estate broker,” “real estate brokerage,” “broker,” or “brokerage”
 20 or any other term that would lead a member of the public to believe
 21 that the team is offering real estate brokerage services, that imply
 22 or suggest the existence of a real estate entity independent of a
 23 responsible broker.

24 (b) Nothing in this section changes a real estate broker’s duties
 25 under this division to supervise a salesperson.

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

30 *This act corrects an inadvertent drafting error in Senate Bill*
 31 *146 of the 2015–16 Regular Session that requires the listing of a*
 32 *company name and responsible broker’s license number on all*
 33 *“team” advertising, when the intent of that legislation was to*
 34 *require one or the other, but not both. In order to ensure that the*
 35 *law regarding advertising is not overly burdensome, it is necessary*
 36 *that this act take effect immediately.*

37 ~~SECTION 1. Section 6507.5 is added to the Government Code,~~
 38 ~~to read:~~

39 ~~6507.5. An authority created pursuant to this chapter shall~~
 40 ~~comply with the California Public Records Act (Chapter 3.5~~

1 (~~commencing with Section 6250~~), the Ralph M. Brown Act
2 (~~Chapter 9 (commencing with Section 54950) of Part 1 of Division~~
3 ~~2 of Title 5~~), and the Bagley-Keene Open Meeting Act (~~Article 9~~
4 (~~commencing with Section 11120) of Chapter 1 of Part 1 of~~
5 ~~Division 3 of Title 2~~), to the extent those acts are applicable to any
6 member of the authority. This section is declaratory of existing
7 law.

8 SEC. 2.— Section 6507.7 is added to the Government Code, to
9 read:

10 6507.7. (a) ~~An authority created pursuant to this chapter shall~~
11 ~~not utilize any funds derived from bonds issued pursuant to~~
12 ~~subparagraph (B) of paragraph (2) of subdivision (c) of Section~~
13 ~~6588, as that subparagraph read on the effective date of the act~~
14 ~~adding this section, for political purposes, including, but not limited~~
15 ~~to, lobbying.~~

16 SEC. 3.— Section 6588 of the Government Code is amended to
17 read:

18 6588.— ~~In addition to other powers specified in an agreement~~
19 ~~pursuant to Article 1 (commencing with Section 6500) and Article~~
20 ~~2 (commencing with Section 6540), the authority may do any or~~
21 ~~all of the following:~~

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

24 (b) ~~Sue and be sued in its own name.~~

25 (c) (1) ~~Issue bonds, including, at the option of the authority,~~
26 ~~bonds bearing interest, to pay the cost of any public capital~~
27 ~~improvement, working capital, or liability or other insurance~~
28 ~~program.~~

29 (2) (A) ~~In addition to paragraph (1), for any purpose for which~~
30 ~~an authority may execute and deliver or cause to be executed and~~
31 ~~delivered certificates of participation in a lease or installment sale~~
32 ~~agreement with any public or private entity, the authority, at its~~
33 ~~option, may issue or cause to be issued bonds, rather than~~
34 ~~certificates of participation, and enter into a loan agreement with~~
35 ~~the public or private entity.~~

36 (B) (i) ~~Notwithstanding Sections 6586 and 6586.5 or any other~~
37 ~~law, an authority may issue or cause to be issued bonds and enter~~
38 ~~into a loan agreement, pursuant to subparagraph (A), for the~~
39 ~~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) (ia) ~~The authority finds, based on the facts and~~
16 ~~circumstances attendant to the project or the financing or~~
17 ~~refinancing of the project, that the issuance of the bonds or the~~
18 ~~financing or refinancing of the project will result in a substantial~~
19 ~~public benefit to this state because one or more of the following~~
20 ~~is satisfied:~~

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

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

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

38 (Id) ~~The borrower of the bond proceeds or a controlled group~~
39 ~~of which it is a member has paid to this state for the most recent~~

1 tax year income or franchise tax of at least one hundred thousand
2 dollars (\$100,000).

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

11 (ib) The finding required by this subclause shall be conclusive
12 and incontestable 30 days following the adoption of a resolution
13 of the authority containing this finding.

14 (V) The authority authorizes the issuance of the bonds in a
15 public meeting subject to the Ralph M. Brown Act (Chapter 9
16 (commencing with Section 54950) of Part 1 of Division 2 of Title
17 5) or the Bagley-Keene Open Meeting Act (Article 9 (commencing
18 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
19 2), as those acts are applicable to any member of the authority,
20 including any applicable public notice requirements.

21 (ii) Proceeds of bonds issued pursuant to this subdivision, other
22 than those amounts required to pay bond issuance or administration
23 fees of the authority, shall not be used to finance any working
24 capital of the authority.

25 (iii) For purposes of this subparagraph, the following definitions
26 apply:

27 (I) "Controlled group" means a group of corporations,
28 partnerships, limited liability companies or other persons that are
29 wholly owned or controlled by a single corporation, partnership,
30 limited liability company, or other person.

31 (II) "Developer" means a corporation, partnership, limited
32 liability company, or other person that is the initial controlling
33 party within the legal entity that owns the multifamily rental
34 housing project to be financed with proceeds of the bonds and that
35 undertakes the development or rehabilitation of the project.

36 (III) "Financing" shall include refinancing of bonds of the
37 authority or of bonds issued by any other state or local entity
38 located within this state.

1 (IV) ~~“Issue” shall have the same meaning as in United States~~
2 ~~Treasury Regulations Section 1.150-1(e), as in effect on July 1,~~
3 ~~2014.~~

4 (V) ~~“Net proceeds of an issue” means the aggregate principal~~
5 ~~amount of that issue, less the amount of that issue allocated to~~
6 ~~original issue discount, issuance costs, reserve funds, and credit~~
7 ~~enhancement costs.~~

8 (VI) ~~“Principal place of business” of an entity means the~~
9 ~~principal place from which the trade or business of the entity is~~
10 ~~directed or managed.~~

11 (iv) ~~The Legislative Analyst shall, on or before January 1, 2021,~~
12 ~~prepare and submit to the Legislature a report on the issuance of~~
13 ~~bonds and the financing of projects pursuant to this subparagraph.~~
14 ~~No later than July 1, 2020, authorities that issue bonds pursuant~~
15 ~~to this subparagraph shall provide information concerning those~~
16 ~~bonds, the projects financed, the public benefits accruing to this~~
17 ~~state, and such other information requested by the Legislative~~
18 ~~Analyst’s Office for the purpose of preparing the report. The report~~
19 ~~may include recommendations for modifying or extending the~~
20 ~~application of this subparagraph.~~

21 (v) ~~Notwithstanding Section 6598 of the Government Code and~~
22 ~~Sections 17131 and 17133 of the Revenue and Taxation Code or~~
23 ~~any other law, the interest on bonds issued pursuant to this~~
24 ~~subparagraph shall not be exempt from income taxation, and shall~~
25 ~~be included in gross income under Part 10 (commencing with~~
26 ~~Section 17001) of Division 2 and Chapter 3 (commencing with~~
27 ~~Section 23501) of Part 11 of Division 2 of the Revenue and~~
28 ~~Taxation Code.~~

29 (d) ~~Engage the services of private consultants to render~~
30 ~~professional and technical assistance and advice in carrying out~~
31 ~~the purposes of this article.~~

32 (e) ~~As provided by applicable law, employ and compensate~~
33 ~~bond counsel, financial consultants, and other advisers determined~~
34 ~~necessary by the authority in connection with the issuance and sale~~
35 ~~of any bonds.~~

36 (f) ~~Contract for engineering, architectural, accounting, or other~~
37 ~~services determined necessary by the authority for the successful~~
38 ~~development of a public capital improvement.~~

39 (g) ~~Pay the reasonable costs of consulting engineers, architects,~~
40 ~~accountants, and construction, land-use, recreation, and~~

1 environmental experts employed by any sponsor or participant if
2 the authority determines those services are necessary for the
3 successful development of public capital improvements.

4 (h) ~~Take title to, sell by installment sale or otherwise, or lease~~
5 ~~lands, structures, real or personal property, rights, rights-of-way,~~
6 ~~franchises, easements, and other interests in lands that are located~~
7 ~~within the state that the authority determines are necessary or~~
8 ~~convenient for the financing of public capital improvements, or~~
9 ~~any portion thereof.~~

10 (i) ~~Receive and accept from any source, loans, contributions,~~
11 ~~or grants, in either money, property, labor, or other things of value,~~
12 ~~for, or in aid of, the construction financing, or refinancing of public~~
13 ~~capital improvement, or any portion thereof, or for the financing~~
14 ~~of working capital or insurance programs, or for the payment of~~
15 ~~the principal of and interest on bonds if the proceeds of those bonds~~
16 ~~are used for one or more of the purposes specified in this section.~~

17 (j) ~~Make secured or unsecured loans to any local agency in~~
18 ~~connection with the financing of capital improvement projects,~~
19 ~~working capital or insurance programs in accordance with an~~
20 ~~agreement between the authority and the local agency. However,~~
21 ~~no loan shall exceed the total cost of the public capital~~
22 ~~improvements, working capital or insurance needs of the local~~
23 ~~agency as determined by the local agency and by the authority.~~

24 (k) ~~Make secured or unsecured loans to any local agency in~~
25 ~~accordance with an agreement between the authority and the local~~
26 ~~agency to refinance indebtedness incurred by the local agency in~~
27 ~~connection with public capital improvements undertaken and~~
28 ~~completed.~~

29 (l) ~~Mortgage all or any portion of its interest in public capital~~
30 ~~improvements and the property on which any project is located,~~
31 ~~whether owned or thereafter acquired, including the granting of a~~
32 ~~security interest in any property, tangible or intangible.~~

33 (m) ~~Assign or pledge all or any portion of its interests in~~
34 ~~mortgages, deeds of trust, indentures of mortgage or trust, or~~
35 ~~similar instruments, notes, and security interests in property,~~
36 ~~tangible or intangible, of a local agency to which the authority has~~
37 ~~made loans, and the revenues therefrom, including payment or~~
38 ~~income from any interest owned or held by the authority, for the~~
39 ~~benefit of the holders of bonds issued to finance public capital~~
40 ~~improvements. The pledge of moneys, revenues, accounts, contract~~

1 rights, or rights to payment of any kind made by or to the authority
2 pursuant to the authority granted in this part shall be valid and
3 binding from the time the pledge is made for the benefit of the
4 pledgees and successors thereto, against all parties irrespective of
5 whether the parties have notice of the claim.

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

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

27 ~~(p) Issue, obtain, or aid in obtaining, from any department or
28 agency of the United States or of the state, or any private company,
29 any insurance or guarantee to, or for, the payment or repayment
30 of interest or principal, or both, or any part thereof, on any loan,
31 lease, or obligation or any instrument evidencing or securing the
32 same, made or entered into pursuant to this article.~~

33 ~~(q) Notwithstanding any other provision of this article, enter
34 into any agreement, contract, or any other instrument with respect
35 to any insurance or guarantee; accept payment in the manner and
36 form as provided therein in the event of default by a local agency;
37 and assign any insurance or guarantee that acts as security for the
38 authority's bonds.~~

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

4 ~~(s) Invest any moneys held in reserve or sinking funds, or any~~
5 ~~moneys not required for immediate use or disbursement, in~~
6 ~~obligations that are authorized by law for the investment of trust~~
7 ~~funds.~~

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

11 ~~(u) Delegate to any of its individual parties or other responsible~~
12 ~~individuals the power to act on its behalf subject to its general~~
13 ~~direction, guidelines, and oversight.~~

14 ~~(v) Purchase, with the proceeds of its bonds or its revenue, bonds~~
15 ~~issued by any local agency at public or negotiated sale. Bonds~~
16 ~~purchased pursuant to this subdivision may be held by the authority~~
17 ~~or sold to public or private purchasers at public or negotiated sale,~~
18 ~~in whole or in part, separately or together with other bonds issued~~
19 ~~by the authority.~~

20 ~~(w) Purchase, with the proceeds of its bonds or its revenue, VLF~~
21 ~~receivables sold to the authority pursuant to Section 6588.5. VLF~~
22 ~~receivables so purchased may be pledged to the payment of bonds~~
23 ~~issued by the authority or may be resold to public or private~~
24 ~~purchasers at public or negotiated sale, in whole or in part,~~
25 ~~separately or together with other VLF receivables purchased by~~
26 ~~the authority.~~

27 ~~(x) (1) Purchase, with the proceeds of its bonds or its revenue,~~
28 ~~Proposition 1A receivables pursuant to Section 6588.6. Proposition~~
29 ~~1A receivables so purchased may be pledged to the payment of~~
30 ~~bonds issued by the authority or may be resold to public or private~~
31 ~~purchasers at public or negotiated sales, in whole or in part,~~
32 ~~separately or together with other Proposition 1A receivables~~
33 ~~purchased by the authority.~~

34 ~~(2) (A) All entities subject to a reduction of ad valorem property~~
35 ~~tax revenues required under Section 100.06 of the Revenue and~~
36 ~~Taxation Code pursuant to the suspension set forth in Section~~
37 ~~100.05 of the Revenue and Taxation Code shall be afforded the~~
38 ~~opportunity to sell their Proposition 1A receivables to the authority.~~

39 ~~(B) If these entities offer Proposition 1A receivables to the~~
40 ~~authority for purchase and duly authorize the sale of the Proposition~~

1 ~~1A receivables pursuant to documentation approved by the~~
2 ~~authority, the authority shall purchase all Proposition 1A~~
3 ~~receivables so offered to the extent it can sell bonds therefor. If~~
4 ~~the authority does not purchase all Proposition 1A receivables~~
5 ~~offered, it shall purchase a pro rata share of each entity's offered~~
6 ~~Proposition 1A receivables.~~

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

11 ~~(3) For purposes of meeting costs incurred in performing its~~
12 ~~duties relative to the purchase and sale of Proposition 1A~~
13 ~~receivables, the authority shall be authorized to charge a fee to~~
14 ~~each entity from which it purchases a Proposition 1A receivable.~~
15 ~~The fee shall be computed based on the percentage value of the~~
16 ~~Proposition 1A receivable purchased from each entity, in relation~~
17 ~~to the value of all Proposition 1A receivables purchased by the~~
18 ~~authority. The amount of the fee shall be paid from the proceeds~~
19 ~~of the bonds and shall be included in the principal amount of the~~
20 ~~bonds.~~

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

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

35 ~~(B) Deposited in a trust account that is pledged to bondholders~~
36 ~~and used solely for the payment of interest on, or for repayment~~
37 ~~of, the bonds.~~

38 ~~(5) (A) In connection with any financing backed by Proposition~~
39 ~~1A receivables, the Treasurer may retain financial advisors, legal~~

1 counsel, and other consultants to assist in performing the duties
2 required by this chapter and related to that financing.

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

6 (i) ~~Section 11040 of the Government Code.~~

7 (ii) ~~Section 10295 of the Public Contract Code.~~

8 (iii) ~~Article 3 (commencing with Section 10300) and Article 4
9 (commencing with Section 10335) of, Chapter 2 of Part 2 of
10 Division 2 of the Public Contract Code, except for the authority
11 of the Department of Finance under Section 10336 of the Public
12 Contract Code to direct a state agency to transmit to it a contract
13 for review, and except for Section 10348.5 of the Public Contract
14 Code.~~

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

18 (y) ~~Set any other terms and conditions on any purchase or sale
19 pursuant to this section as it deems by resolution to be necessary,
20 appropriate, and in the public interest, in furtherance of the
21 purposes of this article.~~

22 (z) ~~This section shall remain in effect only until January 1, 2022,
23 and as of that date, is repealed.~~

24 ~~SEC. 4. Section 6588 is added to the Government Code, to
25 read:~~

26 ~~6588. In addition to other powers specified in an agreement
27 pursuant to Article 1 (commencing with Section 6500) and Article
28 2 (commencing with Section 6540), the authority may do any or
29 all of the following:~~

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

32 (b) ~~Sue and be sued in its own name.~~

33 (c) ~~Issue bonds, including, at the option of the authority, bonds
34 bearing interest, to pay the cost of any public capital improvement,
35 working capital, or liability or other insurance program. In addition,
36 for any purpose for which an authority may execute and deliver
37 or cause to be executed and delivered certificates of participation
38 in a lease or installment sale agreement with any public or private
39 entity, the authority, at its option, may issue or cause to be issued~~

1 bonds, rather than certificates of participation, and enter into a
2 loan agreement with the public or private entity.

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

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

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

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

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

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

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

38 ~~(k) Make secured or unsecured loans to any local agency in~~
39 ~~accordance with an agreement between the authority and the local~~
40 ~~agency to refinance indebtedness incurred by the local agency in~~

1 connection with public capital improvements undertaken and
2 completed.

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

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

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

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

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

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

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

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

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

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

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

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

39 ~~(x) (1) Purchase, with the proceeds of its bonds or its revenue,~~
40 ~~Proposition 1A receivables pursuant to Section 6588.6. Proposition~~

1 ~~1A receivables so purchased may be pledged to the payment of~~
2 ~~bonds issued by the authority or may be resold to public or private~~
3 ~~purchasers at public or negotiated sales, in whole or in part,~~
4 ~~separately or together with other Proposition 1A receivables~~
5 ~~purchased by the authority.~~

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

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

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

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

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

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

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

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

10 ~~(5) (A) In connection with any financing backed by Proposition~~
 11 ~~1A receivables, the Treasurer may retain financial advisors, legal~~
 12 ~~counsel, and other consultants to assist in performing the duties~~
 13 ~~required by this chapter and related to that financing.~~

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

17 ~~(i) Section 11040 of the Government Code.~~

18 ~~(ii) Section 10295 of the Public Contract Code.~~

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

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

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

33 ~~(z) This section shall become operative on January 1, 2022.~~

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

38 ~~In order to timely provide essential bonding authority for the~~
 39 ~~funding of multistate, public-private projects that are necessary to~~
 40 ~~ensure California's national and international competitiveness and~~

- 1 public benefits in this state, it is necessary that this act take effect
- 2 immediately.

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