

AMENDED IN SENATE APRIL 27, 2016
AMENDED IN SENATE MARCH 17, 2016

SENATE BILL

No. 1029

Introduced by Senator Hertzberg

February 12, 2016

An act to amend Section 8855 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1029, as amended, Hertzberg. California Debt and Investment Advisory Commission: accountability reports.

Existing law establishes the California Debt and Investment Advisory Commission to, among other things, maintain contact with state and municipal bond issuers, underwriters, investors, and credit rating agencies to improve the market for state and local government debt issues, and assist state and local governments to prepare, market, and sell ~~its~~ *their* debt issues. Existing law requires the commission to collect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance, and serve as a statistical clearinghouse for all state and local debt issuance.

This bill would additionally require the commission to track and report on all state and local outstanding debt until fully repaid or redeemed.

Existing law requires the issuer of debt of state or local government to submit reports to the commission, within specified timeframes, of the proposed issuance of debt and of final sale, as provided.

This bill would require that the report of proposed debt include a certification by the issuer that it has adopted local debt policies, which

include specified provisions, concerning the use of debt and that the contemplated debt issuance is consistent with those local debt policies.

~~This bill would also require the issuer of any debt issue of state or local government that has either outstanding debt or debt that has been authorized by voter approval or by action of the issuer but not yet issued as of the end of the prior fiscal year to, no later than January 1 of each year, provide a debt accountability report to the commission that includes specified information with respect to each authorized debt issue as of the end of the prior fiscal year: a state or local public agency to submit an annual report for any issue of debt for which it has submitted a report of final sale. The bill would require the annual report to cover a reporting period of July 1 to June 30 and to include specified information about debt issued and outstanding and the use of proceeds from debt during the reporting period. The bill would require that the report be submitted within 7 months after the end of the reporting period by any method approved by the commission.~~

This bill would make various findings and declarations regarding its provisions.

By adding to the duties of local officials with respect to reports to the commission, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. The Legislature hereby finds and declares all of*
- 2 *the following:*
- 3 *(a) California's 4,200 units of local government have issued*
- 4 *\$1.5 trillion in debt since 1984. The California Debt and Investment*
- 5 *Advisory Commission (CDIAC) was created in 1982 to provide*
- 6 *information, education, and technical assistance on debt issuance*
- 7 *and investments to local public agencies and other public finance*

1 *professionals. Over the past three decades, CDIAC has emerged*
2 *as a national thought leader in public finance.*

3 *(b) Nationally, there is approximately \$3.7 trillion of state and*
4 *local government debt outstanding. Of all outstanding state and*
5 *local government debt, approximately 75 percent is held by*
6 *households and mutual funds owned predominantly by households.*
7 *State governments, local governments, and their stakeholders*
8 *benefit from better data about public debt. Transparency on public*
9 *debt promotes better government and market integrity. It is in the*
10 *interest of the people that state and local agencies utilize*
11 *technological opportunities to provide transparency to the public.*

12 *(c) State and local agencies should adopt comprehensive written*
13 *debt management policies pursuant to the recommendation of the*
14 *Government Finance Officers Association, a professional*
15 *organization of over 18,000 public officials united to enhance and*
16 *promote the professional management of governmental financial*
17 *resources. These policies should reflect local, state, and federal*
18 *laws and regulations.*

19 *(d) It is the intent of the Legislature that all debt issuance of*
20 *the state and of local governments be published in a single,*
21 *transparent online database that allows the citizens of California*
22 *to analyze, interpret, and understand how debt authorized by the*
23 *public is utilized to finance facilities and services at the state and*
24 *local level.*

25 **SECTION 1.**

26 **SEC. 2.** Section 8855 of the Government Code is amended to
27 read:

28 8855. (a) There is created the California Debt and Investment
29 Advisory Commission, consisting of nine members, selected as
30 follows:

- 31 (1) The Treasurer, or his or her designee.
- 32 (2) The Governor or the Director of Finance.
- 33 (3) The Controller, or his or her designee.
- 34 (4) Two local government finance officers appointed by the
35 Treasurer, one each from among persons employed by a county
36 and by a city or a city and county of this state, experienced in the
37 issuance and sale of municipal bonds and nominated by
38 associations affiliated with these agencies.
- 39 (5) Two Members of the Assembly appointed by the Speaker
40 of the Assembly.

1 (6) Two Members of the Senate appointed by the Senate
2 Committee on Rules.

3 (b) (1) The term of office of an appointed member is four years,
4 but appointed members serve at the pleasure of the appointing
5 power. In case of a vacancy for any cause, the appointing power
6 shall make an appointment to become effective immediately for
7 the unexpired term.

8 (2) Any legislators appointed to the commission shall meet with
9 and participate in the activities of the commission to the extent
10 that the participation is not incompatible with their respective
11 positions as Members of the Legislature. For purposes of this
12 chapter, the Members of the Legislature shall constitute a joint
13 interim legislative committee on the subject of this chapter.

14 (c) The Treasurer shall serve as chairperson of the commission
15 and shall preside at meetings of the commission.

16 (d) Appointed members of the commission shall not receive a
17 salary, but shall be entitled to a per diem allowance of fifty dollars
18 (\$50) for each day's attendance at a meeting of the commission
19 not to exceed three hundred dollars (\$300) in any month, and
20 reimbursement for expenses incurred in the performance of their
21 duties under this chapter, including travel and other necessary
22 expenses.

23 (e) The commission may adopt bylaws for the regulation of its
24 affairs and the conduct of its business.

25 (f) The commission shall meet on the call of the chairperson,
26 at the request of a majority of the members, or at the request of
27 the Governor. A majority of all nonlegislative members of the
28 commission constitutes a quorum for the transaction of business.

29 (g) The office of the Treasurer shall furnish all administrative
30 assistance required by the commission.

31 (h) The commission shall do all of the following:

32 (1) Assist all state financing authorities and commissions in
33 carrying out their responsibilities as prescribed by law, including
34 assistance with respect to federal legislation pending in Congress.

35 (2) Upon request of any state or local government units, to assist
36 them in the planning, preparation, marketing, and sale of debt
37 issues to reduce cost and to assist in protecting the issuer's credit.

38 (3) Collect, maintain, and provide comprehensive information
39 on all state and all local debt authorization and issuance, track and
40 report on all state and local outstanding debt until fully repaid or

1 redeemed, and serve as a statistical clearinghouse for all state and
2 local debt. This information shall be available to the public.

3 (4) Maintain contact with state and municipal bond issuers,
4 underwriters, credit rating agencies, investors, and others to
5 improve the market for state and local government debt issues.

6 (5) Undertake or commission studies on methods to reduce the
7 costs and improve credit ratings of state and local issues.

8 (6) Recommend changes in state laws and local practices to
9 improve the sale and servicing of state and local debts.

10 (7) Establish a continuing education program for local officials
11 having direct or supervisory responsibility over municipal
12 investments and debt issuance. The commission shall undertake
13 these and any other activities necessary to disclose investment and
14 debt issuance practices and strategies that may be conducive for
15 oversight purposes.

16 (8) Collect, maintain, and provide information on local agency
17 investments of public funds for local agency investment.

18 (9) Publish a monthly newsletter describing and evaluating the
19 operations of the commission during the preceding month.

20 (i) (1) The issuer of any proposed debt issue of state or local
21 government shall, no later than 30 days prior to the sale of any
22 debt issue, submit a report of the proposed issuance to the
23 commission by any method approved by the commission. This
24 subdivision shall also apply to any nonprofit public benefit
25 corporation incorporated for the purpose of acquiring student loans.
26 The commission may require information to be submitted in the
27 report of proposed debt issuance that it considers appropriate.
28 Failure to submit the report shall not affect the validity of the sale.
29 The report of proposed debt issuance shall include a certification
30 by the issuer that it has adopted local debt policies concerning the
31 use of debt and that the contemplated debt issuance is consistent
32 with those local debt policies. A local debt policy shall include all
33 of the following:

34 (A) The purposes for which the debt proceeds may be used.

35 (B) The types of debt that may be issued.

36 (C) The relationship of the debt to, and integration with, the
37 issuer's capital improvement program or budget, if applicable.

38 (D) Policy goals related to the issuer's planning goals and
39 objectives.

1 (E) The internal control procedures that the issuer has
2 implemented, or will implement, to ensure that the proceeds of the
3 proposed debt issuance will be directed to the intended use.

4 (2) In the case of an issue of bonds the proceeds of which will
5 be used by a governmental entity other than the issuer, the issuer
6 may rely upon a certification by that other governmental entity
7 that it has adopted the policies described in subparagraphs (C),
8 (D), and (E) of paragraph (1), and references to the “issuer” in
9 those subparagraphs shall be deemed to refer instead to the other
10 governmental entity.

11 (j) The issuer of any debt issue of state or local government,
12 not later than 21 days after the sale of the debt, shall submit a report
13 of final sale to the commission by any method approved by the
14 commission. A copy of the final official statement for the issue
15 shall accompany the report of final sale. If there is no official
16 statement, the issuer shall provide each of the following documents,
17 if they exist, along with the report of final sale:

- 18 (1) Other disclosure document.
- 19 (2) Indenture.
- 20 (3) Installment sales agreement.
- 21 (4) Loan agreement.
- 22 (5) Promissory note.
- 23 (6) Bond purchase contract.
- 24 (7) Resolution authorizing the issue.
- 25 (8) Bond specimen.

26 The commission may require information to be submitted in the
27 report of final sale that it considers appropriate. The issuer may
28 redact confidential information contained in the documents if the
29 redacted information is not information that is otherwise required
30 to be reported to the commission.

31 ~~(k) (1) The issuer of any debt issue of state or local government~~
32 ~~that has either outstanding debt or debt that has been authorized~~
33 ~~by voter approval or by action of the issuer but not yet issued as~~
34 ~~of the end of the prior fiscal year shall, no later than January 1 of~~
35 ~~each year, provide a debt accountability report to the commission~~
36 ~~that includes the following information with respect to each~~
37 ~~authorized debt issue as of the end of the prior fiscal year:~~

- 38 ~~(A) The principal amount of the issue then outstanding.~~
- 39 ~~(B) The amount of proceeds of the issue that remain unspent.~~

1 ~~(C) The amount of debt authorized by the bond act or other~~
2 ~~appropriate authorization relevant to the issue that remains~~
3 ~~authorized but not issued.~~

4 ~~(D) A list of the purposes for which the debt has been issued~~
5 ~~and the amounts expended for each purpose in the prior fiscal year~~
6 ~~from the proceeds of the issue.~~

7 ~~(E) Any additional information the commission deems~~
8 ~~appropriate to fulfill its statutory duties, to be provided in a format~~
9 ~~prescribed by the commission.~~

10 ~~(2) The requirements of subparagraphs (A) to (C), inclusive, of~~
11 ~~paragraph (1) may be satisfied by submitting to the commission a~~
12 ~~certified copy of the issuer's annual report of financial transactions~~
13 ~~for the immediately preceding fiscal year submitted to the~~
14 ~~Controller, as required by Section 12463, in the form and manner~~
15 ~~prescribed by the commission.~~

16 *(k) (1) A public agency, whether state or local, shall submit an*
17 *annual report for any issue of debt for which it has submitted a*
18 *report of final sale pursuant to subdivision (j). The annual report*
19 *shall cover a reporting period from July 1 to June 30 and shall be*
20 *submitted no later than seven months after the end of the reporting*
21 *period by any method approved by the commission. The annual*
22 *report shall be required for each issue of debt that is outstanding*
23 *at any time during the reporting period and shall consist of the*
24 *following information:*

25 *(A) Debt authorized during the reporting period, which shall*
26 *include the following:*

- 27 *(i) Debt authorized at the beginning of the reporting period.*
- 28 *(ii) Debt authorized and issued during the reporting period.*
- 29 *(iii) Debt authorized but not issued at the end of the reporting*
30 *period.*

31 *(iv) Debt authority that has lapsed during the reporting period.*

32 *(B) Debt outstanding during the reporting period, which shall*
33 *include the following:*

- 34 *(i) Principal balance at the beginning of the reporting period.*
- 35 *(ii) Principal paid during the reporting period.*
- 36 *(iii) Principal outstanding at the end of the reporting period.*

37 *(C) The use of proceeds of issued debt during the reporting*
38 *period, which shall include the following:*

- 39 *(i) Debt proceeds available at the beginning of the reporting*
40 *period.*

1 (ii) Proceeds spent during the reporting period and the purposes
2 for which it was spent.

3 (iii) Debt proceeds remaining at the end of the reporting period.

4 (2) Compliance with this subdivision shall be limited to debt
5 issuance with proceeds remaining unspent during the reporting
6 period.

7 (3) The commission may, if technology permits, develop an
8 alternate reporting method, provided that any alternate reporting
9 method is in furtherance of the purpose of collecting the data
10 required by this subdivision.

11 ~~SEC. 2.~~

12 SEC. 3. If the Commission on State Mandates determines that
13 this act contains costs mandated by the state, reimbursement to
14 local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.