

## Assembly Bill No. 146

### CHAPTER 8

An act to add and repeal Section 53854.1 to the Government Code, relating to school finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 22, 1995. Filed with  
Secretary of State May 23, 1995.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 146, Allen. School finance.

(1) Existing law authorizes local agencies to borrow money and issue notes of indebtedness to the lender, subject to specified criteria, specifies that a note issued pursuant to these provisions may bear interest not to exceed 10% per annum, and specifies that the note shall be payable not later than the last day of the fiscal year in which it is issued, or the succeeding fiscal year but no later than 15 months after the date of issue. Existing law specifies that bonds issued by local agencies may bear interest at a coupon rate or rates as determined by the legislative body of that agency in its discretion, but not to exceed 12% per year, unless some higher rate is permitted by law.

This bill would specify that a note of indebtedness issued by a school district, county board of education, or community college district that had investments or deposits in the county investment fund of Orange County and was adversely impacted by the financial crisis in Orange County that led to the filing of the petition for declaration of bankruptcy of the county may be in any denomination. The bill would specify that a note may be made payable in a fiscal year succeeding the fiscal year in which it is issued, but no later than 15 months after the date of issue.

(2) Existing law prohibits a school district from using the proceeds obtained from the sale of an agreement relating to a sale back or leaseback of school district property or interests therein, or a debt instrument payable from payments under an agreement relating to a sale back or leaseback of school district property, for general operating purposes of the school district.

This bill would instead permit a school district and a county board of education, if approved by the county superintendent of schools, to use proceeds obtained between April 1, 1995, and June 30, 1996, from the sale of an agreement relating to a sale back or leaseback of school district property, or interests therein, or a debt instrument payable from payments under an agreement relating to a sale back or leaseback of school district property or property owned by the county board of education, for general operating purposes of the

school district or county board of education or to replenish funds or accounts that are unavailable, diminished, or depleted as a result of the deposit or investment of moneys by the school district or county board of education in the county investment fund of Orange County, as specified. The bill would provide that the amount of the proceeds that may be used for operating purposes may not exceed the amount of losses incurred or estimated by the governing board of the school district or the county board of education to be incurred as a result of the district's or board's deposit or investment of moneys in the county investment fund of Orange County, together with all costs, including any costs of issuance relating to the execution and delivery of the agreements or debt instruments, as specified. The bill would provide a similar provision for community college districts.

The bill would expressly authorize a school district and county board of education to deposit all or a portion of any proceeds received by the district between April 1, 1995, and June 30, 1996, from the sale of an agreement relating to the sale back or leaseback of school district property or property owned by the county board of education, or interests therein, or a debt instrument payable from payments under an agreement relating to the sale back or leaseback of school district property or property owned by the county board of education, into the county investment fund of Orange County or any other account into which the county investment fund has been transferred, in substitution of moneys or securities in an equal amount or value to be withdrawn from that fund or any other account if the deposit is approved by the county superintendent of schools. The bill would provide a similar provision for community college districts.

The bill would also authorize a school district and county board of education, upon approval by the county superintendent of schools, to allocate any losses incurred as a result of investments or deposits made by the district in the county investment fund of Orange County in any manner that the governing board of the school district finds appropriate. The bill would provide a similar provision for community college districts.

(3) This bill would provide that the above-referenced provisions in this bill would be repealed on January 1, 1997.

(4) The bill would only apply to county superintendents of schools, county boards of education, school districts, and community college districts that had investments or deposits in the county investment fund of Orange County and were adversely impacted by the financial crisis in Orange County that led to the filing of the petition for declaration of bankruptcy of the county. The bill would state that it constitutes a necessary special law because a general law cannot be made applicable, as specified.

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



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

SECTION 1. Section 53854.1 is added to the Government Code, to read:

53854.1. (a) Any note issued under this article by a school district, county board of education, or community college district that had investments or deposits in the county investment fund of Orange County and was adversely impacted by the financial crisis in Orange County that led to the filing of the petition for declaration of bankruptcy of the county may be negotiable, may be payable to order or to bearer, and may be in any denomination. The note shall be payable not later than the last day of the fiscal year in which it is issued. However, notwithstanding Section 53854, the note may be made payable during a fiscal year succeeding the fiscal year in which it is issued, but not later than 15 months after the date of issue, when the note is payable only from revenue received or accrued during the fiscal year in which issued.

(b) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1997, deletes or extends that date.

SEC. 2. (a) Notwithstanding Section 39360.2 or 42133.5 of the Education Code or any other law, in connection with a sale, sale back, lease, or leaseback of school district property or property owned by a county board of education, a school district or county board of education, respectively, may deposit all or a portion of any proceeds received by the district or board, respectively, between April 1, 1995, and June 30, 1996, from the sale of the sale back or leaseback agreement or interests therein, or a debt instrument payable from payments under the sale back or leaseback agreement, if the deposit is approved by the county superintendent of schools, into the county investment fund of Orange County or any other account into which the county investment fund has been transferred, in substitution of moneys or securities in an equal amount or value to be withdrawn from that fund. Any moneys or securities so withdrawn from the fund or any other account shall be applied toward the purchase or payment of any obligation, including notes, issued by the school district or county board of education, as appropriate, in fiscal year 1993-94 or 1994-95.

(b) Notwithstanding Section 39360.2 or 42133.5 of the Education Code, or any other law, if the use is approved by the county superintendent of schools, a school district or county board of education may use the proceeds obtained between April 1, 1995, and June 30, 1996, from the sale of the sale back or leaseback agreement, or interests therein, or a debt instrument payable from payments under the sale back or leaseback agreement, for general operating purposes of the school district or county board of education. A school district or county board of education may also use the proceeds for



the purpose of replenishing funds or accounts that are unavailable, diminished, or depleted as a result of the deposit or investment of moneys by the school district or county board of education in the county investment fund of Orange County. However, the proceeds used to replenish the funds or accounts may be expended only for general operating purposes, and not capital improvement purposes. The amount of the proceeds that may be used as provided in this subdivision shall not exceed the amount of losses incurred or estimated by the governing board of the school district or the county board of education, as appropriate, to be incurred as a result of the district's or board's deposit or investment of moneys in the county investment fund of Orange County, together with all costs, including any costs of issuance relating to the execution and delivery of the agreements or debt instruments. However, if obligations or debt instruments are executed and delivered based upon the estimated losses, and thereafter the actual losses are less than the estimated losses, then within 30 days after the receipt of moneys that reduce the estimated losses, the school district shall apply to the purchase, prepayment, redemption, or defeasance of the obligations or debt instruments the amount by which the proceeds of the obligations or debt instruments, less any costs of issuance, exceed the actual losses.

(c) Any school district or county board of education depositing the proceeds described in this section into the county investment fund of Orange County or any other fund or account in which the moneys are on deposit for the purpose described in subdivision (a) or (b), may proceed with the sale, sale back, lease, or leaseback of school district property or property owned by the county board of education under Section 39360.1 of the Education Code.

(d) If approved by the county superintendent of schools, a school district or county board of education may allocate any losses incurred as a result of investments or deposits made by the district or county board of education, respectively, in the county investment fund of Orange County in any manner that the governing board of the school district or county board of education, respectively, finds appropriate.

(e) This section shall not restrict the authority of a school district to use proceeds from a sale, sale back, lease, or leaseback of school district property, or a debt instrument payable from payments under a sale back or leaseback agreement, for capital improvement purposes under Article 2 (commencing with Section 39300) and Article 4 (commencing with Section 39360) of Chapter 3 of Part 23 of the Education Code.

(f) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1997, deletes or extends that date.

SEC. 3. (a) Notwithstanding Section 81363 of the Education Code, or any other law, a community college district may deposit all or a portion of any funds derived from the sale of, or from a lease with



an option to purchase, any proceeds of property sold or leased in accordance with subdivision (a) or (b) of Section 81363.5 of the Education Code, or any proceeds of any other obligation, received by the district between April 1, 1995, and June 30, 1996, into the county investment fund of Orange County or any other account into which the county investment fund has been transferred in substitution of moneys or securities in an equal amount or value to be withdrawn from that fund. Any moneys or securities so withdrawn from the fund or other account shall be applied toward the purchase or payment of any obligations, including notes, issued by the community college district in fiscal year 1993-94 or 1994-95.

(b) Notwithstanding Section 81363 of the Education Code, or any other law, a community college district may use the proceeds obtained through the sale or lease with option to purchase any proceeds of property sold or leased in accordance with subdivision (a) or (b) of Section 81363.5 of the Education Code, or any other obligation received by the district between April 1, 1995, and June 30, 1996, for general operating purposes of the community college district. A community college district may also use the proceeds for the purpose of replenishing funds or accounts that are unavailable, diminished, or depleted as a result of the deposit or investment of moneys by the community college district in the county investment fund of Orange County. However, proceeds used to replenish the funds or accounts may be expended only for general operating purposes and not capital improvement purposes. The amount of the proceeds that may be used as provided in this subdivision shall not exceed the amount of losses incurred or estimated by the governing board of the community college district to be incurred as a result of the district's deposit or investment of moneys in the county investment fund of Orange County, together with all costs, including any costs of issuance relating to the execution and delivery of the agreements or debt instruments. However, if obligations or debt instruments are executed and delivered based upon the estimated losses, and thereafter the actual losses are less than the estimated losses, then within 30 days after the receipt of moneys that reduce the estimated losses, the district shall apply to the purchase, prepayment, redemption, or defeasance of the obligations or debt instruments the amount by which the proceeds of the obligations or debt instruments, less any costs of issuance, exceed the actual losses.

(c) A community college district may allocate any losses incurred as a result of investments or deposits made by the community college district in the county investment fund of Orange County in any manner that the governing board of the community college district finds appropriate.

(d) This section shall not restrict the authority of a community college district to use the proceeds from a sale or lease with option to purchase of community college district property for capital



improvement purposes under Article 3 (commencing with Section 81330) and Article 4 (commencing with Section 81360) of Chapter 2 of Part 49 of the Education Code.

(e) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1997, deletes or extends that date.

SEC. 4. This act applies only to county superintendents of schools, county boards of education, school districts, and community college districts that had investments or deposits in the county investment fund of Orange County and were adversely impacted by the financial crisis in Orange County that led to the filing of the petition for declaration of bankruptcy of the county.

SEC. 5. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe and extensive fiscal crisis being suffered by the County of Orange.

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

In order to reduce the impact of the insolvency of the County of Orange on public schools and to grant appropriate relief at the earliest possible time to public schools in financial difficulty as a result of that insolvency, it is necessary that this act take effect immediately.

