

Assembly Bill No. 200

CHAPTER 748

An act to amend Sections 25350.6, 25350.7, 25350.8, 25350.9, 25350.10, 29530.5, 30400, and 30400.5 of the Government Code, and to amend Section 2128 of the Streets and Highways Code, relating to local agencies, and making an appropriation therefor.

[Approved by Governor October 9, 1995. Filed
with Secretary of State October 10, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 200, Brewer. Local agencies.

(1) Existing law pledges motor vehicle license fee funds to which Orange County may be entitled to all certificates of participation or lease revenue bonds issued during 1995 or 1996.

This bill would instead pledge these moneys to certificates of participation or lease revenue bonds executed and delivered or issued, as the case may be, during 1996 or 1997. The bill would specify that any refunding obligations executed and delivered or issued under these provisions may not have a final maturity later than the final maturity of the refunded obligations.

The bill would make similar conforming changes to provisions proposed to be added by AB 1664 of the 1995-96 Regular Session with regard to funds to which the county is entitled under the Bradley-Burns Uniform Local Sales and Use Tax Law.

(2) Existing law requires the board of supervisors to generally administer the affairs of county government.

This bill would revise provisions for the appointment of a county trustee in Orange County, proposed by SB 1276 of the 1995-96 Regular Session, to redefine the plan of adjustment that the trustee may work to confirm.

(3) Existing law apportions funds to each county from the Highway Users Tax Account in the Transportation Fund for county road projects.

This bill would revise the dates during which \$1,916,667 per year of these funds would be apportioned to the Orange County Transportation Authority instead of the county, as proposed by SB 1276 of the 1995-96 Regular Session, to conclude on June 30, 2013, rather than June 30, 2012, thus constituting an appropriation.

(4) The bill would provide that it would not become operative unless AB 1664, SB 863, and SB 1276 are enacted and becomes operative on or before January 1, 1996.

Appropriation: yes.

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

SECTION 1. Section 25350.6 of the Government Code is amended to read:

25350.6. (a) Moneys credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund to which Orange County may at any time be entitled shall be pledged, without any necessity for specific authorization of the pledge by the board of supervisors, to all certificates of participation or lease revenue bonds executed and delivered or issued, as the case may be, during 1996 or 1997, including obligations executed and delivered or issued before 2010 to refund those certificates of participation or lease revenue bonds, to finance or refinance the lease or lease-purchase of property of the county and having a stated maturity of 20 years or more. Any refunding obligations shall not have a final maturity later than the final maturity of the refunded obligations. The amount so pledged with respect to any fiscal year of the county shall not exceed the amounts to be paid in that fiscal year on those certificates or lease revenue bonds.

(b) The state hereby covenants with the holders of any certificates of participation or lease revenue bonds, including refunding obligations, entitled to the pledge granted by this section that, as long as any of the certificates of participation or lease revenue bonds entitled to the pledge granted by this section shall remain outstanding, the state shall not alter or amend the deposit of moneys into, or the allocation of moneys credited to, the Motor Vehicle License Fee Account in the Transportation Tax Fund under Chapter 5 (commencing with Section 11001) of Part 5 of Division 2 of the Revenue and Taxation Code in any manner that would adversely affect the security of, or the ability of the county to pay the principal of and interest on, the certificates of participation or lease revenue bonds entitled to the pledge granted by this section. However, nothing precludes any alteration or amendment if and when adequate provision has been made by law for the protection from impairment of the contract represented by the certificates of participation or lease revenue bonds, and the right to so alter or amend is hereby reserved. The County of Orange may include this covenant of the state in the agreements or other documents underlying the certificates of participation or lease revenue bonds.

SEC. 2. Section 25350.7 of the Government Code, as proposed to be added by Assembly Bill 1664 of the 1995–96 Regular Session, is amended to read:

25350.7. (a) Prior to entering into an agreement to finance the lease or lease-purchase of property through the execution and delivery or issuance, as the case may be, of certificates of participation or lease revenue bonds, the board of supervisors of the County of



Orange may elect, by resolution, to guarantee payment under that financing agreement in accordance with the following:

(1) If the county elects to participate under this section, it shall provide notice to the Controller of that election, and the notice shall include a schedule for the payments to be made by the county under that financing agreement and identify a trustee appointed by the county for the purpose of this section.

(2) In the event that, for any reason, the funds available to the county will not be sufficient to make any payment under the financing agreement at the time that payment is required, the county shall so notify the trustee and deliver to the Controller a duly certified copy of the resolution of its board of supervisors adopted pursuant to Section 29530.5. The trustee shall immediately communicate that information to the affected holders of certificates of participation or bondholders and to the Controller.

(3) When the Controller receives notice from the trustee, and a copy of the resolution from the county, as described in paragraph (2), or, after having adopted the resolution specified in paragraph (2), the county fails to make any payment under the financing agreement at the time that payment is required, the Controller shall make an apportionment to the trustee in the amount of that required payment for the purpose of making that payment. The Controller shall make that payment only from moneys to be transmitted to the county by the State Board of Equalization under Section 7204 of the Revenue and Taxation Code, that are derived from that portion of the sales and use taxes imposed by the county in excess of 1 percent, pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, and that are permitted to be deposited in the general fund of the county pursuant to Section 29530.5. The Controller shall thereupon reduce, by the amount of the payment, the subsequent amounts to which the county would be entitled under that section.

(b) As an alternative to the procedure set forth in paragraphs (2) and (3) of subdivision (a), the board of supervisors may, on or after the date of adoption by the board of the resolution specified in Section 29530.5, provide a transfer schedule in a notice to the Controller of its election to participate under this section. The transfer schedule shall set forth the amounts to be transferred to the trustee and the date or dates for the transfers, and the Controller shall, subject to the limitations in the second and third sentences of paragraph (3) of subdivision (a), make apportionments to the trustee in those amounts on the specified date or dates for the purpose of making those transfers.

(c) In the event that, for any reason, the county is no longer obligated, for any period, to make all or a portion of the payments with respect to the lease or lease-purchase financed through the execution and delivery or issuance, as the case may be, of certificates



of participation or lease revenue bonds, the trustee shall so notify the affected holders of certificates of participation or bondholders and the Controller. Upon receipt of the notification, the Controller shall cease making the transfers. If, after the giving of the notice, the obligation of the county to make payments with respect to the lease or lease-purchase financed through the execution and delivery or issuance of certificates of participation or lease revenue bonds is restored, the trustee shall so notify the affected holders of certificates of participation or bondholders and the Controller. Upon receipt of the notification, the Controller shall resume making the transfers.

(d) Any election made by the county pursuant to this section shall be in addition to any other election made by the county pursuant to any other applicable provision of law to guarantee the obligation of the county to make payments with respect to the lease or lease-purchase of property financed through the certificates of participation or lease revenue bonds.

SEC. 3. Section 25350.8 of the Government Code, as proposed to be added by Assembly Bill 1664 of the 1995–96 Regular Session, is amended to read:

25350.8. (a) Taxes collected by the State Board of Equalization pursuant to Section 7204 of the Revenue and Taxation Code, that are derived from that portion of the taxes imposed by the County of Orange in excess of 1 percent pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, and that are permitted to be deposited to the general fund of the county pursuant to paragraph (1) of subdivision (a) of Section 29530.5 shall be pledged, without the necessity for specific authorization of the pledge by the board of supervisors, to all certificates of participation or lease revenue bonds executed and delivered or issued, as the case may be, during the years 1996 and 1997, including obligations executed and delivered or issued before 2010, to refund those certificates of participation or lease revenue bonds, to finance or refinance the lease or lease-purchase of property of the county and having a stated maturity of 20 years or more. Any refunding obligations shall not have a final maturity later than the final maturity of the refunded obligations. The amount so pledged with respect to any fiscal year of the county shall not exceed the amounts to be paid in that fiscal year on those certificates or lease revenue bonds.

(b) The pledge of taxes pursuant to this section shall constitute a contract between the County of Orange and the owners of any of the certificates of participation or lease revenue bonds and shall be protected from impairment by the United States and California Constitutions. The state hereby covenants with the owners of any certificates of participation or lease revenue bonds entitled to the pledge granted by this section that, as long as any of the certificates of participation or lease revenue bonds entitled to the pledge granted by this section shall remain outstanding, (1) the provisions of Section



7202 which authorize the imposition of the taxes shall not be repealed and (2) the provisions of paragraph (1) of subdivision (a) of Section 29530.5 shall not be repealed prior to July 1, 2011, nor shall either section be altered or amended in any manner that would adversely affect the security of, or the ability of the county to pay, the principal of and interest on the certificates of participation or lease revenue bonds entitled to the pledge granted by this section. However, nothing precludes any alteration or amendment if and when adequate provision has been made by law for the protection from impairment of the contract represented by the certificates of participation or lease revenue bonds, and the right to so alter or amend is hereby reserved. The county may include this covenant of the state in the agreements or other documents underlying the certificates of participation or lease revenue bonds.

SEC. 4. Section 25350.9 of the Government Code, as proposed to be added by Assembly Bill 1664 of the 1995–96 Regular Session, is amended to read:

25350.9. (a) Prior to entering into an agreement to finance the lease or lease-purchase of property through the execution and delivery or issuance, as the case may be, of certificates of participation or lease revenue bonds, the Board of Supervisors of the County of Orange may elect, by resolution, to guarantee payment under that financing agreement in accordance with the following:

(1) If the county elects to participate under this section, it shall provide notice to the Controller of that election, and the notice shall include a schedule for the payments to be made by the county under that financing agreement and identify a trustee appointed by the county for the purpose of this section.

(2) In the event that, for any reason, the funds available to the county will not be sufficient to make any payment under the financing agreement at the time that payment is required, the county shall so notify the trustee. The trustee shall immediately communicate that information to the affected holders of certificates of participation or bondholders and to the Controller.

(3) When the Controller receives notice from the trustee as specified in paragraph (2) or the county fails to make any payment under the financing agreement at the time that payment is required, the Controller shall make an apportionment to the trustee in the amount of that required payment for the purpose of making that payment. The Controller shall make that payment only from moneys to be transmitted to the county by the State Board of Equalization under Section 7204 of the Revenue and Taxation Code, that are derived from that portion of the sales and use taxes imposed by the county pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, other than that portion of the taxes described in Section 29530.5, and shall thereupon reduce,



by the amount of the payment, the subsequent amounts to which the county would be entitled under that section.

(b) As an alternative to the procedure set forth in paragraphs (2) and (3) of subdivision (a), the board of supervisors of the county may provide a transfer schedule in a notice to the Controller of its election to participate under this section. The transfer schedule shall set forth amounts to be transferred to the trustee and the date or dates for the transfers and the Controller shall, subject to the limitation in the second sentence of paragraph (3) of subdivision (a), make apportionments to the trustee in those amounts on the specified date or dates for the purpose of making those transfers.

(c) If the county is no longer obligated for any period to make all or a portion of the payments with respect to the lease or lease-purchase financed through the execution and delivery or issuance, as the case may be, of certificates of participation or lease revenue bonds, the trustee shall so notify the affected holders of certificates of participation or bondholders and the Controller. Upon receipt of the notification, the Controller shall cease making the transfers. If, after the giving of the notice, the obligation of the county to make payments with respect to the lease or lease-purchase financed through the execution and delivery or issuance of certificates of participation or lease revenue bonds is restored, the trustee shall so notify the affected holders of certificates of participation or bondholders and the Controller. Upon receipt of the notification, the Controller shall resume making the transfers.

(d) Any election made by the county pursuant to this section shall be in addition to any other election made by the county pursuant to any other applicable provision of law to guarantee the obligation of the county to make payments with respect to the lease or lease-purchase of property financed through certificates of participation or lease revenue bonds.

SEC. 5. Section 25350.10 of the Government Code, as proposed to be added by Assembly Bill 1664 of the 1995–96 Regular Session, is amended to read:

25350.10. (a) Taxes collected by the State Board of Equalization pursuant to Section 7204 of the Revenue and Taxation Code, that are derived from the taxes imposed by the County of Orange pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, other than that portion of those taxes specified in Section 29530.5, shall be pledged, without the necessity for specific authorization of the pledge by the board of supervisors, to all certificates of participation or lease revenue bonds executed and delivered or issued, as the case may be, during the years 1996 and 1997, including obligations executed and delivered or issued before 2010, to refund those certificates of participation or lease revenue bonds, to finance or refinance the lease or lease-purchase of property of the county and having a stated maturity of 20 years or more. Any



refunding obligations shall not have a final maturity later than the final maturity of the refunded obligations. The amount so pledged with respect to any fiscal year of the county shall not exceed the amounts to be paid in the fiscal year on those certificates or lease revenue bonds.

(b) The pledge of taxes pursuant to this section shall constitute a contract between the county and the owners of any of the certificates of participation or lease revenue bonds and shall be protected from impairment by the United States and California Constitutions. The state hereby covenants with the owners of any certificates of participation or lease revenue bonds entitled to the pledge granted by this section that, as long as any of the certificates of participation or lease revenue bonds entitled to the pledge granted by this section shall remain outstanding, the provisions of Section 7202 of the Revenue and Taxation Code that authorize the imposition of the taxes shall not be repealed. That section shall not be altered or amended in any manner that would adversely affect the security of, or the ability of the county to pay, the principal of and interest on the certificates of participation or lease revenue bonds entitled to the pledge granted by this section. However, nothing precludes any alteration or amendment if and when adequate provision has been made by law for the protection from impairment of the contract represented by the certificates of participation or lease revenue bonds, and the right to so alter or amend is hereby reserved. The county may include this covenant of the state in the agreements or other documents underlying the certificates of participation or lease revenue bonds.

SEC. 6. Section 29530.5 of the Government Code, as proposed to be added by Assembly Bill 1664 of the 1995-96 Regular Session, is amended to read:

29530.5. (a) Notwithstanding any other provision of this article, the Board of Supervisors of the County of Orange may, upon the adoption of a resolution approved by a majority of all of its members, unilaterally modify its contract, as specified in Section 29530 with the State Board of Equalization, to require that, effective on or after July 1, 1996, except to the extent that subdivision (b) applies during any period, county sales and use tax revenues specified in Section 29530 be deposited into the county general fund payable, on a monthly basis, in an amount equal to three million one hundred sixty-six thousand six hundred sixty-seven dollars (\$3,166,667).

(b) (1) If the county has elected to guarantee payment of its obligations under an agreement to finance the lease or lease-purchase of property through the execution and delivery or issuance, as the case may be, of certificates of participation or lease revenue bonds pursuant to subdivision (a) of Section 25350.7, the amounts required to be deposited in the general fund of the county, in any month, pursuant to subdivision (a) shall be reduced by the



amounts, if any, transferred by the Controller to the trustee for the certificates of participation or lease revenue bonds, pursuant to subdivision (a) of Section 25350.7.

(2) If the county has elected to guarantee its obligations payment of under an agreement to finance the lease or lease-purchase of property through the execution and delivery or issuance, as the case may be, of certificates of participation or lease revenue bonds pursuant to subdivision (b) of Section 25350.7, the amounts required to be deposited in the general fund of the county, in any month, pursuant to subdivision (a) shall be reduced by the amounts transferred by the Controller to the trustee for the certificates of participation or lease revenue bonds, pursuant to subdivision (b) of Section 25350.7.

(c) This section shall not take effect unless and until (1) a plan of adjustment is confirmed in Case No. SA-94-22272-JR in the United States Bankruptcy Court for the Central District of California, or (2) a trustee is appointed pursuant to Chapter 10 (commencing with Section 30400).

(d) In enacting this section, the Legislature intends that the provisions of this act shall not be utilized to justify reductions in existing bus and paratransit services.

(e) The modification authorized by this section is not applicable to the City of Laguna Beach.

(f) This section shall become inoperative on July 1, 2011, and, as of January 1, 2012, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 30400 of the Government Code, as proposed to be added by Senate Bill 1276 of the 1995–96 Regular Session, is amended to read:

30400. (a) It is in the interest of the state and all public debt issuers within the state to enable the County of Orange to finance an acceptable plan of adjustment in order to improve the credit standing of California public debt issuers and to preserve and protect the health, safety, and welfare of the residents of the county and the state. To that end, successfully resolving the county bankruptcy and restoring the financial position of county government is a matter of statewide interest and concern.

(b) As a further guarantee that the county will be able to prepare and obtain confirmation of an acceptable plan of adjustment, it is appropriate to create a back-up mechanism for appointment of a state trustee.

(c) It is in the further interest of the state to facilitate and expedite the confirmation of an acceptable plan of adjustment by vesting in a state trustee the authority and discretion to present and enforce certain claims held by cities, public districts, or other governmental agencies against the county.



SEC. 8. Section 30400.5 of the Government Code, as proposed to be added by Senate Bill 1276 of the 1995–96 Regular Session, is amended to read:

30400.5. For purposes of this chapter, the following words have the following meanings:

(a) “Confirmation of the plan” means confirmation of the plan of adjustment pursuant to Section 943 of Title 11 of the United States Code.

(b) “County” means the County of Orange.

(c) “Investment pools case” means Case No. SA-94-22273-JR in the United States Bankruptcy Court for the Central District of California.

(d) “Pending case” means Case No. SA-94-22272-JR in the United States Bankruptcy Court for the Central District of California.

(e) “Plan of adjustment” means a plan of adjustment as that term is used in Sections 941 and 942 of Title 11 of the United States Code, that contains provisions incorporating the material terms of the county consensus recovery plan, as specified in the Joint Agreement of the County of Orange, the Official Investment Pool Participants’ Committee and Each Option A Pool Participant for Resolution of All Claims Against the County of Orange, September 6, 1995. A plan of adjustment may contain other terms and provisions that are not inconsistent with the joint agreement.

(f) “Specified county officers” means the treasurer-tax collector, auditor, chief executive officer, and assessor.

(g) “Trustee” means the person appointed by the Governor pursuant to Section 30401.

SEC. 9. Section 2128 of the Streets and Highways Code, as proposed to be added by Senate Bill 1276 of the 1995–96 Regular Session, is amended to read:

2128. (a) Notwithstanding any other provision of this chapter, the apportionments that would be made to the County of Orange under this chapter shall be apportioned as follows:

(1) The Orange County Transportation Authority shall be paid one million nine hundred sixteen thousand six hundred sixty-seven dollars (\$1,916,667) during each calendar month commencing July 1997, and ending June 2013.

(2) All remaining apportionments shall be paid to the county at the time each apportionment would have been made to the county.

(b) Subject to subdivision (c), this section shall become operative July 1, 1997, and shall become inoperative on June 30, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.

(c) This section shall not take effect unless and until (1) a plan of adjustment is confirmed in Case No. SA-94-22272-JR in the United States Bankruptcy Court for the Central District of California or (2)



a trustee is appointed pursuant to Chapter 10 (commencing with Section 30400) of Division 3 of Title 3 of the Government Code.

SEC. 10. Section 12, as proposed to be added by Assembly Bill 1664 of the 1995–96 Regular Session, is amended to read:

SEC. 12. County revenues in the amount of the revenues allocated, transferred to, or deposited with, the County of Orange pursuant to the provisions of this act, shall not be used or expended for any purpose other than the satisfaction of the county's obligations pursuant to a confirmed plan of adjustment.

SEC. 11. Sections 1 to 10, inclusive, of this act shall not become operative unless Assembly Bill 1664, Senate Bill 863, and Senate Bill 1276 are enacted and become operative on or before January 1, 1996.

