

AMENDED IN ASSEMBLY APRIL 27, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2300

Introduced by Assembly Member Florez

February 24, 2000

An act to add Section 867.5 to the Code of Civil Procedure, to amend Section 6586.5 of, and to add Sections 6586.7, 6599, 6599.2, and 6599.3 to, the Government Code, relating to joint powers agreements.

LEGISLATIVE COUNSEL'S DIGEST

AB 2300, as amended, Florez. Joint powers authority.

(1) Existing law establishes procedures for a public agency to bring an action in superior court for the judicial validation of specified matters.

This bill would prohibit the dismissal of a validating action by the public agency unless the court finds that the rights of an answering party to contest the validity of the matter at issue would not be impaired, *or the public agency has formally rescinded the action on the matter subject to validation.*

(2) Existing law authorizes public agencies to enter into joint exercise of power agreements to jointly exercise any power common to the contracting agencies and to issue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985. Among other conditions, existing law requires that the local agency, within whose boundaries the capital public improvement to be financed by the bonds is to be located,

publish notice of a hearing in a newspaper of general circulation.

This bill would *also* require that a notice ~~to~~ *containing prescribed information* be sent by certified mail at least 5 days prior to the hearing to the Attorney General and the ~~Treasurer~~ *California Debt and Investment advisory Commission*.

(3) Existing law establishes a judicial procedure for court validation of matters undertaken by a public agency.

This bill would require that, in an action for validation filed by a joint powers authority with respect to the Marks-Roos Local Bond Pooling Act of 1985, the Attorney General and the Treasurer shall be served a copy of the complaint and answer filed by the respective parties. The bill would provide that the Attorney General and the Treasurer are interested persons for purposes of such an action. The bill would require that a resolution adopted by an authority authorizing bonds or the issuance of bonds be sent to the Attorney General and the ~~Treasurer~~ *California Debt and Investment Advisory Commission* and would authorize the Attorney General and Treasurer to bring an action to determine the validity of bonds or the issuance of bonds under the act and to petition for a writ of mandate or a complaint for injunctive relief to enforce these requirements.

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

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

1 SECTION 1. The Legislature hereby finds and
 2 declares that the municipal finance market in California
 3 is a matter of ~~statewide interest. That statewide interest~~
 4 ~~includes ensuring~~ *great public importance. Thus, it is of*
 5 *great public importance to ensure* that the California
 6 municipal bond market remains a viable means of
 7 financing needed public improvements for all levels of
 8 government in the state. The Legislature enacts this act
 9 with the intent to protect the integrity of that market by
 10 prohibiting certain risky practices in the issuance of
 11 bonds.



1 SEC. 2. Section 867.5 is added to the Code of Civil
2 Procedure to read:

3 867.5. (a) Notwithstanding Section 581, an action
4 brought by a public agency pursuant to this chapter may
5 not be dismissed by the public agency except by noticed
6 motion after any party has answered. The court shall not
7 grant the motion unless it finds that the rights of an
8 answering party to contest the validity of the matter at
9 issue would not be impaired.

10 (b) *Subdivision (a) is not applicable to a case in which*
11 *a public agency has by formal act rescinded the action on*
12 *the matter subject to validation.*

13 SEC. 3. Section 6586.5 of the Government Code is
14 amended to read:

15 6586.5. (a) ~~An~~ *Notwithstanding Section 6587, an*
16 *authority, or any entity acting on behalf of or for the*
17 *benefit of an authority, may not issue bonds to construct,*
18 *acquire, or finance a public capital improvement except*
19 *pursuant to Article 1 (commencing with Section 6500) or*
20 *Article 2 (commencing with Section 6540) ~~unless both,~~*
21 *unless all* of the following conditions are satisfied with
22 respect to each capital improvement to be constructed,
23 acquired, or financed:

24 (1) The authority reasonably expects on the date of
25 issuance of the bonds that the public capital
26 improvement is to be located within the geographic
27 boundaries of one or more local agencies of the authority
28 that is not itself an authority.

29 (2) A local agency *that is not itself an authority*, within
30 whose boundaries the public capital improvement is to be
31 located, has approved the financing of the public capital
32 improvement and made a finding of significant public
33 benefit in accordance with the criteria specified in
34 Section 6586 after a public hearing held by that local
35 agency within each county or city and county where the
36 public capital improvement is to be located after notice
37 of the hearing is published once at least five days prior to
38 the hearing in a newspaper of general circulation in each
39 affected county or city and ~~county and is sent by certified~~



1 ~~mail at least five days prior to the hearing to the Attorney~~
2 ~~General and Treasurer.~~ *county.*

3 (3) *A notice is sent by certified mail at least five*
4 *business days prior to the hearing held pursuant to*
5 *paragraph (2) to the Attorney General and to the*
6 *California Debt and Investment Advisory Commission.*

7 *This notice shall contain all of the following information:*

8 (A) *The date, time, and exact location of the hearing.*

9 (B) *The name and telephone number of the contact*
10 *person.*

11 (C) *The name of the joint powers authority.*

12 (D) *The names of all members of the joint powers*
13 *authority.*

14 (E) *The name, address, and telephone number of the*
15 *bond counsel.*

16 (F) *The name, address, and telephone number of the*
17 *underwriter.*

18 (G) *The name, address, and telephone number of the*
19 *financial adviser, if any.*

20 (H) *The name, address, and telephone number of the*
21 *legal counsel of the authority.*

22 (I) *The prospective location of the public capital*
23 *improvement described by its street address, including*
24 *city, county, and ZIP Code, or, if none, by a general*
25 *description designed to inform readers of its specific*
26 *location, including both the county and the ZIP Code that*
27 *covers the specific location.*

28 (J) *A general functional description of the type and*
29 *use of the public capital improvement to be financed.*

30 (K) *The maximum aggregate face amount of*
31 *obligations to be issued with respect to the public capital*
32 *improvement.*

33 (b) *This section does not apply to bonds issued for any*
34 *of the following purposes:*

35 (1) *To finance the undergrounding of utility and*
36 *communication lines.*

37 (2) *To finance, consistent with the provisions of this*
38 *chapter, facilities for the generation or transmission of*
39 *electrical energy for public or private uses and all rights,*



1 properties, and improvements necessary therefor,
2 including fuel and water facilities and resources.

3 (3) To finance facilities for the production, storage,
4 transmission, or treatment of water, recycled water, or
5 wastewater.

6 (4) To finance public school facilities.

7 (5) To finance public highways located within the
8 jurisdiction of an authority that is authorized to exercise
9 the powers specified in Chapter 5 (commencing with
10 Section 31100) of Division 17 of the Streets and Highways
11 Code, provided that the authority conducts the noticed
12 public hearing and makes the finding of significant public
13 benefit in accordance with this section.

14 *(c) For purposes of this section, a local agency does not*
15 *include a private entity.*

16 SEC. 4. Section 6586.7 is added to the Government
17 Code, to read:

18 6586.7. A copy of the resolution adopted by an
19 authority authorizing bonds or any issuance of bonds, or
20 accepting the benefit of any bonds or proceeds of bonds,
21 except bonds issued or authorized pursuant to Article 1
22 (commencing with Section 6500) or Article 2
23 (commencing with Section 6540), *or bonds issued for the*
24 *purposes specified in subdivision (b) of Section 6586.5,*
25 shall be sent by certified mail to the Attorney General and
26 the ~~Treasurer~~ *California Debt and Investment Advisory*
27 *Commission* not later than five days after adoption by the
28 authority. ~~An authority, or any entity acting on behalf of~~
29 ~~or for the benefit of an authority, may not issue any bonds~~
30 ~~pursuant to or in reliance of the resolution until 30 days~~
31 ~~after receipt by the Attorney General and the Treasurer~~
32 ~~of the notice of resolution.~~

33 SEC. 5. Section 6599 is added to the Government
34 Code, to read:

35 6599. (a) In an action filed pursuant to Chapter 9
36 (commencing with Section 860) of Title ~~X~~ 10 of Part 2 of
37 the Code of Civil Procedure to determine the validity of
38 any matter of an authority governed by this article, the
39 authority and any interested person shall serve the
40 Attorney General and the Treasurer with a copy of the



1 complaint ~~and answer~~ filed by the respective party *by the*
 2 *first day of the publication of summons as required by*
 3 *Section 861 of the Code of Civil Procedure.* A court may
 4 render no judgment in the matter or grant other
 5 permanent relief to any party except on proof of service
 6 of the Attorney General and the Treasurer as required by
 7 this section.

8 (b) The Attorney General and the Treasurer are each
 9 interested persons pursuant to an action filed pursuant to
 10 Chapter 9 (commencing with Section 860) of Title ~~X~~ 10
 11 of Part 2 of the Code of Civil Procedure to determine the
 12 validity of any authorizing bonds or the issuance of bonds.

13 (c) *Any authority that dismisses a validation action by*
 14 *formal act and withdraws the resolution may not issue*
 15 *bonds to construct, acquire, or finance a public capital*
 16 *improvement, except pursuant to Article 1 (commencing*
 17 *with Section 6500) or Article 2 (commencing with*
 18 *Section 6540), unless the authority thereafter complies*
 19 *with the requirements of this chapter.*

20 SEC. 6. Section 6599.2 is added to the Government
 21 Code, to read:

22 6599.2. (a) Notwithstanding Sections 863 and 869 of
 23 the Code of Civil Procedure, the Attorney General or the
 24 Treasurer may jointly or separately file an action
 25 pursuant to Chapter 9 (commencing with Section 860) of
 26 Title ~~X~~ 10 of Part 2 of the Code of Civil Procedure at any
 27 time up to 60 days after the receipt of the notice required
 28 by Section 6586.7.

29 (b) An authority, or any entity acting on behalf of or
 30 for the benefit of an authority, may not issue any bonds
 31 that are subject to an action filed pursuant to Chapter 9
 32 (commencing with Section 860) of Title ~~X~~ 10 of Part 2 of
 33 the Code of Civil Procedure until after the expiration of
 34 10 days following the entry of judgment validating the
 35 resolution or the authorization to sell bonds or the
 36 resolution accepting the benefit of any bonds or proceeds
 37 of bonds.

38 SEC. 7. Section 6599.3 is added to the Government
 39 Code, to read:



1 6599.3. (a) Notwithstanding Section 869 of the Code
2 of Civil Procedure or any other provision of law, the
3 Attorney General or the Treasurer jointly or separately
4 may enforce the provisions of this chapter by a petition
5 for writ of mandate or by a complaint for injunctive relief,
6 or both.

7 (b) Failure to follow any provision of this chapter shall
8 be deemed to result in irreparable harm.

9 (c) In addition to any other place permitted by law, an
10 action under this section may be brought in the Superior
11 Court for the County of Sacramento.

