

Senate Bill No. 1118

CHAPTER 667

An act to amend Sections 5322, 5324, 5325, 5361, 5362, 15100, 15140, and 15146 of, to add Sections 15150 and 15205 to, the Education Code, and to amend Section 53508.7 of the Government Code, relating to schools and community colleges.

[Approved by Governor October 6, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1118, Alarcon. Schools and community colleges: governing boards.

Under existing law, whenever an election is ordered, the governing board of a district or the board or officer authorized by the Education Code to make such designations is required, not less than 123 days prior to the date set for the election, to specify the date and purpose of the election. At least 120 days prior to the date specified for the holding of any school election, the county superintendent of schools is required to deliver to the county clerk or registrar of voters, if such office has been established in the county where the election is to be held, copies of the order of election and the formal notice of election. Delivery of a copy of the formal notice of election to the county clerk or registrar of voters is required at least 120 days prior to the date of the election.

This bill would instead require that, in the case of an election on a measure, the order of election, the specification of the date and purpose of the election, and the formal notice of election, be made at least 88 days prior to the date of the election. This bill would impose a state-mandated local program to the extent that this requirement imposes a higher level of service.

Existing law provides for various state bond acts that provide for the issuance, pursuant to the State General Obligation Bond Law, of bonds and the expenditure of the proceeds therefrom to aid the school districts and the California Community Colleges for, among other things, the construction and equipping of educational facilities.

Under existing law, the bonds of a school district or community college district are required to be issued and sold by the board of supervisors of the county, the county superintendent of schools that has jurisdiction over the district, or the community college district governing board, where appropriate, as soon as possible following receipt of a resolution duly adopted by the governing board of the school district or community college district.



This bill would provide, notwithstanding this provision, that the board of supervisors of any county may provide by resolution that the governing board of a school district or a community college district within the county superintendent's jurisdiction, and which has not received a qualified or negative certification in its most recent interim report, may issue and sell bonds on its own behalf and would require the governing board of a school district or community college district that issued bonds or refunding bonds payable from ad valorem taxes to transmit the authorizing resolution and debt service schedule to the county auditor and county treasurer.

Under existing law, bonds are required to be sold at a public sale and at a price at, above, or below par, as the legislative body determines.

This bill would allow school district and community college district bonds to be sold at public or private sale.

Under existing law, if the board of supervisors deems it for the best interests of the school district or community college district named in the petition that unsold bonds be cancelled, the board is required to make and enter an order in the minutes of its proceedings that the unsold bonds are cancelled, and upon the entry of the order the bonds and the vote by which they were authorized to be issued ceases to be of any validity.

This bill would provide that with respect to any bonds authorized at a school district election on November 5, 1991, and thereafter cancelled without having been issued, the board of supervisors is authorized to order the cancellation annulled upon a finding that the issuance of the bonds is in the best interest of the district, and issue the bonds subject to all the terms and limitations of the original authorization.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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

SECTION 1. Section 5322 of the Education Code is amended to read:

5322. Whenever an election is ordered, the governing board of the district or the board or officer authorized by this code to make



such designations shall, concurrently with or after the order of election but not less than 123 days prior to the date of the election in the case of an election for governing board members, or, at least 88 days prior to the date of the election in the case of an election on a measure, including a bond measure, by resolution delivered to the county superintendent of schools and the officer conducting the election, or, in the case of an election on a measure, only to the officer conducting the election, specify the following, or such of the following as he or she or it may have authority to designate:

- (a) The date of the election.
- (b) The purpose of the election.

The resolution or resolutions shall be known as “specifications of the election order” and shall set forth the authority for ordering the election, the authority for the specification of the election order and the signature of the officer or the clerk of the board by law authorized to make the designations therein contained.

SEC. 2. Section 5324 of the Education Code is amended to read:

5324. At least 120 days prior to the date of the election in the case of an election for governing board members, the county superintendent of schools shall deliver to the county clerk or registrar of voters, if such office has been established in the county where the election is to be held, copies of:

- (a) The order of election.
- (b) The formal notice of election.

SEC. 3. Section 5325 of the Education Code is amended to read:

5325. Any school district election or community college district election, except a bond measure election, ordered to be held in accordance with this code shall be called by the county superintendent of schools having jurisdiction of the election by doing both of the following:

- (a) Posting or publication of notices of election.
- (b) Delivery of a copy of the formal notice of election to the county clerk or registrar of voters at least 120 days prior to the date of the election in the case of an election for governing board members.

SEC. 4. Section 5361 of the Education Code is amended to read:

5361. The formal notice of election for any school district election or community college district election, except a bond measure election, shall be prepared by the county superintendent of schools and shall contain the following:

- (a) The date of the election.
- (b) The purpose of the election.

SEC. 4.5. Section 5362 of the Education Code is amended to read:

5362. As an alternative to publication by newspaper pursuant to Section 5363, publication of formal notice may be effected pursuant to this section. Not later than 90 days prior to the date of any school district or community college district election, except a bond



measure election, the county superintendent of schools having jurisdiction shall cause to be posted the formal notice of the election in public view at all of the following:

(a) Every schoolhouse in the territory, district or districts in which the election is to be held.

(b) At three public places in the territory, district or districts.

SEC. 5. Section 15100 of the Education Code is amended to read:

15100. Except as otherwise provided by law, the governing board of any school district or community college district may, when in its judgment it is advisable, and shall, upon a petition of the majority of the qualified electors residing in the school district or community college district, order an election and submit to the electors of the district the question whether the bonds of the district shall be issued and sold for the purpose of raising money for the following purposes:

(a) The purchasing of school lots.

(b) The building or purchasing of school buildings.

(c) The making of alterations or additions to the school building or buildings other than as may be necessary for current maintenance, operation, or repairs.

(d) The repairing, restoring, or rebuilding of any school building damaged, injured, or destroyed by fire or other public calamity.

(e) The supplying of school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature.

(f) The permanent improvement of the school grounds.

(g) The refunding of any outstanding valid indebtedness of the district, evidenced by bonds, or of state school building aid loans.

(h) The carrying out of the projects or purposes authorized in Section 17577 or 81613.

(i) The purchase of schoolbuses the useful life of which is at least 20 years.

(j) The demolition or razing of any school building with the intent to replace it with another school building, whether in the same location or in any other location.

Any one or more of the purposes enumerated, except that of refunding any outstanding valid indebtedness of the district evidenced by bonds, may, by order of the governing board entered in its minutes, be united and voted upon as one single proposition.

SEC. 6. Section 15140 of the Education Code is amended to read:

15140. (a) Bonds of a school district or community college district shall be offered for sale by the board of supervisors of the county, the county superintendent of which has jurisdiction over the district, or the community college district governing board, where appropriate, as soon as possible following receipt of a resolution duly adopted by the governing board of the school district or community college district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or



times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds.

(b) Notwithstanding subdivision (a) or another provision of this chapter, the board of supervisors of any county may provide by resolution that the governing board of any school district or community college district over which the county superintendent of schools has jurisdiction, and which has not received a qualified or negative certification in its most recent interim report, may issue and sell bonds on its own behalf pursuant to this chapter without further action of the board of supervisors or officers of that county or of any other county in which a portion of the school district or community college district is located. The county shall levy and collect taxes, pay bonds, and hold bond proceeds and tax funds pursuant to this chapter for the bonds issued and sold pursuant to this subdivision.

(c) Whenever the governing board of a school district or community college district issues bonds or refunding bonds payable from ad valorem taxes the governing board shall transmit the authorizing resolution and debt service schedule, including the debt service schedule for the bonds to be refunded, to the county auditor and county treasurer in sufficient time to permit the county to establish tax rates and necessary funds or accounts for the bonds.

SEC. 7. Section 15146 of the Education Code is amended to read:

15146. (a) The bonds shall be issued and sold pursuant to Section 15140, payable out of the interest and sinking fund of the district. The governing board may sell the bonds at a negotiated sale or by competitive bidding. The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not to exceed the maximum rate permitted by law. If the sale is by competitive bid, the governing board shall comply with Sections 15147 and 15148. The bonds shall be sold by the governing board no later than the date designated by the governing board as the final date for the sale of the bonds.

(b) The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district.

(c) The governing board may cause to be deposited proceeds of sale of any series of the bonds in an amount not exceeding 2 percent of the principal amount of the bonds in a costs of issuance account, which may be created in the county treasury or held by a fiscal agent appointed by the district for this purpose, separate from the building



fund and the interest and sinking fund of the district. The proceeds deposited shall be drawn out on the order of the governing board or an officer of the district duly authorized by the governing board to make the order, only to pay authorized costs of issuance of the bonds. Upon the order of the governing board or duly authorized officer, the remaining balance shall be transferred to the county treasury to the credit of the building fund of the school district or community college district. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

(d) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount of the annual reserve permitted by Section 15250 or in any lesser amount, as the governing board shall determine from time to time. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

(e) The governing board may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the district in the amount not exceeding the interest scheduled to become due on that series of bonds for a period of two years from the date of issuance of that series of bonds. The deposit of bonds proceeds pursuant to this subdivision shall be a proper charge against the building fund of the district.

SEC. 8. Section 15150 is added to the Education Code, to read:

15150. (a) When the governing board of a school district or a community college district deems it in the best interests of the district, it may by resolution, upon such terms and conditions as it shall prescribe, issue notes, on a negotiated or competitive-bid basis, maturing within a period not to exceed one year, in anticipation of the sale of bonds authorized pursuant to Section 15100 or Section 15340 at the time the notes are issued. The proceeds from the sale of the notes shall be used only for authorized purposes of the bonds or to repay outstanding notes authorized by this section.

(b) All notes issued and any renewal thereof shall be payable at a fixed time not more than five years from the date of the original issuance of the note. In the event that the sale of the bonds does not occur prior to the maturity of the notes issued in anticipation of the sale, the fiscal officer of the district, in order to meet the notes then maturing, shall issue renewal notes for this purpose. The renewal of a note may not be issued after the sale of bonds in anticipation of which the original note was issued.

(c) Every note and any renewal thereof shall be payable from the proceeds of the sale of bonds or of any renewal of notes or from other funds of the district lawfully available for the purpose of repaying the notes, including state grants. The total amount of the notes or renewals thereof issued and outstanding may not at any time exceed the total amount of the unsold bonds.



(d) Interest on the notes shall be payable from proceeds of the sale of bonds, or from the tax lawfully levied to pay principal of and interest on the bonds.

(e) The original issuance of notes and any renewal thereof may be in the form of commercial paper notes. Each issuance of commercial paper notes to repay outstanding notes shall be deemed to be a renewal of notes subject only to the requirements of this section.

SEC. 9. Section 15205 is added to the Education Code, to read:

15205. For any bonds authorized at a school district election on November 5, 1991, and thereafter cancelled pursuant to this article without having been issued, the board of supervisors may order the cancellation annulled upon a finding that the issuance of the bonds is in the best interest of the district. Upon such order the district shall have the authority to issue the bonds pursuant to all of the terms and limitations of the original authorization, including the purposes for which such bonds may be issued, the maximum interest rate, and the maximum term to maturity, provided that the aggregate amount of bonds issued pursuant to such authorization does not exceed the amount originally authorized by the voters.

SEC. 10. Section 53508.7 of the Government Code is amended to read:

53508.7. (a) The bonds shall be sold at a public or private sale and at a price at, above, or below par, as the legislative body determines.

(b) Any bonds sold at a discount below the par value of the bonds shall be sold in compliance with the provisions of Section 53532.

(c) The private sale of bonds is limited to the sale of school districts' and community college districts' bonds pursuant to Sections 15140 or 15146 of the Education Code.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

