SENATE BILL No. 826

Introduced by Committee on Governmental Organization (Senators Wright (Chair), Benoit, Calderon, Denham, Florez, Harman, Negrete McLeod, Oropeza, Padilla, Romero, Wiggins, Wyland, and Yee)

March 19, 2009

An act to amend Sections 16724.5, 16731, 16731.6, 16735, 16737, 16752, 16752.1, 16753, 16754, 16754.3, 16755, and 16757 of, and to repeal Section 16736 of, the Government Code, relating to general obligation bonds.

LEGISLATIVE COUNSEL'S DIGEST

SB 826, as introduced, Committee on Governmental Organization. General obligations bonds.

(1) The State General Obligation Bond Law generally provides for a procedure that may be adopted by other acts, with any necessary modifications, in authorizing the issuance and sale of state general obligation bonds and providing for the repayment of those bonds, including the determination of interest rates the bonds shall bear. Existing law requires, with regard to a resolution specifying that the bonds may pay a variable interest rate, that the aggregate principal amount of all state general obligations bonds bearing variable interest rates do not exceed 20 percent of the aggregate principal amount of all outstanding general obligation bonds. Existing law exempts, from this calculation, variable rate bond that have an effective fixed interest rate through a hedging contract.

This bill would require the Treasurer to determine, with regard to those bonds that have an effective fixed interest rate through a hedging contract, that the hedging contract either significantly reduces variable rate risk or qualifies for integration with the bonds in calculating the yield on the bonds under certain federal rules.

(2) Existing law provides that certain amounts payable or contractual obligations regarding bonds that bear a variable interest rate under a bond act that was approved by the voters before July 1, 2002, are not backed by the full faith and credit of the state.

This bill would provide that those amounts payable or contractual obligations are backed by the full faith and credit of the state, if the bond act was approved on or after January 1, 2002.

(3) Existing law requires, for bonds approved by the voters after January 1, 2006, that the payment of interest include the payment of any amounts owed by a counterparty after any offset for payments owed to the state on a hedging contract, and prohibits the total payments of stated interest on the bonds and payments owed by the state from exceeding a specified maximum rate after a specified offset.

This bill would instead provide that the payment of any amounts owed by the state, after any offset, shall be deemed to be included within the appropriation for interest on the bonds. The bill would allow the payments of interest on a bond and the payments on a hedging contract that exceed the maximum rate in a fiscal year to be paid in subsequent fiscal years, under specified conditions.

(4) Existing law requires, when the finance committee created by the bond act determines to issue commercial paper notes, for purposes of determining the principal amount of outstanding bonds, that the principal amount deemed outstanding be the maximum amount authorized in the resolution.

This bill would delete that condition.

(5) Existing law authorizes the Treasurer, when the finance committee created by the bond act deems it in the best interests of the state, to issue notes, on a negotiated or a competitive-bid basis, maturing within a period not to exceed 2 years, in anticipation of the sale of bonds.

This bill would increase the maturation date of those notes to 5 years and make related changes.

(6) Existing law specifies the manner in which the Treasurer may sell bonds.

This bill revise these provisions regarding the competitive sale of bonds and the conditions for bidding in a competitive sale or purchasing in a negotiated sale. The bill would make other conforming and nonsubstansive changes to the bond law.

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

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

SECTION 1. Section 16724.5 of the Government Code is amended to read:

16724.5. ~~There~~ *(a) (1) For purposes of this section, "revolving fund" means the General Obligation Bond Expense Revolving Fund created pursuant to this section.*

(b) There is in the State Treasury the General Obligation Bond Expense Revolving Fund~~, hereafter referred to in this section as the revolving fund. The revolving fund consists~~*, which shall consist* of all money appropriated by the Legislature ~~for such~~ *into that* fund or payable into ~~such~~ *that* fund in accordance with this section.

~~All~~

(c) All money in the revolving fund is hereby appropriated and shall be available without regard to fiscal years for ~~the payment~~ *all of the following:*

(1) The payment of the expenses incurred by the State Treasurer in having the bonds prepared and in advertising their sale or their prior redemption~~, for~~.

(2) For expenses incurred by the committee pursuant to Section 16758~~, and for~~.

(3) For payment for legal services pursuant to Section 16760. ~~Whenever~~

(d) Except as provided in Section 16757, whenever bonds are sold, out of the first money realized from their sale, there shall be redeposited in the revolving fund ~~such~~ *the* sums ~~as~~ *that* have been expended for the ~~above~~ purposes *specified in subdivision (c)*, which may be used for the same purposes and repaid in the same manner whenever additional sales are made.

SEC. 2. Section 16731 of the Government Code is amended to read:

16731. Whenever the committee determines that the sale of all or any part of the bonds authorized to be issued is necessary or desirable, it shall adopt a resolution to that effect. The resolution shall specify *all of* the following as to the bonds then to be sold:

(a) The aggregate number, aggregate par value, denominations, and the date of the bonds to be then sold. The denominations shall be in the sum of one thousand dollars ($1,000) or multiples of that sum. The date appearing on the bonds shall be deemed to be the date of issuance for all purposes of this chapter, irrespective of the actual date of delivery of the bonds and the payment of the purchase price of the bonds.

(b) The dates of maturity and the amount of the bonds maturing at each date of maturity, which amounts need not be equal. The last dates of maturity shall be not more than 45 years after the date of the bonds.

(c) Whether or not the bonds are to be subject to redemption or tender prior to maturity, and, if so, the provisions for the redemption or tender, the manner of the call or notice thereof, and the price or prices at which the bonds shall be subject to redemption or tender.

(d) (1) *(A)* The annual rate, or rates, of interest that the bonds to be issued shall bear, which may be in multiples of one-eighth or one-twentieth of 1 percent, but not in excess of 11 percent. The rate or rates may be determined at the time of the sale of the bonds. ~~Alternatively,~~

(B) As an alternative to subparagraph (A), the resolution may specify that the bonds may pay a variable interest rate *or rates*, as prescribed in the resolution*, but not in excess of 11 percent per annum, and in accordance with the requirements of this subparagraph*. ~~However, at the time~~

(i) At the time and as the result of the issuance of any bonds bearing a variable interest rate, the aggregate principal amount of all state general obligation bonds bearing variable interest rates may not exceed 20 percent of the aggregate principal amount of all state general obligation bonds then outstanding. ~~For~~

(ii) For purposes of ~~this~~ *the* calculation *made pursuant to clause (i)*, variable rate bonds shall not include ~~bonds~~ *commercial paper* issued pursuant to Section 16731.6 or bonds that have an effective fixed interest rate through a hedging contract, *as specified in subparagraph (C),* but shall include bonds that have an effective variable interest rate through a hedging contract. ~~Notwithstanding~~

(iii) Notwithstanding any other provision of this chapter, if the committee decides to issue state general obligation bonds bearing variable interest rates, the committee is not required to comply with Section 16732. ~~Notwithstanding~~

(iv) Notwithstanding any other provision of law, if bonds are issued bearing a variable interest rate under a bond act approved by the voters ~~prior to~~ *on or after* January 1, 2002, and if the variable interest rate bonds provide a right of tender, then any amount payable by the state as a result of the tender with respect to principal of and interest on the bonds prior to the regularly scheduled principal or interest payment dates, or payable by the state pursuant to redemption or call initiated as a means to repay the obligation of the state resulting from the tender, is ~~not~~ backed by the full faith and credit of the state and shall ~~not~~ be payable under the bond act. ~~Further, no~~

(v) A contractual obligation of the state under a standby bond purchase agreement or other liquidity facility entered into in connection with variable interest rate bonds providing a right of tender and issued under a bond act approved by the voters ~~prior to~~ *on or after* January 1, 2002, shall be backed by the full faith and credit of the state and shall ~~not~~ be payable under the bond act. ~~These obligations are~~

(vi) A right of tender or contractual obligation not described in clauses (iv) and (v) is subject to annual appropriation by the Legislature.

(C) For the purposes of clause (ii) of subparagraph (B), bonds that have an "effective fixed interest rate through a hedging contract" means bonds for which the Treasurer determines the hedging contract meets either of the following conditions:

(i) Significantly reduces variable rate risk by providing changes in fair values or cash flows that substantially offset the changes in fair value or cash flows of the bonds.

(ii) Qualifies for integration with the bonds in calculating the yield on the bonds under the rules prescribed in Section 148 of the United States Internal Revenue Code (26 U.S.C. Sec. 148).

(D) The Treasurer shall make the determination specified in subparagraph (C) at the time the hedging contract is entered into and this determination shall apply through the maturity of the bonds, unless the hedging contract is terminated prior to maturity.

(2) (A) *(i)* Notwithstanding any other provision of law, for bonds approved by the voters after January 1, 2006, ~~payment of interest on the bonds as provided in this subdivision shall include~~ payment of any amounts owed by the state to a counterparty, after any offset for payments owed to the state on any hedging contract

described in Section 5922 in connection with those bonds,~~ and those payments~~ shall be deemed to be included within the appropriation for interest on the bonds contained in the applicable bond act.~~ The~~

(ii) The total payments of stated interest on the bonds together with payments owed by the state after any offset for payments owed to the state on a hedging contract shall not exceed the maximum rate set forth in this subdivision.

(iii) To the extent payments of interest on a bond, together with payments on a hedging contract, would, in any fiscal year, exceed the maximum rate permitted by law , the excess amounts may be paid in subsequent fiscal years, if the aggregate amount of interest and that excess amount paid in any year does not exceed the maximum rate permitted by law.

(B) The Treasurer may not enter into any hedging contract described by subparagraph (A) unless the committee has approved policies developed by the Treasurer relating to the entering into and managing of those hedging contracts~~. The policies shall require~~ *that shall include both of the following:*

(i) A requirement that any hedging contract or program of contracts is designed to reduce the amount or duration of payment, currency, rate, spread, or similar risk or result in a lower cost of borrowing when used in combination with the issuance or carrying of bonds.~~ The policies shall also include a~~

(ii) A description of the criteria to be used to evaluate the potential risks and benefits to the state of entering into a particular hedging contract or program of contracts and to evaluate the performance of outstanding hedging contracts in comparison to the objectives for which the hedging contract was executed.~~ The~~

(C) The policies approved pursuant to~~ this paragraph~~ *subparagraph (B)* are exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(e) The interest payment dates.

(f) The technical form and language of the bonds.

(g) Whether or not the right is reserved to make delivery in the form of temporary or interim bonds, certificates, or receipts, exchangeable for definitive bonds when executed and available for delivery. If the right is reserved, the denominations and form of the temporary securities shall be stated.

(h) Provisions for the registration and exchange of bonds and for the use of a depository to hold book-entry bonds after issuance.

(i) All other terms and conditions of the bonds and of the execution, issuance, and sale of the bonds, which shall be consistent with all of this chapter.

SEC. 3. Section 16731.6 of the Government Code is amended to read:

16731.6. (a) Notwithstanding any other provision of this chapter, and as an alternative to the procedures set forth in Section 16731, the committee may provide for the issuance of all or part of the bonds authorized to be issued as commercial paper notes. The committee shall adopt a resolution finding that issuance of the bonds in the form of commercial paper notes is necessary and desirable, directing the Treasurer to arrange for preparation of the requisite number of suitable notes, and specifying other provisions relating to the commercial paper notes, including *all of* the following:

(1) For each program of commercial paper notes authorized, the *resolution shall contain the* final date of maturity and the total aggregate principal amount of the commercial paper notes authorized to be outstanding at any one time up to the maturity date~~. The~~*, in accordance with all of the following:*

(A) The resolution may provide that the commercial paper notes may be issued and renewed from time to time until the final maturity date, and that the amount issued from time to time may be set by the Treasurer up to the maximum amount authorized to be outstanding at any one time. ~~The~~

(B) The resolution shall include methods of setting the dates, numbers, and denominations of the commercial paper notes. ~~Determination~~

(C) The determination of the final maturity date and total amount by the committee shall be made upon recommendation of the Treasurer to meet the needs of the state for funds, to provide the maximum benefit to potential purchasers, and to respond to the expected demand for the commercial paper notes. ~~Notwithstanding~~

(D) Notwithstanding any other provision of this chapter, whenever the committee determines to issue commercial paper notes, the committee ~~need~~ *is* not *required to* comply with the requirements of Section 16732.

(2) The method of setting the interest rates and interest payment dates applicable to the commercial paper notes~~. Commercial~~*, in accordance with the following:*

(A) Commercial paper notes may bear a~~ state~~ *stated* rate of interest payable only at maturity, which rate or rates may be determined at the time of sale of each unit of commercial paper notes.~~ The~~

(B) The rate of interest borne by the commercial paper notes shall not exceed 11 percent per annum.~~ Notwithstanding~~

(C) Notwithstanding any other provision of this chapter, whenever the committee determines to issue commercial paper notes, the committee~~ need~~ *is* not *required to* comply with the requirements of Section 16733.

(3) Any provisions for the redemption of the commercial paper notes prior to stated maturity.

(4) The technical form and language of the commercial paper notes.

(5) All other terms and conditions of the commercial paper notes and of their execution, issuance, and sale, deemed necessary and appropriate by the committee.

(b) Notwithstanding any other provision of this chapter, when the committee determines to issue commercial paper notes, all of the following shall apply:

(1) The commercial paper notes may be sold at negotiated sale at a price below the par value in a manner consistent with paragraph (2) of subdivision (a).

~~(2) For purposes of determining the principal amount of bonds of any voted authorization outstanding, in the case of any commercial paper notes, the principal amount deemed outstanding at any time during the term of a program of commercial paper notes shall be the maximum amount authorized in the resolution.~~

~~(3)~~

(2) During the term of any program of commercial paper notes, the renewal and reissuance from time to time of the commercial paper notes in an amount up to the maximum amount authorized by the resolution shall be deemed to be a refunding of the previously maturing amount, permitted by and consistent with Article 6 (commencing with Section 16780).

~~(4)~~

(3) Consistent with the intent for the General Fund to realize a savings in debt service costs when commercial paper notes are issued in place of bonds without shifting or adding financing and debt service costs to the bond funds, the state administrative costs of commercial paper and interest payable and other costs associated with commercial paper notes shall be paid for as follows:

(A) The proceeds of commercial paper notes are, notwithstanding Section 13340, continuously appropriated to pay the state administrative costs of commercial paper including, but not limited to, costs of the Treasurer's office, the Controller's office, and the Department of Finance.

(B) The interest payable on maturing commercial paper notes and other costs associated with commercial paper notes not specified in paragraph (A), including, but not limited to, remarketing fees, issuing and paying agent fees, the letter or line of credit provider fees, the rating agency fees, and bond counsel fees, shall be paid from the General Fund which, notwithstanding Section 13340, is continuously appropriated to pay the interests and costs.

SEC. 4. Section 16735 of the Government Code is amended to read:

16735. Each bond shall contain a reference to the bond act, and if subject to call ~~or~~*, tender, or* redemption prior to maturity, a recital to that effect.

SEC. 5. Section 16736 of the Government Code is repealed.

~~16736. When the committee deems it in the best interests of the state, it may authorize the State Treasurer upon such terms and conditions as may be fixed by the committee to issue notes, on a negotiated or a competitive-bid basis, maturing within a period not to exceed two years, in anticipation of the sale of bonds duly authorized at the time such notes are issued. The proceeds from the sale of such notes shall be used only for the purposes for which may be used the proceeds of the sale of bonds in anticipation whereof the notes were issued.~~

~~When the committee deems it in the best interests of the state, it may authorize the State Treasurer to deliver such notes in payment for work or material furnished to the state for a public improvement, pursuant to a contract awarded in the manner prescribed by law. Such notes shall be so delivered only for the~~

~~purposes for which may be used the proceeds of the sale of bonds in anticipation whereof the notes were issued.~~

~~All notes issued and any renewals thereof shall be payable at a fixed time, solely from the proceeds of the sale of the bonds and not otherwise, except that in the event that the sale of the bonds shall not have occurred prior to the maturity of the notes issued in anticipation of the sale, the State Treasurer shall, in order to meet the notes then maturing, issue renewal notes for such purpose. No renewal of a note shall be issued after the sale of bonds in anticipation of which the original note was issued.~~

~~Every note and any renewal thereof shall be payable from the proceeds of the sale of bonds and not otherwise. The total amount of such notes or renewals thereof issued and outstanding shall at no time exceed the total amount of the unsold bonds.~~

~~Interest on the notes shall be payable from any appropriation made for that purpose.~~

SEC. 6. Section 16737 of the Government Code is amended to read:

16737. *(a)* When the committee deems it in the best interests of the state, it may authorize the ~~State~~ Treasurer, upon ~~such~~ *those* terms and conditions ~~as~~ *that* may be fixed by the committee *or determined by the Treasurer,* to issue notes, on a negotiated or a competitive-bid basis, maturing within a period not to exceed ~~two~~ *five* years, in anticipation of the sale of bonds duly authorized at the time ~~such~~ *the* notes are issued. The proceeds from the sale of ~~such~~ *those* notes shall be *deposited in the related fund and* used only for the purposes for which may be used the proceeds of the sale of bonds in anticipation whereof the notes were issued *or as additionally authorized by this section*.

(b) The notes authorized by this section may be sold at a price at, above, or below the principal amount thereof, at the discretion of the Treasurer.

(c) Any premium received from the sale of notes authorized by this section may be applied to pay costs of issuance of the notes or interest accruing on the notes.

(d) The notes authorized by this section may bear a fixed or variable rate of interest.

(e) In connection with the sale of notes pursuant to this section, the Treasurer may engage the services of legal and financial advisers, credit enhancers, trustees or paying agents, and other

professionals that the Treasurer deems necessary, and may enter into contracts for these services, to be paid from proceeds of the notes or any duly enacted appropriation.

~~When~~

(f) When the committee deems it in the best interests of the state, it may authorize the ~~State~~ Treasurer to deliver ~~such~~ *the* notes in payment for work or material furnished to the state for a public improvement, pursuant to a contract awarded in the manner prescribed by law. ~~Such~~ *The* notes shall be so delivered only for the purposes for which may be used the proceeds of the sale of bonds in anticipation whereof the notes were issued.

~~All~~

(g) All notes issued *pursuant to this section* and any renewals thereof shall be payable at a fixed time, solely from the proceeds of the sale of the bonds and not otherwise, except ~~that in the event that~~ *if* the sale of the bonds ~~shall not have occurred~~ *did not occur* prior to the maturity of the notes issued in anticipation of the sale, the ~~State~~ Treasurer shall, in order to meet the notes *or the renewals thereof* then maturing, issue renewal notes for ~~such~~ *this* purpose. No renewal of a note *or a renewal note* shall be issued after the sale of bonds in anticipation of which the original note was issued.

~~Every~~

(h) Every note *issued pursuant to this section* and any renewal thereof shall, *unless paid from a renewal note,* be payable from the proceeds of the sale of bonds and not otherwise. The total amount of ~~such~~ *the* notes or renewals thereof issued and outstanding shall ~~at no time~~ *not* exceed the total amount of the unsold bonds.

~~Interest~~

(i) Interest on the notes *issued pursuant to this section* shall be payable from any appropriation made for that purpose *or from proceeds of the sale of the notes*.

~~This section shall be effective only with respect to bond anticipation notes issued in anticipation of the sale of bonds authorized either at statewide elections held prior to September 15, 1961, or authorized at any statewide election duly called and held at any time after the effective date of this section.~~

SEC. 7. Section 16752 of the Government Code is amended to read:

16752. The ~~State~~ Treasurer may from time to time, by *electronic means or by* public announcement at the place and *at or before the* time fixed for ~~the~~ *a competitive* sale *of bonds*, continue ~~such~~ *the* sale to ~~such~~ *the* time and place ~~as he~~ *the Treasurer* may select.

SEC. 8. Section 16752.1 of the Government Code is amended to read:

16752.1. The ~~State~~ Treasurer may cancel or postpone ~~the~~ *a competitive* sale *of bonds* to an indefinite date by public announcement made prior to or at the time and place fixed for the sale of the bonds. ~~After two consecutive cancellations or postponements of such sale, any further cancellations or postponements shall be with the prior approval of the committee.~~ The ~~State~~ Treasurer may give ~~such~~ notice of the new time and place of the sale of the bonds ~~as he~~ *that the Treasurer* may deem advisable.

SEC. 9. Section 16753 of the Government Code is amended to read:

16753. (a) Each bid *at a competitive sale* shall be submitted to the Treasurer in the form and by the means specified by the Treasurer by public announcement.

(b) *Each proposal for purchase of bonds in a negotiated sale shall be made in a bond purchase contract or similar agreement approved by the Treasurer.*

(c) (1) The Treasurer shall require that each bidder *in a competitive sale or underwriter in a negotiated sale* provide a good faith deposit of *at least* one-half of 1 percent of the principal amount of the bonds for which the bidder ~~submits a bid~~ *or underwriter submits a bid or proposal. In the case of a competitive sale, the good faith deposit shall be based upon the publicly announced principal amount of bonds offered for sale at least three days prior to receipt of the bids*. The Treasurer shall specify the form of the deposit, which may be a cashier's check, a surety bond, a wire transfer of funds, or a combination thereof. The deposit shall not bear interest.

(2) This subdivision shall apply only to bonds sold with a fixed rate.

SEC. 10. Section 16754 of the Government Code is amended to read:

16754. *(a)* The bonds specified in the resolution shall be sold by the Treasurer, at the time fixed by the Treasurer, and upon the notice that the Treasurer may deem advisable, or at the time to which the sale shall have been so continued, at ~~public~~ *a competitive* sale to the bidder whose bid will result in the lowest interest cost on account of those bonds~~, but the Treasurer~~.

(b) The Treasurer shall reject any and all bids for the bonds that shall be below the par value thereof plus the interest that shall have accrued thereon from the date thereof ~~(or~~ *or*, if any past due coupon or coupons have been detached from the bonds prior to the delivery thereof, then from the due date of the latest coupon so ~~detached)~~ *detached,* to the date of the purchaser's payment for the bond. ~~The~~

(c) The method of determining the lowest interest cost bid shall be prescribed in the bond resolution and shall be limited to either the net interest cost method or the present worth basis method, also referred to as the true interest cost, bond book basis, and Canadian interest cost method. ~~The~~

(1) The net interest cost of each bid shall be determined by ascertaining the total amount of interest that the state would be required to pay under that bid, from the date of the bonds to the respective maturity dates of the bonds then offered for sale, at the coupon rate or rates specified in the bid, less the total amount of the premium, if any, offered by the bid. The bid under which the amount so ascertained is the least shall be deemed to be the bid resulting in the lowest net interest cost. Under

(2) Under the present worth basis method, the bonds shall be awarded to the bidder submitting the lowest interest rate bid ~~determined~~*, which shall be determined* by doubling the semiannual interest rate, compounded semiannually, necessary to discount the debt service payments to the specified interest computation date and to the price bid. ~~Under~~

(d) Under either method *specified in subdivision (c)*, the sale shall be for cash, payable upon the delivery of the bonds in definitive form, or if the right to deliver temporary securities has been reserved, then upon the delivery of the temporary securities.

SEC. 11. Section 16754.3 of the Government Code is amended to read:

16754.3. (a) The bonds specified in the resolution shall be sold by the Treasurer, at the time fixed by the Treasurer, and upon the notice that the Treasurer may deem advisable, or at the time to which the sale shall have been so continued, either at ~~public~~ *a competitive* sale to the bidder whose bid will result in the lowest interest cost on account of those bonds or by *a* negotiated sale if the Treasurer determines it will result in a lower interest cost. With respect to bonds sold by the Treasurer by negotiated sales, the Treasurer shall make a finding on the public record as to why a ~~public~~ *competitive* sale was not used. The Treasurer may sell the bonds at a price below the par value thereof, but the discount on bonds so sold shall not exceed 3 percent of the par value. The interest, if any, accrued to the date of delivery of, and payment for, the bonds shall be added to the sale price of the bonds in any case.

(b) *(1)* The method of determining the lowest interest cost bid shall be prescribed in the bond resolution and shall be limited to either the net interest cost method or the true interest cost method. ~~The~~

(A) The net interest cost of each bid shall be determined by ascertaining the total amount of interest that the state would be required to pay under that bid, from the date of the bonds to the respective maturity dates of the bonds then offered for sale, at the interest rate or rates specified in the bid, less the total amount of the premium, if any, or plus the total amount of the discount, if any, offered by the bid. The bid under which the amount so ascertained is the least shall be deemed to be the bid resulting in the lowest net interest cost. ~~Under~~

(B) Under the true interest cost method, the bonds shall be awarded to the bidder submitting the lowest interest rate bid determined by the nominal interest rate that, when compounded semiannually and used to discount the debt service payments on the bonds to the date of the bonds, results in an amount equal to the price bid for the bonds, excluding interest accrued to the date of delivery. ~~Under~~

(2) Under either method *specified in this subdivision*, the sale shall be for cash, payable upon the delivery of the bonds in definitive form, or if the right to deliver temporary securities has been reserved, then upon the delivery of the temporary securities.

(c) Notwithstanding subdivision (a) or (b), if the resolution prescribes that the bonds may pay a variable interest rate, as specified in subdivision (d) of Section 16731, the Treasurer may sell the bonds by negotiated sales if the Treasurer determines that it is in the best interest of the state to do so.

(d) This section shall apply to any bonds authorized at any statewide election held at any time after the effective date of this section. Section 16754 shall apply only to bonds authorized at elections held before the effective date of this section.

SEC. 12. Section 16755 of the Government Code is amended to read:

16755. *(a)* The deposit of each unsuccessful bidder shall be returned to ~~him~~ the *bidder* immediately upon the rejection of ~~his~~ *the bidder's* bid or the acceptance of another bid.

~~The~~

(b) The deposit of the successful bidder *or underwriter in a negotiated sale* shall, immediately upon the acceptance of ~~his~~ *the* bid *or proposal*, become and be the property of the ~~State and~~ *state*, be placed in the State Treasury to the credit of the fund, and ~~shall~~ be credited to the successful ~~purchaser~~ *bidder or underwriter* upon the purchase price of the bonds ~~bid for in case such~~ *when the* purchase price is paid in full ~~by him~~ within the time mutually agreed upon between the successful bidder *or underwriter* and the ~~State~~ Treasurer.

~~If~~

(c) If the purchase price is not ~~so~~ paid *in accordance with subdivision (b)*, the successful bidder *or underwriter* shall have no right in and to the bonds ~~or~~ by reason of ~~his~~ *the* bid~~, nor,~~ *or purchase contract and the successful bidder or underwriter shall not have any right to the recovery of the deposit accompanying the bid or purchase contract or to any allowance or credit by reason of that deposit* unless it shall appear that the bonds ~~would not~~ *cannot* be validly issued ~~if~~ *or* delivered ~~to the purchaser in the form and manner proposed, shall such successful bidder have any right to the recovery of the deposit accompanying his bid or to any allowance or credit by reason of such deposit~~*, unless the return of the good faith deposit is provided for in the purchase contract*.

SEC. 13. Section 16757 of the Government Code is amended to read:

16757. *(a)* The proceeds of each sale of bonds, and ~~such~~ *the* amount ~~as~~ *that* may have been paid as accrued interest on ~~such~~ *the* bonds, shall be forthwith paid over by the ~~State~~ Treasurer into the fund. ~~All~~

(b) All money deposited in the fund ~~under the provisions of~~ *pursuant to* this section ~~which~~ *that* is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as provided in the bond act*, except that amounts derived from premium on the bonds may be used to pay costs of issuance of the bonds, as provided in Section 16724.5, prior to transfer to the General Fund*.

O