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GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7931.000] (Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 7. MISCELLANEOUS [6000 - 7599.200] (Division 7 enacted by Stats. 1943, Ch. 134.)

CHAPTER 5. Joint Exercise of Powers [6500 - 6599.3] (Chapter 5 added by Stats. 1949, Ch. 84.)

ARTICLE 4. Local Bond Pooling [6584 - 6599.3] (Article 4 added by Stats. 1985, Ch. 868, Sec. 6.)

6584. This article shall be known and may be cited as the Marks-Roos Local Bond Pooling Act of 1985.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6584.5. The Legislature finds and declares all of the following:

- (a) That there is a critical need within the state to expand, upgrade, and otherwise improve the public capital facilities of local government necessary to support the rehabilitation and construction of residential and economic development. The needs of local government for financing these facilities greatly exceed the amount of funds available from existing state, local, and federal sources.
- (b) That it is the intent of the Legislature to assist in the reduction of local borrowing costs, help accelerate the construction, repair, and maintenance of public capital improvements, and promote greater use of existing and new financial instruments and mechanisms, such as bond pooling by local agencies.
- (c) That it is not lawful under this article for an authority or any of its member agencies to charge fees to local agencies or receive payments from the proceeds of the sale of bonds issued or acquired by the authority, except for fees charged pursuant to subdivision (o) of Section 6588 to recover the authority's costs of issuance and administration.

(Amended by Stats. 1996, Ch. 833, Sec. 1. Effective January 1, 1997.)

6585. All of the following definitions govern the construction and interpretation of this article:

- (a) (1) Except as provided in paragraphs (2) and (3), "authority" means an entity created pursuant to Article 1 (commencing with Section 6500) and includes any successor to the powers and functions of that entity.
 - (2) In the case of an authority issuing bonds pursuant to this chapter in which VLF receivables are pledged to the payment of the bonds, other than VLF receivables so pledged for a county of the first class, an authority shall consist of not fewer than 100 local agencies.
 - (3) In the case of an authority issuing bonds pursuant to this chapter in which Proposition 1A receivables are pledged to the payment of the bonds, an authority shall consist of not fewer than 250 local agencies.
- (b) "Bond purchase agreement" means a contractual agreement executed between the authority and the local agency whereby the authority agrees to purchase bonds of the local agency.
- (c) "Bonds" means all of the following:
 - (1) Bonds, including, but not limited to, assessment bonds, redevelopment agency bonds, government-issued mortgage bonds, and industrial development bonds.
 - (2) Notes, including bond, revenue, tax, or grant anticipation notes.
 - (3) Commercial paper, floating rate and variable maturity securities, and any other evidences of indebtedness.
 - (4) Certificates of participation or lease-purchase agreements.

(d) "Conservation or reclamation purposes" mean a utility project designed to reduce the amount of potable water to be supplied by a publicly owned utility, reduce the amount of water imported by the publicly owned utility, or facilitate the use of wastewater by a publicly owned utility for conservation purposes, including, without limitation, stormwater capture and treatment, water and wastewater recycling, development of local groundwater resources, groundwater recharging, and water reclamation.

(e) "Cost," as applied to a public capital improvement, a utility project, or portion of the improvement or utility project financed under this part, means all of the following:

- (1) All or any part of the cost of construction, renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests, including the cost of related tangible and intangible property, acquired or used for a public capital improvement or a utility project.
- (2) The cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved, and the cost of all machinery and equipment.
- (3) Finance charges.
- (4) Interest prior to, during, and for a period after, completion of that construction, as determined by the authority.
- (5) Provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements.
- (6) The cost of architectural, engineering, financial and legal services, plans, specifications, estimates, and administrative expenses.
- (7) Other expenses necessary or incidental to determining the feasibility of constructing any project or incidental to the construction or acquisition or financing of any public capital improvement or utility project.

(f) "Customer" means a person or entity receiving water or electricity or discharging wastewater through facilities of a publicly owned utility.

(g) "Financing costs" mean any of the following:

- (1) Interest and redemption premiums that are payable on rate reduction bonds or water, wastewater, or electric revenue bonds or loans of a publicly owned utility that were issued to finance a utility project.
- (2) The cost of retiring the principal of rate reduction bonds or water, wastewater, or electric revenue bonds or loans of a publicly owned utility that were issued to finance a utility project, whether at maturity, including acceleration of maturity upon an event of default, or upon redemption, including sinking fund redemption.
- (3) A cost related to issuing or servicing rate reduction bonds, including, but not limited to, servicing fees, trustee fees, legal fees, administrative fees, bond counsel fees, bond placement or underwriting fees, remarketing fees, broker dealer fees, independent manager fees, payment under an interest rate swap agreement, financial adviser fees, accounting report fees, engineering report fees, and rating agency fees.
- (4) A payment or expense associated with a bond insurance policy, financial guaranty or a contract, agreement, or other credit enhancement for rate reduction bonds or a contract, agreement, or other financial agreement entered into in connection with rate reduction bonds.
- (5) The funding of one or more reserve accounts related to rate reduction bonds.

(h) (1) "Financing resolution" means a resolution adopted by the governing body of an authority financing a utility project with rate reduction bonds that establishes and imposes a utility project charge in connection with the rate reduction bonds in accordance with Section 6588.7.

(2) A financing resolution may be separate from a resolution authorizing the issuance of the rate reduction bonds.

(i) "Legislative body" means the governing body of a local agency.

(j) "Local agency" means a party to the agreement creating the authority, or an agency or subdivision of that party, sponsoring a project of public capital improvements or other utility project, or any city, county, city and county, authority, district, or public corporation of this state.

(k) "Mandate" means a requirement, imposed by a mandating entity by any means, including without limitation, a statute, rule, regulation, an administrative or judicial order, a building, operating, or licensing requirement or condition, or an agreement with, or license or permit from, the mandating entity, on a facility of a publicly owned utility or a facility operated in whole or in part for the benefit of a publicly owned utility, on the operations of the publicly owned utility, on the electricity transmitted, generated, or

distributed by the publicly owned utility, or on the water or wastewater pumped, acquired, supplied, or treated by the publicly owned utility.

(l) (1) "Mandating entity" means the United States; a state of the United States; an agency, department, commission, or other subdivision of the United States or a state of the United States; a court of the United States or a state of the United States; or any other body or organization, that has jurisdiction over the operations of a publicly owned utility; the facility of a publicly owned utility, or a facility operated in whole or in part for the benefit of a publicly owned utility; or the water or wastewater pumped, acquired, treated, or sold by a publicly owned utility.

(2) "Mandating entity" does not include a local agency that owns the publicly owned utility.

(m) "Proposition 1A receivable" means the right to payment of moneys due or to become due to a local agency, pursuant to clause (iii) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 25.5 of Article XIII of the California Constitution and Section 100.06 of the Revenue and Taxation Code.

(n) "Public capital improvements" means one or more projects specified in Section 6546.

(o) "Publicly owned utility" means a local publicly owned electric utility, as defined in Section 224.3 of the Public Utilities Code, or a utility furnishing water or wastewater service to not less than 25,000 retail customers that is owned and operated by a local agency or a department or other subdivision of a local agency and includes any successor to the powers and functions of the department or other subdivision.

(p) "Rate reduction bonds" mean bonds that are issued by an authority, the proceeds of which are used directly or indirectly to pay or reimburse a local agency or its publicly owned utility for the payment of the costs of a utility project, to refund rate reduction bonds, or to refinance water, wastewater, or electric revenue bonds of a local agency or publicly owned utility issued to finance a utility project, and that are secured by a pledge of, and are payable from, utility project property as provided in Section 6588.7.

(q) "Revenue" means income and receipts of the authority from any of the following:

(1) A bond purchase agreement.

(2) Bonds acquired by the authority.

(3) Loans installment sale agreements, and other revenue-producing agreements entered into by the authority.

(4) Projects financed by the authority.

(5) Grants and other sources of income.

(6) VLF receivables purchased pursuant to Section 6588.5.

(7) Proposition 1A receivables purchased pursuant to Section 6588.6.

(8) Interest or other income from any investment of any money in any fund or account established for the payment of principal or interest or premiums on bonds.

(r) "Utility project" means the acquisition, construction, installation, retrofitting, rebuilding, or other addition to, or improvement of, any equipment, device, structure, improvement, process, facility, technology, rights or property, located either within, or outside of, the State of California, and that is used, or to be used, in connection with the existing or future operations of a publicly owned utility for any of the following purposes:

(1) Conservation or reclamation purposes.

(2) For the provision of generation, transmission, or distribution of electrical service.

(3) In response to a mandate.

(4) For any other utility purpose designated a "utility project" by a publicly owned utility.

(s) "Utility project charge" means a charge paid or to be paid by customers of a publicly owned utility to pay financing costs of rate reduction bonds issued to finance or refinance a utility project for a publicly owned utility that is imposed pursuant to Section 6588.7, including any adjustment of the charge pursuant to Section 6588.7.

(t) "Utility project property" means the property right created pursuant to Section 6588.7, including without limitation, the right, title, and interest of an authority for any of the following:

(1) In and to the financing resolution and the utility charge established with respect to the rate reduction bonds, as adjusted from time to time in accordance with Section 6588.7.

(2) To be paid the financing costs of the rate reduction bonds and to all revenues, collections, claims, payments, moneys, or proceeds for, or arising from, the utility project charge relating to the rate reduction bonds.

(3) In and to all rights to obtain adjustments to the utility project charge relating to the rate reduction bonds pursuant to Section 6588.7.

(u) "VLF receivable" means the right to payment of moneys due or to become due to a local agency out of funds payable in connection with vehicle license fees to a local agency pursuant to Section 10754.11 of the Revenue and Taxation Code.

(v) "Working capital" means money to be used by, or on behalf of, a local agency for any purpose for which a local agency may borrow money pursuant to Section 53852, or for any purpose for which a VLF receivable or a Proposition 1A receivable sold to an authority could have been used by the local agency.

(Amended by Stats. 2021, Ch. 233, Sec. 2. (AB 758) Effective January 1, 2022.)

6586. It is the Legislature's intent that this article be used to assist local agencies in financing public capital improvements, working capital, liability and other insurance needs, or projects whenever there are significant public benefits for taking that action. For the purposes of this article, "significant public benefits" means any of the following benefits to the citizens of the local agency:

(a) Demonstrable savings in effective interest rate, bond preparation, bond underwriting, or bond issuance costs.

(b) Significant reductions in effective user charges levied by a local agency.

(c) Employment benefits from undertaking the project in a timely fashion.

(d) More efficient delivery of local agency services to residential and commercial development.

(Amended by Stats. 1998, Ch. 35, Sec. 1. Effective January 1, 1999.)

6586.5. (a) Notwithstanding Section 6587, an authority, or any entity acting on behalf of or for the benefit of an authority, may not authorize bonds to construct, acquire, or finance a public capital improvement except pursuant to Article 1 (commencing with Section 6500), unless all of the following conditions are satisfied with respect to each capital improvement to be constructed, acquired, or financed:

(1) The authority reasonably expects that the public capital improvement is to be located within the geographic boundaries of one or more local agencies of the authority that is not itself an authority.

(2) A local agency that is not itself an authority, within whose boundaries the public capital improvement is to be located, has approved the financing of the public capital improvement and made a finding of significant public benefit in accordance with the criteria specified in Section 6586 after a public hearing held by that local agency within each county or city and county where the public capital improvement is to be located after notice of the hearing is published once at least five days prior to the hearing in a newspaper of general circulation in each affected county or city and county. If the public capital improvement to be financed will provide infrastructure, services, or a golf course to support, or in conjunction with, any development project, the local agency for purposes of this subdivision shall be the city, county, or city and county with land use jurisdiction over the development project.

(3) A notice is sent by certified mail at least five business days prior to the hearing held pursuant to paragraph (2) to the Attorney General and to the California Debt and Investment Advisory Commission. This notice shall contain all of the following information:

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

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

(C) The name of the joint powers authority.

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

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

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

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

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

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

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

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

(b) Paragraph (3) of subdivision (a) does not apply to bonds:

(1) Issued pursuant to the Community Redevelopment Law, Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code.

(2) To finance transportation facilities and vehicles.

(3) To finance a facility that is located within the boundaries of an authority, provided that the authority that issues those bonds consists of any of the following:

(A) Local agencies with overlapping boundaries.

(B) A county and a local agency or local agencies located entirely within that county.

(C) A city and a local agency or local agencies located entirely within that city.

(4) To finance a facility for which an authority has received an allocation from the California Debt Limit Allocation Committee.

(5) Of an authority that consists of no less than 100 local agencies and the agreement that established that authority requires the governing body of the local agency that is a member of the authority in whose jurisdiction the facility will be located to approve the facility and the issuance of the bonds.

(c) This section and Section 6586.7 do not apply to bonds issued for any of the following purposes:

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

(2) To finance, consistent with the provisions of this chapter, facilities for the generation or transmission of electrical energy for public or private uses and all rights, properties, and improvements necessary therefor, including fuel and water facilities and resources.

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

(4) To finance public school facilities.

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

(d) For purposes of this section, a local agency does not include a private entity.

(Amended by Stats. 2001, Ch. 56, Sec. 1. Effective January 1, 2002.)

6586.7. (a) A copy of the resolution adopted by an authority authorizing bonds or any issuance of bonds, or accepting the benefit of any bonds or proceeds of bonds, except bonds issued or authorized pursuant to Article 1 (commencing with Section 6500), or bonds issued for the purposes specified in subdivision (c) of Section 6586.5, shall be sent by certified mail to the Attorney General and the California Debt and Investment Advisory Commission not later than five days after adoption by the authority.

(b) This section does not apply to bonds:

(1) Specified in subdivision (c) of Section 6586.5.

(2) Issued pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).

(3) To finance transportation facilities and vehicles.

(4) To finance a facility that is located within the boundaries of an authority, provided that the authority that issues those bonds consists of any of the following:

(A) Local agencies with overlapping boundaries.

(B) A county and a local agency or local agencies located entirely within that county.

(C) A city and a local agency or local agencies located entirely within that city.

(5) To finance a facility for which an authority has received an allocation from the California Debt Limit Allocation Committee.

(6) Of an authority that consists of no less than 100 local agencies and the agreement that established that authority requires the governing body of the local agency that is a member of the authority in whose jurisdiction the facility will be located to approve the facility and the issuance of the bonds.

(7) Issued pursuant to Section 6588.8.

(Amended (as added by Stats. 2000, Ch. 724, Sec. 1) by Stats. 2017, Ch. 430, Sec. 4. (SB 564) Effective January 1, 2018.)

6587. This article does not limit any other law authorizing, or providing for, the financing of public capital improvements. Likewise, this article does not limit any other law regarding local indebtedness, or limit the exercise of any other power of an authority created pursuant to this chapter. This article shall be deemed to provide a complete and supplemental method for exercising the powers authorized by this article, and shall be deemed as being supplemental to the powers conferred by other applicable laws. The issuance of bonds, financing, or refinancing under this article need not comply with the requirements of any other state laws applicable to the issuance of bonds, including, but not limited to, other articles of this chapter.

(Amended by Stats. 1989, Ch. 1264, Sec. 4.)

6588. In addition to other powers specified in an agreement pursuant to Article 1 (commencing with Section 6500) and Article 2 (commencing with Section 6540), the authority may do any or all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Sue and be sued in its own name.

(c) Issue bonds, including, at the option of the authority, bonds bearing interest, to pay the cost of any public capital improvement, working capital, or liability or other insurance program. In addition, for any purpose for which an authority may execute and deliver or cause to be executed and delivered certificates of participation in a lease or installment sale agreement with any public or private entity, the authority, at its option, may issue or cause to be issued bonds, rather than certificates of participation, and enter into a loan agreement with the public or private entity.

(d) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this article.

(e) As provided by applicable law, employ and compensate bond counsel, financial consultants, and other advisers determined necessary by the authority in connection with the issuance and sale of any bonds.

(f) Contract for engineering, architectural, accounting, or other services determined necessary by the authority for the successful development of a public capital improvement.

(g) Pay the reasonable costs of consulting engineers, architects, accountants, and construction, land-use, recreation, and environmental experts employed by any sponsor or participant if the authority determines those services are necessary for the successful development of public capital improvements.

(h) Take title to, sell by installment sale or otherwise, or lease lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands that are located within the state that the authority determines are necessary or convenient for the financing of public capital improvements, or any portion thereof.

(i) Receive and accept from any source, loans, contributions, or grants, in either money, property, labor, or other things of value, for, or in aid of, the construction financing, or refinancing of public capital improvement, or any portion thereof or for the financing of working capital or insurance programs, or for the payment of the principal of and interest on bonds if the proceeds of those bonds are used for one or more of the purposes specified in this section.

(j) Make secured or unsecured loans to any local agency in connection with the financing of capital improvement projects, working capital or insurance programs in accordance with an agreement between the authority and the local agency. However, no loan shall exceed the total cost of the public capital improvements, working capital or insurance needs of the local agency as determined by the local agency and by the authority.

(k) Make secured or unsecured loans to any local agency in accordance with an agreement between the authority and the local agency to refinance indebtedness incurred by the local agency in connection with public capital improvements undertaken and completed.

(l) Mortgage all or any portion of its interest in public capital improvements and the property on which any project is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible.

(m) Assign or pledge all or any portion of its interests in mortgages, deeds of trust, indentures of mortgage or trust, or similar instruments, notes, and security interests in property, tangible or intangible, of a local agency to which the authority has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the authority, for the benefit of the holders of bonds issued to finance public capital improvements. The pledge of moneys, revenues, accounts, contract rights, or rights to payment of any kind made by or to the authority pursuant to the authority granted in this part shall be valid and binding from the time the pledge is made for the benefit of the pledgees and successors thereto, against all parties irrespective of whether the parties have notice of the claim.

(n) Lease the public capital improvements being financed to a local agency, upon terms and conditions that the authority deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations of the lease; include in any lease provisions that the lessee shall have options to renew the lease for a period or periods, and at rents as determined by the authority; purchase or sell by an installment agreement or otherwise any or all of the public capital improvements; or, upon payment of all the indebtedness incurred by the authority for the financing or refinancing of the public capital improvements, the authority may convey any or all of the project to the lessee or lessees.

(o) Charge and apportion to local agencies that benefit from its services the administrative costs and expenses incurred in the exercise of the powers authorized by this article. These fees shall be set at a rate sufficient to recover, but not exceed, the authority's costs of issuance and administration. The fee charged to each local obligation acquired by the pool shall not exceed that obligation's proportionate share of those costs. The level of these fees shall be disclosed to the California Debt and Investment Advisory Commission pursuant to Section 6599.1.

(p) Issue, obtain, or aid in obtaining, from any department or agency of the United States or of the state, or any private company, any insurance or guarantee to, or for, the payment or repayment of interest or principal, or both, or any part thereof, on any loan, lease, or obligation or any instrument evidencing or securing the same, made or entered into pursuant to this article.

(q) Notwithstanding any other provision of this article, enter into any agreement, contract, or any other instrument with respect to any insurance or guarantee; accept payment in the manner and form as provided therein in the event of default by a local agency; and assign any insurance or guarantee that acts as security for the authority's bonds.

(r) Enter into any agreement or contract, execute any instrument, and perform any act or thing necessary, convenient, or desirable to carry out any power authorized by this article.

(s) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, in obligations that are authorized by law for the investment of trust funds.

(t) At the request of affected local agencies, combine and pledge revenues to public capital improvements for repayment of one or more series of bonds issued pursuant to this article.

(u) Delegate to any of its individual parties or other responsible individuals the power to act on its behalf subject to its general direction, guidelines, and oversight.

(v) Purchase, with the proceeds of its bonds or its revenue, bonds issued by any local agency at public or negotiated sale. Bonds purchased pursuant to this subdivision may be held by the authority or sold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other bonds issued by the authority.

(w) Purchase, with the proceeds of its bonds or its revenue, VLF receivables sold to the authority pursuant to Section 6588.5. VLF receivables so purchased may be pledged to the payment of bonds issued by the authority or may be resold to public or private purchasers at public or negotiated sale, in whole or in part, separately or together with other VLF receivables purchased by the authority.

(x) (1) Purchase, with the proceeds of its bonds or its revenue, Proposition 1A receivables pursuant to Section 6588.6. Proposition 1A receivables so purchased may be pledged to the payment of bonds issued by the authority or may be resold to public or private purchasers at public or negotiated sales, in whole or in part, separately or together with other Proposition 1A receivables purchased by the authority.

(2) (A) All entities subject to a reduction of ad valorem property tax revenues required under Section 100.06 of the Revenue and Taxation Code pursuant to the suspension set forth in Section 100.05 of the Revenue and Taxation Code shall be afforded the opportunity to sell their Proposition 1A receivables to the authority.

(B) If these entities offer Proposition 1A receivables to the authority for purchase and duly authorize the sale of the Proposition 1A receivable pursuant to documentation approved by the authority, the authority shall purchase all Proposition 1A receivables so offered to the extent it can sell bonds therefor. If the authority does not purchase all Proposition 1A receivables offered, it shall purchase a pro rata share of each entity's offered Proposition 1A receivables.

(C) The authority may establish a deadline, no earlier than November 3, 2009, by which these entities shall offer their Proposition 1A receivables for sale to the authority and complete the application required by the authority.

(3) For purposes of meeting costs incurred in performing its duties relative to the purchase and sale of Proposition 1A receivables, the authority shall be authorized to charge a fee to each entity from which it purchases a Proposition 1A receivable. The fee shall be computed based on the percentage value of the Proposition 1A receivable purchased from each entity, in relation to the value of all Proposition 1A receivables purchased by the authority. The amount of the fee shall be paid from the proceeds of the bonds and shall be included in the principal amount of the bonds.

(4) Terms and conditions of any and all fees and expenses charged by the authority, or those it contracts with, and the terms and conditions of sales of Proposition 1A receivables and bonds issued pursuant to this subdivision, including the terms of optional early redemption provisions, if any, shall be approved by the Treasurer and the Director of Finance, who shall not unreasonably withhold their approval. The aggregate principal amount of all bonds issued pursuant to this subdivision shall not exceed two billion two hundred fifty million dollars (\$2,250,000,000), and the rate of interest paid on those bonds shall not exceed 8 percent per annum. The authority shall exercise its best efforts to obtain the lowest cost financing possible. Any and all premium obtained shall be used for either of the following:

(A) Applied to pay the costs of issuance of the bonds.

(B) Deposited in a trust account that is pledged to bondholders and used solely for the payment of interest on, or for repayment of, the bonds.

(5) (A) In connection with any financing backed by Proposition 1A receivables, the Treasurer may retain financial advisors, legal counsel, and other consultants to assist in performing the duties required by this chapter and related to that financing.

(B) Notwithstanding any other law, none of the following shall apply to any agreements entered into by the Treasurer pursuant to subparagraph (A) in connection with any Proposition 1A financing:

(i) Section 11040 of the Government Code.

(ii) Section 10295 of the Public Contract Code.

(iii) Article 3 (commencing with Section 10300) and Article 4 (commencing with Section 10335) of, Chapter 2 of Part 2 of Division 2 of the Public Contract Code, except for the authority of the Department of Finance under Section 10336 of the Public Contract Code to direct a state agency to transmit to it a contract for review, and except for Section 10348.5 of the Public Contract Code.

(C) Any costs incurred by the Treasurer in connection with any Proposition 1A financing shall be reimbursed out of the proceeds of the financing.

(y) Set any other terms and conditions on any purchase or sale pursuant to this section as it deems by resolution to be necessary, appropriate, and in the public interest, in furtherance of the purposes of this article.

(Amended by Stats. 2013, Ch. 219, Sec. 1. (SB 692) Effective January 1, 2014.)

6588.5. (a) An authority that was in existence at the time of the enactment of this section may purchase, with the proceeds of its bonds or its revenue, VLF receivables from one or more local agencies. The authority may pledge, assign, resell or otherwise transfer or hypothecate any VLF receivables for the purpose of securing bonds issued to finance the purchase price of the VLF receivables.

(b) Notwithstanding any other provision of law, local agencies may sell VLF receivables to the authority, at one time or from time to time, and to enter into one or more sales agreements with an authority as and on the terms the local agency deems appropriate. The sales agreement may include covenants of, and binding on, the local agency necessary to establish and maintain the security of bonds issued by the authority for the purpose of purchasing the VLF receivables and, if applicable, the exclusion from gross income of interest on the bonds for federal income tax purposes. Any transfer of some or all of a VLF receivable by a local agency to the authority under this article that the governing documents state is a sale shall be treated as an absolute sale and transfer of the property so transferred to the authority and not as a pledge or grant of a security interest by the local agency to secure a borrowing. The characterization of the transfer of any VLF receivable as an absolute sale by the local agency shall not be negated or adversely affected by any of the following:

(1) The fact that only a portion of the VLF receivable is transferred.

(2) By the local agency's acquisition of an ownership interest in any residual interest or a subordinate interest in the VLF receivable.

(3) By any characterization of the authority or its bonds for purposes of accounting, taxation, or securities regulation.

(4) By any other factor.

(c) On and after the effective date of each transfer of a VLF receivable under this article that the governing documents state is a sale, the local agency shall have no right, title, or interest in or to the VLF receivable transferred, and the VLF receivable so transferred shall be the property of the authority and not of the local agency, and shall be owned, received, held, and disbursed only by the authority or any trustee or agent of the authority appointed by the authority. Any sale of some or all of any VLF receivable shall automatically be perfected without the need for physical delivery, recordation, filing, or further act, and the provisions of Division 9 (commencing with Section 9101) of the Commercial Code and Sections 954.5 to 955.1, inclusive, of the Civil Code shall not apply to the sale. None of the VLF receivables sold by the local agency pursuant to this article shall be subject to garnishment, levy, execution, attachment, or other process, writ, including, but not limited to, a writ of mandate, or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the local agency. On or before the effective date of any sale of a VLF receivable, the local agency shall notify the Controller that the VLF receivable has been sold to the authority and irrevocably instruct the payor that, as of the effective date, payments on the VLF receivable so sold are to be made directly to the authority or any trustee or agent appointed by the authority.

(d) The state hereby covenants, for the benefit of the holders of any bonds issued by the authority pursuant to this article payable from VLF receivables purchased by the authority, that it will not take any action that would materially adversely affect the interest of the holders of these bonds or otherwise impair the security of these bonds, so long as any of these bonds remain outstanding.

(Added by Stats. 2004, Ch. 211, Sec. 4. Effective August 5, 2004.)

6588.6. (a) An authority that was in existence on July 28, 2009, may purchase, with the proceeds of its bonds or its revenue, Proposition 1A receivables from one or more local agencies. The authority may pledge, assign, resell, or otherwise transfer or hypothecate any Proposition 1A receivables for the purpose of securing bonds issued to finance the purchase price of the Proposition 1A receivables.

(b) Notwithstanding any other law, local agencies may sell Proposition 1A receivables to the authority and enter into one or more sales agreements with an authority as, and on the terms, the local agency deems appropriate. The sales agreement may include covenants of, and binding on, the local agency as necessary to establish and maintain the security of bonds issued by the authority for the purpose of purchasing the Proposition 1A receivables and, if applicable, the exclusion from gross income of interest on the bonds for federal income tax purposes. Any transfer of some or all of a Proposition 1A receivable by a local agency to the authority under this article that the governing documents state is a sale shall be treated as an absolute sale and transfer of the property so transferred to the authority and not as a pledge or grant of a security interest by the local agency to secure a borrowing. The characterization of the transfer of any Proposition 1A receivable as an absolute sale by the local agency shall not be negated or adversely affected by any of the following:

- (1) The fact that only a portion of the Proposition 1A receivable is transferred.
- (2) By the local agency's acquisition of an ownership interest in any residual interest or a subordinate interest in the Proposition 1A receivable.
- (3) By any characterization of the authority or its bonds for purposes of accounting, taxation, or securities regulation.
- (4) By any other factor.

(c) On and after the effective date of each transfer of a Proposition 1A receivable under this article that the governing documents state is a sale, the local agency shall have no right, title, or interest in or to the Proposition 1A receivable transferred, and the Proposition 1A receivable so transferred shall be the property of the authority and not of the local agency, and shall be owned, received, held, and disbursed only by the authority or any trustee or agent of the authority appointed by the authority. Any sale of some or all of any Proposition 1A receivable shall automatically be perfected without the need for physical delivery, recordation, filing, or further act, and the provisions of Division 9 (commencing with Section 9101) of the Commercial Code and Sections 954.5 to 955.1, inclusive, of the Civil Code shall not apply to the sale. None of the Proposition 1A receivables sold by the local agency pursuant to this article shall be subject to garnishment, levy, execution, attachment, or other process, writ, including, but not limited to, a writ of mandate, or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the local agency. On or before the effective date of any sale of a Proposition 1A receivable, the local agency shall notify the Controller that the Proposition 1A receivable has been sold to the authority and irrevocably instruct the payer that, as of the effective date, payments on the Proposition 1A receivable so sold are to be made directly to the authority or any trustee or agent appointed by the authority.

(d) The state hereby covenants, for the benefit of the holders of any bonds issued by the authority pursuant to this article payable from Proposition 1A receivables purchased by the authority, that it will not take any action that would materially adversely affect the interest of the holders of these bonds or otherwise impair the security of these bonds, so long as any of these bonds remain outstanding.

(e) (1) On or before September 15, 2009, each county auditor shall prepare a list of each taxing agency within the county containing the name of the taxing agency and the estimated amount of the Proposition 1A receivable for each taxing agency.

(2) On or before October 30, 2009, each county auditor shall prepare a list of each taxing agency within the county containing the name of the taxing agency and the final certified amount of the Proposition 1A receivable for each taxing agency.

(3) A list prepared pursuant to paragraph (1) or (2) shall be made available to the authority, the Department of Finance, or any taxing agency upon request.

(4) The authority and the holders of the authority's bonds issued to finance Proposition 1A receivables shall be entitled to rely on the certified list prepared pursuant to paragraph (2).

(Amended by Stats. 2009, Ch. 634, Sec. 3. (SB 67) Effective October 19, 2009.)

6588.7. (a) An authority whose financing activities are limited to financing utility projects and projects for the use or benefit of public agencies providing water, wastewater, or electrical service may finance utility projects as provided in this section, including the issuance of rate reduction bonds and the imposition and adjustment of utility project charges.

(b) (1) A local agency that owns and operates a publicly owned utility may apply to an authority specified in subdivision (a) to finance costs of a utility project for the publicly owned utility with the proceeds of rate reduction bonds if at the time of application, bonds payable from revenues of the publicly owned utility are, or upon issuance would be, rated investment grade by a nationally recognized rating agency. In its application to an authority for the financing or refinancing, the local agency shall specify the utility project to be financed by the rate reduction bonds, the maximum principal amount, the maximum interest rate, and the maximum stated terms of the rate reduction bonds.

(2) (A) In order to allow the state to review the issuance of rate reduction bonds, collect data, ensure transparency, and conduct an independent analysis of the effectiveness of the use of rate reduction bonds pursuant to this section, the California Pollution Control Financing Authority, as defined in Section 44504 of the Health and Safety Code, shall review each issue of bonds and shall determine whether the issue is qualified for issuance under the provisions of this section. The California Pollution Control Financing Authority shall determine that an issue of rate reduction bonds is qualified for issuance under this section, if the issuance satisfies all of the following:

(i) The issuance meets the criteria specified in paragraphs (1) to (3), inclusive, of subdivision (c), or, if the local agency elects to make a determination under paragraph (4) of subdivision (c), meets the criteria specified in paragraphs (1), (2), and (4) of subdivision (c).

(ii) The projected financing costs fall within the normal range of financing costs for comparable types of debt issuance.

(B) The California Pollution Control Financing Authority shall determine that an issue of rate reduction bonds is qualified for issuance pursuant to subparagraph (A) solely on the basis of the submitted documentation referred to in subparagraph (A), and the determination shall not be conditional in any respect, including conditional on the submission or review of additional material after the determination.

(3) The California Pollution Control Financing Authority shall establish procedures for the expeditious review of a proposed issuance pursuant to this section, including, but not limited to, the establishment of reasonable application fees to reimburse the California Pollution Control Financing Authority for costs incurred in administering this section. The California Pollution Control Financing Authority may charge additional fees in an amount equal to the amount of any additional expenses incurred by the authority in retaining an independent financial advisor to review the application under circumstances involving the verification of all requirements of this section. Any fees for review and processing of the application shall be nonrefundable.

(4) The California Pollution Control Financing Authority shall provide an explanation in writing for any refusal to qualify a proposed issuance but may not alter or modify any term or condition related to the utility project property.

(5) The California Pollution Control Financing Authority shall take action on any completed application submitted to it pursuant to this section no later than the next meeting of the California Pollution Control Financing Authority that occurs after at least 60 days following receipt of the application.

(6) The review and qualification pursuant to this section may be concurrent with an authority's processing of an application for financing or refinancing so as to allow for the issuance of rate reduction bonds as quickly as feasible.

(7) Notwithstanding any other law, the California Pollution Control Financing Authority may adopt regulations relating to this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3. For

purposes of that chapter, including Section 11349.6, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(8) (A) Annually, no later than March 31, the California Pollution Control Financing Authority shall submit to the Legislature, including to the relevant legislative policy committees having jurisdiction over energy and public utilities issues, a report of its activities pursuant to this section for the preceding calendar year ending December 31. The California Pollution Control Financing Authority shall require information from applicants to ensure that the necessary data is available to complete this report. The report may be submitted as a part of the report required pursuant to Section 44538 of the Health and Safety Code. The report shall include all of the following:

(i) A listing of applications received.

(ii) A listing of proposed issuances qualified under the provisions of this section.

(iii) A report of bonds sold, the interest rates on the bonds, whether the bond sales were pursuant to public bid or were negotiated, and any rating given the bonds by a nationally recognized securities rating organization.

(iv) A specification of proposed issuances qualified but not yet issued.

(v) A comparison of the interest rates and transactional costs on issuances qualified under this section with interest rates on comparable types of debt issuance occurring at or near the same time as the issuances.

(B) A report to be submitted pursuant to this paragraph shall be submitted in compliance with Section 9795.

(9) The provisions of paragraphs (2) to (8), inclusive, shall not apply to the issuance of rate reduction bonds for a publicly owned utility if the determinations of the local agency pursuant to subdivision (c) are subject to review by a ratepayer advocate or similar entity whose function is to provide public independent analysis of a public utility's actions as they relate to water, wastewater, or electric rates.

(c) A local agency shall not apply to an authority for financing or refinancing of a utility project pursuant to this section unless the legislative body of the local agency has determined all of the following:

(1) The project to be financed or refinanced is a utility project.

(2) The local agency is electing to finance or refinance costs of the utility project pursuant to this section and the financing costs associated with the financing or refinancing are to be paid from utility project property, including the utility project charge for the rate reduction bonds issued for the utility project in accordance with this section.

(3) Based on information available to, and projections used by, the legislative body, the rates of the publicly owned utility plus the utility project charge resulting from the financing or refinancing of the utility project with rate reduction bonds are expected to be lower than the rates of the publicly owned utility if the utility project was financed or refinanced with bonds payable from revenues of the publicly owned utility.

(4) A local agency with a publicly owned utility having 500,000 or more retail customers may, in lieu of making the determination in paragraph (3), determine that the use of rate reduction bonds to finance or refinance utility projects provides substantial benefits to the publicly owned utility. These benefits may include, but are not limited to, lower interest rates on rate reduction bonds and more favorable capitalization and debt service coverage ratio treatment that results in gross or present value lifetime savings for the publicly owned utility.

(d) (1) Subject to the requirements of Article XIII D of the California Constitution, to the extent applicable, an authority financing the costs of a utility project or projects for a local agency's publicly owned utility with rate reduction bonds is authorized and directed to impose and collect a utility project charge with respect to the rate reduction bonds as provided in this section. The imposition of the utility project charge shall be made and evidenced by the adoption of a financing resolution by the governing body of the authority. Upon the issuance of rate reduction bonds, the financing resolution adopted in connection with the issuance of rate reduction bonds shall be irrevocable. The financing resolution with respect to financing or refinancing a utility project or projects with rate reduction bonds for a publicly owned utility shall include all of the following:

(A) The addition of a separate charge to the bill of each customer of the publicly owned utility in the class or classes of customers specified in the financing resolution.

(B) A description of the financial calculation, formula, or other method that the authority is to use to determine the utility project charge. The calculation, formula, or other method shall include a periodic adjustment method to the then current utility project charge, to be applied at least annually, that shall be used by the authority to correct for any overcollection or undercollection of financing costs from the utility project charge or any other adjustment necessary to ensure timely payment of the financing costs of the rate reduction bonds, including, but not limited to, the adjustment of the utility project charge to pay any debt

service coverage requirement for the rate reduction bonds. The financial calculation, formula, or other method, including the periodic adjustment method, established in the financing resolution pursuant to this section, and the allocation of utility project charges to, and among, customers of the publicly owned utility shall be decided solely by the governing body of the authority and shall be final and conclusive. In no event shall the periodic adjustment method established in the financing resolution be applied less frequently than required by the financing resolution and the documents relating to the applicable rate reduction bonds. Once the financial calculation, formula, or other method for determining the utility project charge, and the periodic adjustment method, have been established in the financing resolution and have become final and conclusive as provided in this section, they shall not be changed.

(C) Notwithstanding any other provision of this section, the imposition of a utility project charge shall comply with the requirements of Article XIII D of the California Constitution, to the extent applicable, including, but not limited to, the provision of a notice containing the initial amount of the proposed utility project charge and the periodic adjustment method by which the utility project charge amount could subsequently change.

(D) A requirement that the authority enter into a servicing agreement for the collection of the utility project charge with the local agency for which the financing is undertaken or its publicly owned utility and the local agency or its publicly owned utility shall act as a servicing agent for purposes of collecting the utility project charge as long as the servicing agreement remains in effect. Moneys collected by the local agency or its publicly owned utility, acting as a servicing agent on behalf of the authority, as a utility project charge shall be held in trust for the exclusive benefit of the persons entitled to the financing costs to be paid, directly or indirectly, from the utility project charge and shall not lose their character as revenues of the authority by virtue of possession by the local agency or its publicly owned utility. The local agency or its publicly owned utility shall provide the authority with the information as to estimated sales of water, wastewater, or electrical services and any other information concerning the publicly owned utility required by the authority in connection with the initial establishment and the adjustment of the utility project charge.

(2) The determination of the legislative body of the local agency that a project to be financed with rate reduction bonds is a utility project shall be final and conclusive and the rate reduction bonds issued to finance the utility project and the utility project charge imposed relating to the rate reduction bonds shall be valid and enforceable in accordance with the terms of the financing resolution and the documents relating to the rate reduction bonds. The authority shall require, in its financing resolution with respect to a utility project charge, that as long as a customer in the class or classes of customers specified in the financing resolution receive water or electricity or discharge wastewater through the facilities of the publicly owned utility, the customer shall pay the utility project charge regardless of whether or not the customer has an agreement to purchase water or electricity or discharge wastewater from a person or entity other than the publicly owned utility. The utility project charge shall be a nonbypassable charge to all customers of the publicly owned utility in the class or classes of customers specified in the financing resolution at the time of adoption of the financing resolution and all future customers in that class or classes. If a customer of the publicly owned utility that is subject to a utility project charge enters into an agreement to purchase water or electricity or discharge wastewater from a person or entity other than the publicly owned utility, the customer shall remain liable for the payment of its share of the utility project charge as if it had not entered into the agreement. The liability may be discharged by the continued payment of its share of the utility project charge as it accrues or by a one-time payment, as determined by the authority. All provisions of a financing resolution adopted pursuant to this subdivision shall be binding on the authority.

(3) The timely and complete payment of all utility project charges by a person liable for the charges shall be a condition of receiving water, wastewater, or electrical service, as applicable, from the publicly owned utility of the local agency and each of the local agencies and their publicly owned utilities is authorized to use its established collection policies and all rights and remedies provided by law to enforce payment and collection of the utility project charge. In no event shall a person liable for a utility project charge be entitled or authorized to withhold payment, in whole or in part, of the utility project charge for any reason.

(4) The authority shall determine whether adjustments to the utility project charge relating to rate reduction bonds are required upon the issuance of the rate reduction bonds and at least annually, and at additional intervals as may be provided for in the financing resolution or the documents relating to the rate reduction bonds. Each adjustment shall be made and put into effect in accordance with the financial calculation, formula, or other method that the authority is to use to determine the utility project charge pursuant to the financing resolution expeditiously after the authority's determination that the adjustment is required.

(5) All revenues with respect to utility project property related to rate reduction bonds, including payments of the utility project charge, shall be applied first to the payment of the financing costs of the related rate reduction bonds then due, including the funding of reserves for the rate reduction bonds, with any excess being applied as determined by the authority for the benefit of the utility for which the rate reduction bonds were issued.

(6) The authority shall be obligated to impose and collect the utility project charge relating to rate reduction bonds in amounts, based on estimates of water or electricity usage or wastewater discharge subject to the utility project charge, sufficient to pay on a timely basis the financing costs associated with the rate reduction bonds when due. The pledge of a utility project charge to secure

the payment of rate reduction bonds shall be irrevocable, and the State of California, the authority, or any limited liability company acting pursuant to subdivision (j) shall not reduce, impair, or otherwise adjust the utility project charge, except that the authority shall implement the periodic adjustments to the utility project charge relating to rate reduction bonds as required by the applicable financing resolution and the documents relating to the rate reduction bonds. Revenue from a utility project charge shall be deemed special revenue of the authority and shall not constitute revenue of the local agency or its publicly owned utility for any purpose, including, without limitation, any dedication, commitment, or pledge of revenue, receipts, or other income that the local agency or its publicly owned utility has made or will make for the security of any of its obligations.

(7) A utility project charge shall constitute utility project property when, and to the extent that, a financing resolution authorizing the utility project charge has become effective in accordance with its terms, and the utility project property shall thereafter continuously exist as property for all purposes with all of the rights and privileges of this section for the period, and to the extent, provided in the financing resolution, but in any event until all financing costs with respect to the related rate reduction bonds are paid in full, including all arrearages thereon.

(8) Utility project property shall constitute a current property right notwithstanding that the value of the property right will depend on consumers using water, wastewater, or electrical services or, in those instances where consumers are customers of the publicly owned utility, the publicly owned utility performing certain services.

(9) If a local agency for which rate reduction bonds have been issued and remain outstanding ceases to operate a water, wastewater, or electric utility, either directly or through its publicly owned utility, references in this section to the local agency or to its publicly owned utility shall be to the entity providing water, wastewater, or electrical services in lieu of the local agency and the entity shall assume and perform all obligations of the local agency and its publicly owned utility required by this section and the servicing agreement with the local agency while the rate reduction bonds remain outstanding.

(e) (1) Rate reduction bonds shall be within the parameters of the financing or refinancing set forth by the local agency pursuant to subdivision (b) in connection with the rate reduction bonds and the proceeds of the rate reduction bonds made available to the local agency or its publicly owned utility shall be used for the utility project identified in the application for financing or refinancing of the utility project or projects pursuant to subdivision (b).

(2) An authority shall authorize the issuance of rate reduction bonds by a resolution of its governing body. An authority issuing rate reduction bonds shall include in its preliminary notice and final report for the rate reduction bonds submitted to the California Debt and Investment Advisory Commission pursuant to Section 8855 a statement that the rate reduction bonds are being issued pursuant to this section. An authority issuing rate reduction bonds shall include in its final report for the rate reduction bonds submitted to the California Debt and Investment Advisory Commission pursuant to Section 8855 the estimated savings or local agency benefit, if applicable pursuant to paragraph (4) of subdivision (c), realized by issuing the rate reduction bonds rather than bonds payable from the revenues of the publicly owned utility for whose benefit the rate reduction bonds were issued. Rate reduction bonds shall be nonrecourse to the credit or any assets of the local agency and the publicly owned utility for which the utility project is financed and shall be payable from, and secured by a pledge of, the utility project property relating to the rate reduction bonds and any additional security or credit enhancement specified in the documents relating to the rate reduction bonds.

(3) An authority issuing rate reduction bonds shall pledge the utility project property relating to the rate reduction bonds as security for the payment of the rate reduction bonds, which pledge shall be made pursuant to, and with the effect set forth in Section 5451. All rights of an authority with respect to utility project property pledged as security for the payment of rate reduction bonds shall be for the benefit of, and enforceable by, the beneficiaries of the pledge to the extent provided in the documents relating to the rate reduction bonds.

(4) To the extent that any interest in utility project property is pledged as security for the payment of rate reduction bonds, the applicable local agency or its publicly owned utility shall contract with the authority, which contract shall be part of the utility project property, that the local agency or its publicly owned utility will continue to operate its publicly owned utility system that includes the financed utility project to provide service to its customers, will, as servicer, collect amounts in respect of the utility project charge for the benefit and account of the authority and the beneficiaries of the pledge of the utility project charge and will account for and remit these amounts to, or for the account of, the authority.

(5) Notwithstanding any other law, any requirement under this section, a financing resolution, any other resolution of the authority, or the provisions of the documents relating to rate reduction bonds to the effect that the authority shall take action with respect to the utility project property relating to the rate reduction bonds shall be binding upon the authority, as its governing body may be constituted from time to time, and the authority shall have no power or right to rescind, alter, or amend any resolution or document containing the requirement.

(6) Notwithstanding any other law, except as otherwise provided in this section with respect to adjustments to a utility project charge, the recovery of the financing costs for the rate reduction bonds from the utility project charge shall be irrevocable and the authority shall not have the power either by rescinding, altering, or amending the applicable financing resolution or otherwise, to

revalue or revise for ratemaking purposes the financing costs of rate reduction bonds, determine that the financing costs for the related rate reduction bonds or the utility project charge is unjust or unreasonable, or in any way reduce or impair the value of utility project property that includes the utility project charge, either directly or indirectly; nor shall the amount of revenues arising with respect to the financing costs for the related rate reduction bonds or the utility project charge be subject to reduction, impairment, postponement, or termination for any reason until all financing costs to be paid from the utility project charge are fully met and discharged. Except as otherwise provided in this section with respect to adjustments to a utility project charge, the State of California does hereby pledge and agree with the owners of rate reduction bonds that the State of California shall neither limit nor alter the financing costs or the utility project property, including the utility project charge, relating to the rate reduction bonds, or any rights in, to, or under, the utility project property until all financing costs with respect to the rate reduction bonds are fully met and discharged. This section does not preclude limitation or alteration if and when adequate provision shall be made by law for the protection of the owners. The authority is authorized to include this pledge and undertaking by the State of California in the governing documents for rate reduction bonds. Notwithstanding any other provision of this section, the authority shall make the adjustments to the utility project charge relating to rate reduction bonds provided by this section and the documents related to those rate reduction bonds as may be necessary to ensure timely payment of all financing costs with respect to the rate reduction bonds. The adjustments shall not impose the utility project charge upon classes of customers that were not subject to the utility project charge pursuant to the financing resolution imposing the utility project charge.

(f) (1) Financing costs in connection with rate reduction bonds do not constitute a debt or liability of the State of California or of any political subdivision thereof, other than the special obligation of the authority, and do not constitute a pledge of the full faith and credit of the State of California or any of its political subdivisions, including the authority, but are payable solely from the funds provided therefor under this section and in the documents relating to the rate reduction bonds. This subdivision shall in no way preclude guarantees or credit enhancements in connection with rate reduction bonds. All the rate reduction bonds shall contain on the face thereof a statement to the following effect:

Neither the full faith and credit nor the taxing power of the State of California or any political subdivision thereof is pledged to the payment of the principal of, or interest on, this bond.

(2) The issuance of rate reduction bonds shall not directly, indirectly, or contingently obligate the State of California or any political subdivision thereof to levy or to pledge any form of taxation to pay the rate reduction bonds or to make any appropriation for their payment.

(g) (1) Utility project property shall constitute property for all purposes, including for contracts securing rate reduction bonds, whether or not the revenues and proceeds arising with respect thereto have accrued.

(2) Subject to the terms of the pledge document with respect to a pledge of utility project property, the validity and relative priority of a pledge created or authorized under this section is not defeated or adversely affected by the commingling of revenues arising with respect to the utility project property with other funds of the local agency or the publicly owned utility collecting a utility project charge on behalf of an authority.

(h) (1) There shall exist a statutory lien on the utility project property relating to rate reduction bonds. Upon the effective date of the financing resolution relating to rate reduction bonds, there shall exist a first priority statutory lien on all utility project property, then existing or, thereafter arising, to secure the payment of the rate reduction bonds. This lien shall arise pursuant to law by operation of this section automatically without any action on the part of the authority, the local agency or its publicly owned utility, or any other person. This lien shall secure the payment of all financing costs, then existing or subsequently arising, to the holders of the rate reduction bonds, the trustee or representative for the holders of the rate reduction bonds, and any other entity specified in the financing resolution or the documents relating to the rate reduction bonds. This lien shall attach to the utility project property regardless of who shall own, or shall subsequently be determined to own, the utility project property including any local agency or its publicly owned utility, the authority, or any other person. This lien shall be valid and enforceable against the owner of the utility project property and all third parties upon the effectiveness of the financing resolution without any further public notice.

(2) The statutory lien on utility project property created by this section is a continuously perfected lien on all revenues and proceeds arising with respect thereto, whether or not the revenues or proceeds have accrued. Utility project property shall constitute property for all purposes, including for contracts securing rate reduction bonds, whether or not the revenues or proceeds arising with respect thereto have accrued.

(3) In addition, the authority may require, in a financing resolution creating utility project property, that, in the event of default by the local agency or its publicly owned utility, in payment of revenues arising with respect to the utility project property, any court in the state, upon the application by the beneficiaries of the statutory lien, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the utility project property.

(i) Notwithstanding any other law, an authority or a limited liability company acting pursuant to subdivision (j) that has financed a utility project through the issuance of rate reduction bonds is not authorized, and no governmental officer or organization shall be

empowered to authorize the authority, to become a debtor in a case under the United States Bankruptcy Code (11 U.S.C. Sec. 101 et seq.) or to become the subject of any similar case or proceeding under any other law, whether federal or State of California, as long as any payment obligation from utility project property remains with respect to the rate reduction bonds.

(j) An authority may elect to implement a financing of a utility project pursuant to this section by forming a single member limited liability company and by authorizing the company to adopt the financing resolution. The authority may issue rate reduction bonds payable from, and secured by a pledge of, amounts paid by the company to the authority from the applicable utility project property pursuant to an agreement. The provisions of subdivisions (g) and (h) shall apply to and be the exclusive method of perfecting a pledge of utility project property by the company securing the payment of financing costs under any agreement of the company in connection with the issuance of rate reduction bonds. Reference to the authority in this section and in all related defined terms shall mean or include the company as necessary to implement this subdivision.

(k) After December 31, 2036, the authority to issue rate reduction bonds under this section terminates.

(Amended by Stats. 2023, Ch. 131, Sec. 63. (AB 1754) Effective January 1, 2024.)

6588.8. (a) This section shall be known and may be cited as the Water Bill Savings Act.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Bill neutral" means, based on a customer's recent billing history, the total monetary savings achieved by the customer's efficiency improvement is projected to be greater than or equal to the efficiency charge on the customer's monthly water bill.

(2) "Customer" means a person or entity that purchases water from a local agency or its publicly owned utility and is billed for the water by the local agency or its publicly owned utility.

(3) "Customer property" means residential, commercial, industrial, agricultural, or other real property owned, leased, or licensed for occupancy by the customer.

(4) "Efficiency charge" means a charge that is added to the water bill associated with a local agency's or its publicly owned utility's water meter at the customer property upon which the water efficiency improvement is located and that is collected in order to pay for an efficiency improvement pursuant to this section.

(5) "Efficiency improvement" means a water efficiency improvement, as defined by the authority. An efficiency improvement shall comply with the lists of eligible projects and project priorities identified in the program guidelines of the CalConserve Water Use Efficiency Revolving Loan Program established pursuant to Division 30 (commencing with Section 81000) of the Water Code. An efficiency improvement shall not include living vegetation.

(6) "Financing costs" means all of the following:

(A) An interest and redemption premium payable on a bond.

(B) The cost of retiring the principal of a bond, whether at maturity, including acceleration of maturity upon an event of default, or upon redemption, including sinking fund redemption.

(C) A cost related to issuing or servicing bonds, including, but not limited to, a servicing fee, trustee fee, legal fee, administrative fee, bond counsel fee, bond placement or underwriting fee, remarketing fee, broker dealer fee, independent manager fee, municipal adviser fee, accounting report fee, engineering report fee, rating agency fee, and payment made under an interest rate swap agreement.

(D) A payment or expense associated with a bond insurance policy, financial guaranty, or a contract, agreement, or other credit enhancement for bonds or a contract, agreement, or other financial agreement entered into in connection with a bond.

(E) The funding of one or more reserve accounts related to a bond.

(7) "Local agency" means a "local government" as defined in subdivision (b) of Section 1 of Article XIII C of the California Constitution in the Counties of Alameda, Contra Costa, Los Angeles, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

(8) "Publicly owned utility" means a utility furnishing water service to customers that is owned and operated by a local agency or a department or other subdivision of a local agency and includes any successor to the powers and functions of a department or other subdivision.

(9) "Servicing agreement" means an agreement between a local agency or its publicly owned utility and the authority for the collection of the efficiency charge, pursuant to which the local agency or its publicly owned utility acts as a servicing agent for purposes of collecting the efficiency charge for the authority.

(c) (1) Notwithstanding any other law, if the requirements of paragraphs (2) and (3) are met, an authority may provide funding for a customer of a local agency or its publicly owned utility to acquire, install, or repair an efficiency improvement on a customer property served by the local agency or its publicly owned utility.

(2) (A) The authority, by resolution, establishes or extends a program to provide funding for a customer of a local agency or its publicly owned utility to acquire, install, or repair an efficiency improvement on a customer property served by the local agency or its publicly owned utility. The resolution shall do all of the following:

(i) State the intent of the authority to operate the program.

(ii) Define the geographical scope of the operation of the program as an area that is limited to only the territories within which retail water service is provided by those local agencies that have expressly requested the authority to provide funding for the local agency's customers through the program, in accordance with the requirements of paragraph (3).

(iii) Specify the types of efficiency improvements that may be financed by the program.

(iv) Approve a standardized servicing agreement.

(v) Authorize one or more designated officials of the authority to execute and deliver the servicing agreement on behalf of the authority.

(B) The authority acknowledges receipt of the resolution described in subparagraph (C) of paragraph (3).

(C) The authority may determine that all proceedings were valid and in conformity with the requirements of this paragraph and that finding shall be final and conclusive.

(3) The legislative body of the local agency requests the authority to provide funding for its customers through a program established by the authority pursuant to this section by doing all of the following:

(A) The legislative body adopts a resolution declaring its intention to request the authority to establish or extend a program to a customer represented by the legislative body, calling for a public hearing that shall be held at least 30 days later and directing the clerk or secretary of the legislative body to publish a notice of the hearing at least five days before the hearing in a newspaper of general circulation in the boundaries of the local agency. If the local agency wishes to pledge its water enterprise revenue as security for the payment of the principal of, and interest and redemption premium on, bonds issued by the authority in the event that efficiency charges are insufficient for those purposes pursuant to paragraph (5) of subdivision (f), the legislative body shall declare that intention in the resolution.

(B) The legislative body conducts the noticed public hearing and, after considering the testimony of any interested person, concludes that the program and the proposed pledge of water enterprise revenue, if applicable, would provide significant public benefits in accordance with the criteria specified in Section 6586.

(C) The legislative body adopts a resolution that does all of the following:

(i) Authorizes the authority to establish or extend a program pursuant to this section within the boundaries of the local agency.

(ii) Declares that the operation of the program by the authority in the local agency's geographic boundaries would provide significant public benefits in accordance with the criteria specified in Section 6586.

(iii) Specifies the types of efficiency improvements that may be financed by the program.

(iv) Approves the standardized servicing agreement and authorizes one or more designated officials of the local agency to execute and deliver the servicing agreement with the authority.

(v) If applicable, approves the pledge of water enterprise revenue as security for the payment of the principal of, and interest and redemption premium on, bonds issued by the authority in the event that efficiency charges are insufficient for those purposes.

(vi) If applicable, authorizes execution and delivery of one or more pledge agreements to evidence a pledge.

(vii) In the resolution, the legislative body may determine that all proceedings were valid and in conformity with the requirements of this section and that finding shall be final and conclusive.

(d) (1) A customer shall repay the authority through an efficiency charge on the customer's water bill that is established and collected by the local agency or its publicly owned utility upon verification that the efficiency improvement has been installed. The duty to pay the efficiency charge shall arise from and be evidenced by a written agreement executed at the time of installation of the efficiency improvement among the customer; all property owners of record, if different than the customer; the authority; and the local agency or its publicly owned utility.

(2) The written agreement shall include all of the following:

(A) An agreement by the customer to pay an efficiency charge for the period and in the amount specified in the agreement unless the efficiency charge is prepaid in the manner set forth in the agreement. The period designated for repayment shall not exceed the estimated useful life of the funded efficiency improvements.

(B) A description of the financial calculation, formula, or other method that the authority used to determine the efficiency charge. The efficiency charge may include a component for reasonable administrative expenses incurred by the local agency or its publicly owned utility and the authority in connection with the program and the funding. A component for reasonable administrative expenses shall be listed separately in the written agreement.

(C) A description of the efficiency improvement funded with the efficiency charge.

(D) A representation by the customer that the customer intends to acquire, install, or repair and use the efficiency improvement on the customer's property for the useful life of the efficiency improvement. Any failure of the efficiency improvement by damage, removal, or other fault of the customer during the useful life of the efficiency improvement shall not affect the customer's obligation to pay the efficiency charge as set forth in the agreement.

(E) A requirement that any failure of the efficiency improvement not involving damage, removal, or other fault of the customer shall result in the efficiency charge being suspended until the efficiency improvement is repaired and returned to service.

(F) A demonstration by the authority that the customer's payment of the efficiency charge will be bill neutral.

(G) When the property is not owner occupied, a requirement that the obligation to pay the efficiency charge appear in the terms through which the customer leases or licenses the property for occupancy.

(3) The written agreement shall not be valid unless the authority entering into the written agreement has verified all of the following information:

(A) The customer entering into the agreement is the utility customer at the address and that all property owners of record, if different from the customer, have consented in writing to the agreement.

(B) The participating customer's account has been in good standing for the prior 12 months or, if the customer's occupancy of the site at which the efficiency improvements will be installed is less than 12 months, has been in good standing for the duration of the customer's occupancy of the site.

(C) The person installing the efficiency improvement has been approved to install efficiency improvements by the authority and the local agency or its publicly owned utility and is in compliance with program requirements established by the authority.

(D) The efficiency improvement included in the agreement complies with program requirements established by the authority, consistent with paragraph (5) of subdivision (b).

(E) The efficiency improvement will generate total utility cost savings that exceed the total cost of the efficiency charge paid by the customer over the duration of the agreement, and will be bill neutral, as defined in paragraph (1) of subdivision (b), for the participating customer.

(4) The timely and complete payment of an efficiency charge by a customer that has agreed to pay an efficiency charge may be a condition of receiving water service from the local agency or its publicly owned utility, and a local agency and its publicly owned utility are authorized to use their established collection policies and all rights and remedies provided by law to enforce payment and collection of the efficiency charge. A person liable for an efficiency charge shall not be entitled or authorized to withhold payment, in whole or in part, of the efficiency charge for any reason. If the property on which the efficiency improvement is located is sold or transferred to a subsequent customer, any portion of the efficiency charge that is past due and owing at the time of the sale or transfer shall not transfer to the transferee of the property. The failure of the prior customer to pay the efficiency charge shall not prevent the subsequent customer from obtaining water service from the local agency or its publicly owned utility.

(5) A customer's obligation to pay the efficiency charge shall remain associated with the meter at the customer property on which the efficiency improvement is located until the efficiency charge related to the efficiency improvement has been repaid in full or the efficiency charge has been transferred to a subsequent customer who receives water service at a property with installed efficiency measures for the remainder of the obligation. Notwithstanding any other provision of this section, the efficiency charge shall not

transfer to a subsequent customer, shall not continue to be associated with the meter at the property, and shall remain an obligation of the previous customer if the efficiency improvements were removed or damaged, and not restored to service, by the previous customer. A local agency or its publicly owned utility shall record, no later than 10 days after funding an efficiency improvement, a notice of efficiency charge in the records of the county recorder of the county in which the customer's property is located. A county recorder, upon recording a notice of efficiency charge, shall index the notice of efficiency charge in the general index by the name of the owner of the real property where the meter affected by the efficiency charge will be located. The notice shall include the address or legal description of, the assessor's parcel number of, and the name of the owner of, the real property where the meter affected by the efficiency charge will be located. The notice shall be entitled "NOTICE OF EFFICIENCY CHARGE" and shall comply with Section 27324. The notice shall contain contact information for the person or entity authorized to provide a prompt and accurate written statement of the outstanding charges and payoff amounts related to the efficiency charge for which the notice of efficiency charge was recorded. The recordation of the notice of efficiency charge shall be considered sufficient notice to a subsequent customer at a property with installed efficiency measures of the customer's obligation to pay the efficiency charge for installed measures.

(6) (A) Within 10 days of full repayment of the outstanding charges related to the recorded notice of efficiency charge, the entity responsible for the collection and servicing of the efficiency charge shall record a notice of the full repayment and removal of the efficiency charge in the records of the county recorder of the county in which the customer's property is located. The notice of the full repayment and removal of the efficiency charge shall include a reference to the recorded notice of efficiency charge.

(B) Within 10 days of a decision by the authority not to repair and return to service a failed efficiency improvement when failure did not involve damage, removal, or other fault of the customer, the entity responsible for the collection and servicing of the charge shall record a notice of removal of the efficiency charge in the records of the county recorder of the county in which the customer's property is located. The notice of the removal of the efficiency charge shall include a reference to the recorded notice of the efficiency charge.

(7) Because the efficiency charge is a voluntary charge that will be made pursuant to a written agreement among the customer, all property owners of record if these are different than the customer, the authority, and the local agency or its publicly owned utility, the Legislature finds and declares that voluntary efficiency charges under this section are not taxes, assessments, fees, or charges for the purposes of Articles XIII C and XIII D of the California Constitution and therefore the provisions of Articles XIII C and XIII D and Article 4.6 (commencing with Section 53750) of Chapter 4 of Part 1 of Division 2 of Title 5 are not applicable to voluntary efficiency charges levied pursuant to this section.

(e) (1) The authority and a local agency or its publicly owned utility shall enter into a servicing agreement for the collection of one or more efficiency charges and the local agency or its publicly owned utility shall act as a servicing agent for purposes of collecting the efficiency charge.

(2) The authority, local agency, or utility responsible for the collection of the efficiency charges shall ensure that the contact information in the notice of efficiency charge recorded in the records of the county recorder pursuant to this section is accurate so that interested parties may request and promptly receive a written and accurate payoff amount or verification of the outstanding charges associated with the recorded notice of efficiency charge. Furthermore, the authority, local agency, or utility shall on each water bill issued to the customer include a contact number where the customer can obtain the amount of the monthly efficiency charge and a description of the efficiency improvement for which the efficiency charge has been incurred.

(3) In the event that the servicing agent or entity responsible for the collection of the efficiency charge changes, a new notice of efficiency charge shall be recorded within 10 days.

(4) Any party requesting written payoff amount or verification of outstanding charges from the authority, local agency, or utility identified as the contact on the recorded notice of efficiency charge shall be provided with the payoff amount or verification within seven days of the request and may rely upon the written payoff amount or verification as being accurate for 45 days from the receipt of this written information. If the authority, local agency, or utility provides a written amendment to the written payoff amount or verification, any party may rely on the written amendment for 45 days from receipt of the written amendment.

(5) Moneys collected as an efficiency charge by the local agency or its publicly owned utility, acting as a servicing agent on behalf of the authority, shall be held in trust for the exclusive benefit of the persons entitled to the financing costs to be paid, directly or indirectly, from the efficiency charge and shall not lose their character as revenues of the authority because the local agency or its publicly owned utility possesses them.

(6) In the servicing agreement, the local agency or its publicly owned utility shall contract with the authority that the local agency or its publicly owned utility will continue to operate its publicly owned utility system to provide service to its customers, will, as servicer, collect the efficiency charge for the benefit and account of the authority and, if applicable, the beneficiaries of the pledge of the efficiency charge, and will account for and remit these amounts to, or for the account of, the authority.

(7) The servicing agreement shall provide that the obligation to pay the efficiency charge shall remain associated with the meter at the customer property on which the efficiency improvement is located until the authority is fully repaid.

(8) The servicing agreement may specify, consistent with paragraph (4) of subdivision (d), that the timely and complete payment of all efficiency charges by a customer that has agreed to pay an efficiency charge shall be a condition of receiving service from the publicly owned utility, and the local agency or its publicly owned utility shall use its established collection policies and all rights and remedies provided by law to enforce payment and collection of the efficiency charge.

(9) In the servicing agreement, the local agency or its publicly owned utility shall agree that in the event of default by the local agency or its publicly owned utility in payment of revenues arising with respect to the efficiency charge, the authority, upon the application by the beneficiaries of the authority's pledge described in this section, and without limiting any other remedies available to the beneficiaries by reason of the default, shall order the sequestration and payment to the beneficiaries of revenues arising with respect to the efficiency charge.

(f) (1) The authority may issue one or more bonds for the purpose of providing funds for the acquisition, installation, and repair of an efficiency improvement on customer property pursuant to this section.

(2) An authority issuing a bond shall include in its preliminary notice and final report for the bonds submitted to the California Debt and Investment Advisory Commission pursuant to Section 8855 a statement that the bond is being issued pursuant to this section.

(3) An authority that issues a bond pursuant to this section shall establish a debt service reserve fund for the bond to the extent required by the purchaser of the bond.

(4) (A) The authority may, pursuant to Section 5451, pledge one or more efficiency charges as security for the bonds issued pursuant to this section. Revenue from an efficiency charge shall be deemed special revenue of the authority and shall not constitute revenue of the local agency or its publicly owned utility for any purpose, including, but not limited to, any dedication, commitment, or pledge of revenue, receipts, or other income that the local agency or its publicly owned utility has made or will make for the security of any of its obligations.

(B) The validity and relative priority of a pledge created or authorized under this section is not defeated or adversely affected by the commingling of efficiency charge revenue with other moneys collected by a local agency or its publicly owned utility.

(5) A local agency may pledge water enterprise revenue as security for the payment of the principal of, and interest and redemption premium on, bonds issued by the authority if efficiency charges are insufficient for that purpose, and may execute one or more pledge agreements pursuant to Section 5451 for the benefit of the authority or for the exclusive benefit of the persons entitled to the financing costs to be paid from the efficiency charges.

(6) A local agency that pledges water enterprise revenues as security for the payment of the principal of, and interest and redemption premium on, a bond issued by the authority shall establish a debt service reserve fund for the bond to the extent required by the purchaser of the bond.

(g) If a local agency for which bonds have been issued and remain outstanding ceases to operate a water utility, either directly or through its publicly owned utility, references in this section to the local agency or to its publicly owned utility shall be deemed to refer to the entity providing water utility services in lieu of the local agency and that entity shall assume and perform all obligations of the local agency or its publicly owned utility required by this section and the servicing agreement with the authority while the bonds remain outstanding.

(h) If the local agency, its publicly owned utility, and the authority have complied with the procedures set forth in this section, they shall not be required to comply with Section 6586.5.

(i) An authority administering an efficiency improvement financing program shall compile and publicly post an annual report that includes all of the following:

(1) The number of written agreements entered into.

(2) The estimated and average water efficiency savings achieved.

(3) The amount of upfront financing provided by the authority.

(4) The amount of revenue collected by the authority.

(5) A copy of the authority's report submitted to the California Debt and Investment Advisory Commission pursuant to Section 8855.

(6) A copy or summary of the authority's process for accepting complaints about the program from customers and local agencies or their publicly owned utilities.

(7) A copy or summary of the authority's practices and procedures for overseeing contractors' performance and the marketing of the program.

(8) A copy or summary of the process for appealing determinations of fault for the failure of an efficiency improvement to the authority and the participating local agency or its publicly owned utility.

(Added by Stats. 2017, Ch. 430, Sec. 5. (SB 564) Effective January 1, 2018.)

6589. An authority may enter into a bond purchase agreement with a local agency or agencies. The bond purchase agreement shall specify the maximum rate of interest, the cost of issuance, the amount of required reserve, and the procedure to be used in case of default. Notwithstanding any other provision of law, local agencies may sell their bonds to the authority on a negotiated basis without compliance with any public sale requirement included in the statutes under which the bonds are issued.

(Amended by Stats. 1987, Ch. 481, Sec. 4. Effective September 9, 1987.)

6590. The authority may, from time to time, issue its bonds in the principal amount as the authority determines necessary to provide sufficient funds for its purposes, which may include, but shall not be limited to, providing funds for bond purchase agreements, payment of the purchase price of VLF receivables, payment of the purchase price of Proposition 1A receivables, financing utility projects, payment of interest on bonds of the authority, establishment of reserves to secure the bonds, and other expenditures of the authority incident to issuance of the bonds. The authority may also issue bonds for the purpose of making loans to local agencies, to the extent those local agencies are authorized by law to borrow moneys, or to purchase VLF receivables from local agencies as provided in Section 6588.5, or to purchase Proposition 1A receivables as provided in Section 6588.6, and the loan or sale proceeds shall be used by the local agencies to pay for public capital improvements, working capital, or insurance programs. The aggregate principal amount of all bonds issued pursuant to this section that are backed by Proposition 1A receivables shall not exceed two billion two hundred fifty million dollars (\$2,250,000,000), and that issuance shall be approved by the Department of Finance and the Treasurer.

In the case of any authority in existence on January 1, 1988, no loans shall be made to local agencies for working capital or insurance, unless that purpose is first approved by resolution of the governing body of the authority by unanimous vote of all members of the governing body.

(Amended by Stats. 2013, Ch. 636, Sec. 3. (AB 850) Effective January 1, 2014.)

6590.1. (a) In the case of bonds issued by an authority to acquire local obligations, the offering documents for the bonds shall clearly delineate investment criteria for the local obligations to be acquired. The investment criteria shall specify the types of local obligations eligible for acquisition by the authority, as well as minimum standards of creditworthiness for these obligations.

(b) No financial advisor, investment advisor, underwriter, broker, dealer, or municipal securities dealer shall recommend the purchase, sale, or exchange of a municipal security to an authority unless that financial advisor, investment advisor, underwriter, broker, dealer, or municipal securities dealer has reasonable grounds to believe and does believe that the recommendation is suitable for the authority in light of the authority's investment criteria and responsibility to safeguard public funds.

(c) In the case of bonds issued by an authority to acquire local obligations, the underwriter of the bonds, and the financial advisor and investment advisor to the authority, shall not sell to the authority any security or obligation issued by a state or local government from its dealer inventory or that it underwrote or otherwise placed on behalf of another client.

(Added by Stats. 1995, Ch. 229, Sec. 2. Effective July 31, 1995.)

6590.2. (a) An authority shall solicit at least three bids, and select the highest bid, for any guaranteed investment contract purchased with the proceeds of bonds issued by the authority.

(b) (1) Any government securities broker or dealer that sells government securities to an authority shall certify that the purchase price of those securities is equal to the fair market value of those securities.

(2) For purposes of this subdivision, "fair market value" means the price a willing buyer would pay to a willing seller in an arms' length transaction.

(Added by Stats. 1995, Ch. 229, Sec. 3. Effective July 31, 1995.)

6591. (a) The authority is authorized from time to time to issue bonds to provide funds to achieve its purposes.

(b) Bonds may be authorized to finance any of the following:

(1) A single public capital improvement, utility projects, working capital, purchase of VLF receivables, purchase of Proposition 1A receivables, or insurance program for a single local agency.

(2) A series of public capital improvements, utility projects, working capital, purchases of VLF receivables, purchase of Proposition 1A receivables, or insurance program for a single local agency.

(3) A single public capital improvement, utility projects, working capital, purchases of Proposition 1A receivables, or purchases of VLF receivables or insurance program for two or more local agencies.

(4) A series of public capital improvements, utility projects, working capital, purchases of VLF receivables or purchases of Proposition 1A receivables or insurance programs for two or more local agencies.

(c) Bonds issued for the purpose of financing working capital shall be used to make loans to local agencies for any of the purposes for which a local agency may borrow money pursuant to Section 53852. The loans shall be repaid in accordance with the terms of Section 53854.

(d) Except as otherwise expressly provided by the authority, every issue of its bonds shall be general obligations of the authority payable from any revenues or moneys of the authority available therefor and not otherwise pledged. These revenues or moneys may include the proceeds of additional bonds, subject only to any agreements with the holders of particular bonds pledging any particular revenues or moneys. Notwithstanding that the bonds may be payable from a special fund, these bonds shall be deemed to be negotiable instruments for all purposes, subject only to the bond registration provisions.

(e) (1) The bonds may be issued as serial bonds or as term bonds, or the authority may issue bonds of both types. The bonds shall be authorized by resolution of the authority and shall, as provided by the resolution or indenture pursuant to which the bonds are issued, meet all of the following conditions:

(A) Bear the date of issuance.

(B) Bear the time of maturity, not exceeding 50 years from their date of issuance.

(C) Bear the rate of interest, either fixed or variable, and, if variable, not in excess of the maximum rate of interest specified therein.

(D) Be payable as to principal and interest at the time or times provided.

(E) Be in the denominations and in the form provided.

(F) Carry the registration privileges provided.

(G) Be executed in the manner provided.

(H) Be payable in lawful money of the United States at the place or places provided within or without the state.

(I) Be subject to the terms of redemption provided.

(2) Notwithstanding paragraph (1), the bonds backed by Proposition 1A receivables shall have a maturity date no later than August 1, 2013.

(3) For bonds backed by Proposition 1A receivables, both of the following shall apply:

(A) The option to call shall be exercised upon receipt by the authority of a timely written notification from the Director of Finance, but no earlier than 30 days after delivery by the director of a written notice of the intent to do so to the Joint Legislative Budget Committee.

(B) The bonds may bear interest payable on periodic interest payment dates or may accrue interest to their maturity date or any combination thereof, subject to the approval of the Department of Finance and the State Treasurer pursuant to subdivision (x) of Section 6588.

(f) The bonds shall be sold by the authority at the time and in the manner set out in the authority's resolution. The sale may be a public or private sale, and for price or prices, and on terms and conditions as the authority determines proper, after giving due consideration to the recommendations of any local agency to be assisted from the proceeds of the bonds. Pending preparation of the definitive bonds, the authority may issue interim receipts, certificates, or temporary bonds which shall be exchanged for definitive bonds. For bonds backed by Proposition 1A receivables, the authority shall use its best efforts to obtain the lowest overall cost of the bonds, and shall certify that it so used its best efforts. The authority shall, in consultation with the Treasurer and Department of Finance, structure the sale of the bonds backed by Proposition 1A receivables and shall include those terms and conditions approved by the Treasurer and the Department of Finance.

(g) In the case of bonds issued by an authority, on or after January 1, 1995, for the purpose of purchasing bonds of a local agency, all of the bonds of the local agency shall be purchased by the authority from the proceeds of the authority bonds within 90 days of

the date of issuance of the authority bonds. Nothing in this subdivision shall be construed to preclude an authority from issuing parity bonds at any time.

(Amended by Stats. 2013, Ch. 636, Sec. 4. (AB 850) Effective January 1, 2014.)

6591.1. (a) No broker, dealer, municipal securities dealer, or other firm that underwrites a bond issue of an authority shall serve as financial advisor or investment advisor to the authority on decisions relating to the investment of the proceeds of that bond issue.

(b) An authority and its financial advisor shall enter into a written contract prior to the delivery of financial advisory services. The contract shall specify the range of services that will be delivered and the entire compensation to be paid to the financial advisor.

(Added by Stats. 1995, Ch. 229, Sec. 5. Effective July 31, 1995.)

6592. Any resolution authorizing any bonds or any issue of bonds may contain the following provisions, which shall be a part of the contract with the holders of the bonds to be authorized:

(a) Provisions pledging the full faith and credit of the authority, or pledging all or any part of the revenues of any public capital improvements, or any revenue-producing contract or contracts made by the authority with any local agency, any VLF receivables purchased pursuant to Section 6588.5, any utility project property, any Proposition 1A receivables purchased pursuant to Section 6588.6, or any other moneys of the authority, to secure the payment of the bonds, and of any special account, subject to those agreements with bondholders as may then exist.

(b) Provisions setting out the rentals, fees, purchase payments, loan repayments, and other charges, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(c) Provisions setting aside reserves or sinking funds, and the regulation and disposition thereof.

(d) Limitations on the right of the authority or its agent to restrict and regulate the use of the public capital improvements to be financed out of the proceeds of the bonds or any particular issue of bonds.

(e) Limitations on the purpose to which the proceeds of sale of any issue of bonds may be applied, and pledging the proceeds to secure the payment of the bonds or any issue of the bonds.

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds and the holders thereof that are required to give consent thereto, and the manner in which the consent may be given.

(h) Limitations on expenditures for operating, administrative, or other expenses of the authority.

(i) Definitions of acts or omissions to act which constitute a default in the duties of the authority to holders of its obligations, and providing the rights and remedies of the holders in the event of a default.

(j) The mortgaging of any public capital improvements and the site thereof for the purpose of securing the bondholders.

(k) The mortgaging of land, improvements, or other assets owned by a local agency for the purpose of securing the bondholders.

(l) Procedures for the selection of public capital improvements to be financed with the proceeds of the bonds authorized by the resolution, if the bonds are to be sold in advance of designating the public capital improvements and the local agency to receive the financing.

(Amended by Stats. 2013, Ch. 636, Sec. 5. (AB 850) Effective January 1, 2014.)

6592.1. A resolution authorizing bonds or any issuance of bonds or accepting the benefit of any bonds or the proceeds of bonds shall be adopted by an authority only during a regular meeting held pursuant to Section 54954.

(Added by Stats. 2009, Ch. 557, Sec. 5. (SB 99) Effective January 1, 2010.)

6592.5. (a) No bonds issued by any local agency shall be purchased pursuant to this article by an authority at a price to yield in excess of 1 percent of the yield of the issue of bonds issued by the authority to purchase the bonds of the local agency. For the purposes of this subdivision, yield is determined on the issue date of the bonds.

(b) At least 95 percent of the receipts by an authority from bonds of a local agency purchased by the authority after January 1, 1995, shall be used for any of the following:

(1) To pay principal, interest, redemption prices or fees for credit enhancement on the issue of bonds of the authority used to acquire those bonds of the local agency.

(2) To pay or reimburse administrative costs of the bonds of the authority used to acquire those bonds of the local agency.

(3) To pay or reimburse a local agency for principal, interest, or redemption price on bonds of that local agency.

(4) To establish reasonable reserves for the payment of debt service on authority bonds.

(5) To purchase other bonds of a local agency.

(6) To pay or reimburse fees and expenses charged to the authority by third parties, excluding any member of the authority, for services relating to administration of the authority's bonds or of the program established by the authority for purchase of local agency bonds.

(c) For the purposes of this section, the following definitions shall apply:

(1) "Administrative costs" means, and is limited to, costs of issuing, carrying, or repaying the authority bonds.

(2) "Credit enhancement" means any municipal bond insurance, surety bond, letter of credit, or other guaranty arrangement entered into between an independent party and the authority or the local agency that unconditionally shifts substantially all of the credit risk for all or part of the payments on the issue of bonds guaranteed by the credit enhancement and, in the case of bonds bearing a variable rate of interest and containing a provision permitting or requiring tender of the bonds by the bondholder, includes payments against failure to remarket bonds.

(3) "Issue" means bonds that are issued by the same issuer on the same issue date pursuant to the same plan of financing that are reasonably expected to be paid from substantially the same source of funds, without regard to credit enhancement or priority of lien.

(4) "Issue date" means the first date on which the authority, in the case of an issue of bonds issued by the authority, or the local agency, in the case of an issue of bonds issued by the local agency for purchase by the authority, receives the purchase price of the issue of bonds in exchange or the delivery of the evidence of indebtedness representing the bonds of the issue.

(5) "Issue price" means, in the case of an issue of bonds issued by the authority, the initial offering price to the public, excluding bondhouses, underwriters, brokers, and other intermediaries, and assuming that the issue price for each maturity of bonds of the issue is equal to the price at which at least 10 percent of that maturity was sold to the public, and if an issue is privately placed, means the purchase of each maturity of bonds of the issue paid by the first buyer of the obligation, excluding bondhouses, underwriters, brokers, and other intermediaries. "Issue price" means, in the case of an issue of bonds issued by the local agency, the purchase price of each maturity of bonds of the issue paid by the authority to the local agency.

(6) "Yield" means that discount rate that, when used in computing the present value as of the issue date of all unconditionally payable payments of principal, interest, and fees for credit enhancement on the issue of bonds produces an amount equal to the present value, using the same discount rate, of the aggregate issue price of bonds of the issue as of the issue date. In the case of an issue of bonds issued by a local agency for purchase by the authority, payments for administrative costs shall not be taken into account in determining the yield of those local agency bonds.

(Added by Stats. 1995, Ch. 229, Sec. 6. Effective July 31, 1995.)

6593. No member of the governing body of the authority shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance of bonds.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6594. The authority may, out of any funds available therefor, purchase its bonds. The authority may hold, pledge, cancel, or resell the bonds, subject to, and in accordance with, agreements with bondholders.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6595. Any bonds issued under this article may be secured by a trust agreement between the authority and a corporate trustee or trustees, which may include any trust company or bank having the powers of a trust company within or without the state.

(a) The trust agreement or the resolution providing for the issuance of the bonds may pledge or assign the revenues to be received or the proceeds of any contract or contracts and may convey or mortgage the project or projects, or any portion thereof, to be financed out of the proceeds of the bonds. The trust agreement or resolution providing for the issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including provisions specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds.

(b) Any bank or trust company doing business under the laws of the state which may act as a depository of the proceeds of bonds or of revenues or other moneys shall furnish indemnifying bonds or pledge securities when required by the authority.

(c) The trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition, any trust agreement or resolution may contain other provisions the authority

determines to be reasonable and proper for the security of the bondholders.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6595.3. (a) The authority may issue bonds for the purpose of refunding any bonds, notes, or other securities of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued, or to accrue, on their earliest or any subsequent date of redemption, purchase, or maturity of these bonds. The authority may issue bonds for the additional purpose of paying all, or any part of, the costs of constructing and acquiring additions, improvements, extensions, or enlargements of any public capital improvement or any portion thereof.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may be applied to the purchase or retirement at maturity or redemption of those outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending this application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption of those outstanding bonds on the date as may be determined by the authority.

(c) Pending this use, the escrowed proceeds may be invested and reinvested in obligations of, or guaranteed by, the United States, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States, maturing at the time or times appropriate to assure prompt payment, of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investments thereof, shall be returned to the authority for use in carrying out the purposes of this article.

(d) The portion of the proceeds of the bonds issued for the additional purpose of paying all, or any part of, the costs of construction and acquiring additions, improvements, extensions, or enlargements of any project may be invested and reinvested in obligations of, or guaranteed by, the United States, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States, maturing not later than the time or times when these proceeds will be needed for the purpose of paying all or any part of the costs. The interest, income, and profits, if any, earned or realized on this investment may be applied to the payment of all, or any part of, the costs or may be used by the authority in carrying out the purposes of this article.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6595.5. Bonds issued by the authority are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds. These bonds are securities which may legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds. This authorization applies only to the extent that there exists evidence of indebtedness or debt securities of the participating party receiving financing through the issuance of these bonds which qualify for, or are eligible for, these purposes and uses.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6595.7. (a) The authority is not required to pay any property taxes or assessments upon, or with respect to, any public capital improvement or any property acquired by, or for, the authority under this article, or upon the income therefrom, so long as the authority holds title to the public capital improvement or to the property contained in the public capital improvement.

(b) The exemption of the authority from taxation of any public capital improvement ceases when title to the property is transferred from the authority to any local agency whose property is otherwise taxable. This section does not exempt any local agency whose property is otherwise taxable from taxation, including, but not limited to, taxation upon a possessory interest, with respect to any public capital improvement, or the property or facilities contained in any public capital improvement which may otherwise be applicable to the participant.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6596. The State of California does hereby pledge to, and agrees with, the holders of any bonds issued under this article, and with those parties who may enter into contracts with the authority pursuant to this article, that the state will not limit or alter the rights hereby vested in the authority to finance any public capital improvement and to fulfill the terms of any loan agreement, lease, or other contract with the authority pursuant to this part, or in any way impair the rights or remedies of the bonds or of the parties until those bonds, together with the interest thereon, are fully met and discharged and those contracts are fully performed on the part of the authority. However, nothing in this section precludes this limitation or alteration if and when adequate provision has been made by law for the protection of the holders of those bonds of the authority or those entering into those contracts with the authority.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6597. All public capital improvements financed by the authority shall pay interest within a reasonable time after the authority receives revenues or proceeds from bonds as provided under this article.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6597.5. All public capital improvements financed by the authority shall be constructed or completed subject to the rules and regulations of the authority. When the principal of, and interest on, bonds of the authority issued to finance the cost of a particular public capital improvement, including any refunding bonds issued to refund and refinance all, or any part, of these bonds, have been fully paid and retired, or when adequate provisions have been made for their payment and retirement and all other conditions of any resolution, lease, indenture, mortgage or deed of trust, security interest, or any other instrument authorizing and securing the bonds have been satisfied, and any lien created has been released in accordance with the provisions thereof, the authority is authorized, upon the terms and conditions it prescribes, to execute releases, release deeds, reassignments, deeds, and conveyances and to do all things necessary or required to convey or release its rights, title, and interest in the public capital improvement financed and in any other instruments pledged or transferred to secure bonds to local agencies, as their respective interests may appear.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6598. Interest earned on any bonds issued by the authority shall at all times be free from state personal income tax and corporate income tax.

(Added by Stats. 1985, Ch. 868, Sec. 6. Effective September 23, 1985.)

6598.5. Local agencies may request advice from the California Debt and Investment Advisory Commission pursuant to Section 8859 regarding the formation of local bond pooling authorities and the planning, preparing, insuring, marketing, and selling of bonds as authorized pursuant to this article.

(Amended by Stats. 2002, Ch. 454, Sec. 3. Effective January 1, 2003.)

6599. (a) In an action filed pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any matter of an authority governed by this article, the authority and any interested person shall serve the Attorney General and the Treasurer with a copy of the complaint filed by the respective party by the first day of the publication of summons as required by Section 861 of the Code of Civil Procedure. A court may render no judgment in the matter or grant other permanent relief to any party except on proof of service of the Attorney General and the Treasurer as required by this section.

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

(c) Any authority that dismisses a validation action by formal act and withdraws the resolution may not issue bonds to construct, acquire, or finance a public capital improvement, except pursuant to Article 1 (commencing with Section 6500), unless the authority thereafter reauthorizes the issuance of the bonds and thereafter, if applicable, complies with Sections 6586.5 and 6586.7.

(Added by Stats. 2000, Ch. 723, Sec. 5. Effective January 1, 2001.)

6599.1. (a) The legislative body shall, no later than 30 days prior to the sale of any bonds pursuant to this article, give written notice of the proposed sale to the California Debt and Investment Advisory Commission by mail, postage prepaid, as required by Chapter 11.5 (commencing with Section 8855) of Division 1 of Title 2.

(b) Beginning January 1, 1996, each year after the sale of any bonds by the authority for the purpose of acquiring local obligations, the legislative body shall, not later than October 30 of each year until the final maturity of the bonds, supply the following information to the California Debt and Investment Advisory Commission by mail, postage prepaid:

(1) The principal amount of bonds outstanding, both authority bonds and local obligations acquired with the proceeds of authority bonds.

(2) The balance in the reserve fund.

(3) The costs of issuance, including any ongoing fees.

(4) The total amount of administrative fees collected.

(5) The amount of administrative fees charged to each local obligation.

(6) The interest earnings and terms of all guaranteed investment contracts.

(7) Commissions and fees paid on guaranteed investment contracts.

(8) The delinquency rates on all local obligations.

(9) The balance in capitalized interest accounts.

(c) In addition, with respect to any bonds sold pursuant to this article, regardless of when sold, and until the final maturity of the bonds, the legislative body shall notify the California Debt and Investment Advisory Commission by mail, postage prepaid, within 10 days if any of the following events occur:

(1) The local agency or its trustee fails to pay principal and interest due on any scheduled payment date.

(2) Funds are withdrawn from a reserve fund to pay principal and interest on the bonds issued by the authority or any bonds acquired by the authority.

(d) Neither the legislative body nor the California Debt and Investment Advisory Commission shall be liable for any inadvertent error in reporting the information required by this section.

(Amended by Stats. 2002, Ch. 454, Sec. 4. Effective January 1, 2003.)

6599.2. Notwithstanding Sections 863 and 869 of the Code of Civil Procedure, the Attorney General or the Treasurer may jointly or separately file an action pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure at any time up to 55 days after notice required by Section 6586.7 is mailed by certified mail to the Sacramento offices of both the Attorney General and the Treasurer.

(Amended by Stats. 2001, Ch. 159, Sec. 107. Effective January 1, 2002.)

6599.3. Notwithstanding any other provision of law, an action may be brought under Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, to determine the validity of any bonds issued under this article to finance the purchase of bonds for local agencies, the financing of public capital improvements or utility projects, or the purchase of VLF receivables pursuant to Section 6588.5 or Proposition 1A receivables pursuant to Section 6588.6 and any contracts of sale of VLF receivables or Proposition 1A receivables or utility project property entered into by any local agency, and any related documents. If an action is commenced, the action shall be brought in the jurisdiction in which the authority maintains its principal office and is not required to be brought in the jurisdiction or jurisdictions of any of the local agencies. However, publication of summons, as provided in Section 861 of the Code of Civil Procedure, shall be made in the county in which the authority maintains its principal office and in each county in which any local agency that has sold bonds to the authority, for which a public capital improvement is being financed or that has entered into a sales agreement for a VLF receivable or a Proposition 1A receivable where the authority is located.

(Amended by Stats. 2013, Ch. 636, Sec. 6. (AB 850) Effective January 1, 2014.)