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TITLE 17. CALIFORNIA FISCAL RECOVERY FINANCING ACT [99000 - 99047] (Title 17 added by Stats. 2003, 1st Ex. Sess., Ch. 13, Sec. 2.)

CHAPTER 2. California Fiscal Recovery Financing Authority [99004 - 99007] (Chapter 2 added by Stats. 2003, 1st Ex. Sess., Ch. 13, Sec. 2.)

99004. (a) The California Fiscal Recovery Financing Authority is hereby created in state government solely for the purpose of the issuance and sale of the bonds and ancillary obligations authorized by this title and the performance of any necessary obligations related thereto. The authority is a public instrumentality of the state, and the exercise by the authority of the powers granted in this title is deemed and held to be the performance of an essential public function.

(b) (1) The authority consists of all of the following members:

- (A) The Governor or his or her designee.
- (B) The Director of Finance.
- (C) The Treasurer.
- (D) The Controller.
- (E) The Secretary of Business, Transportation and Housing.
- (F) The Director of General Services.
- (G) The Director of Transportation.

(2) Notwithstanding Section 7.5 or any other provision of law, any member may designate a deputy to act as that member in his or her place and stead for all purposes, as though the member were personally present.

(3) The Legislature finds and declares that each member of the authority has previously acted as a member of a similar state agency or authority that issues revenue bonds and a finance committee that issues general obligation bonds, and has duties in relation to the payment of the accumulated budget deficit.

(c) A majority of the members of the authority shall constitute a quorum of the authority and may act for the authority.

(d) The Director of Finance shall serve as chairperson of the authority.

(e) The Attorney General shall be the legal counsel for the authority. With the approval of the Attorney General, the authority may employ any legal counsel that in its judgment is necessary or advisable to enable it to carry out its duties and functions, including, but not limited to, the employment of any bond counsel deemed advisable in connection with the issuance and sale of bonds.

(f) A member, officer, or agent of the authority shall not be subject to personal liability on any bonds or ancillary obligations or other obligations issued or entered into under this title or for any acts or omissions of members, officers, or agents in carrying out the powers and duties conferred by this title.

(g) The members of the authority shall serve without compensation.

(Added by Stats. 2003, 1st Ex. Sess., Ch. 13, Sec. 2. Effective October 28, 2003.)

99005. The authority may do all of the following:

(a) Sue and be sued.

(b) Issue taxable or tax-exempt bonds for the purpose of funding the accumulated budget deficit and paying costs related thereto, including, but not limited to, reserves, capitalized interest, costs of obtaining or entering into any ancillary obligations, and costs of issuance, or for the purpose of refunding any bonds previously issued pursuant to this title and paying the costs related thereto.

(c) Enter into ancillary obligations and other contracts deemed necessary or appropriate by the authority in connection with any bonds issued under this title.

(d) Establish the terms and conditions for the financing program undertaken pursuant to this title.

(e) Employ or contract for any services, including, but not limited to, consulting services and legal services authorized pursuant to subdivision (e) of Section 99004, or engage other agents or advisers in connection with the financing program, as deemed necessary by the authority.

(f) In addition to all other powers specifically granted in this title, do all things necessary or convenient, including the delegation of necessary duties to the Director of Finance, as chairperson, and to the Treasurer, as agent for sale of the bonds, to carry out the powers and purposes of this title.

(Added by Stats. 2003, 1st Ex. Sess., Ch. 13, Sec. 2. Effective October 28, 2003.)

99006. (a) The Director of Finance shall, as chairperson of the authority, take all actions necessary to have included in the annual Governor's Budget for each fiscal year in which the Fiscal Recovery Fund is in existence and any bonds or ancillary obligations remain outstanding, an appropriation of the special sales tax revenues received in that fiscal year to pay those obligations. The director shall further use his or her best efforts to have included in the annual Budget Bill or another bill separate from the annual Budget Bill, for each fiscal year in which the Fiscal Recovery Fund is in existence and any bonds or ancillary obligations remain outstanding, an appropriation of the special sales tax revenues received in that fiscal year for the purposes of this title. The director shall notify the trustee and, if the trustee is not the Treasurer, notify the Treasurer, in each applicable year of the actions taken pursuant to this subdivision, including providing copies of the Governor's Budget and either the annual Budget Bill or other bill proposing an appropriation of the special sales tax revenue.

(b) The Director of Finance shall notify the Treasurer, the trustee, and the board when, in each case, (1) and (2) of the following events have occurred:

(1) Any of the following has occurred:

(A) All bonds issued pursuant to this title and all related ancillary obligations have been paid or retired.

(B) Payment of the principal of and interest on all bonds issued pursuant to this title and ancillary obligations have been irrevocably provided for pursuant to the indenture and no bonds are deemed "outstanding" pursuant to the indenture.

(C) The Fiscal Recovery Fund holds sufficient funds to pay the principal of, and interest to final maturity on, all bonds issued pursuant to this title that are outstanding and to pay all ancillary obligations, if those funds were appropriated for that purpose by the Legislature.

(D) No bonds were issued pursuant to this title and the Director of Finance, as chairperson of the authority, announces that no bonds will be issued pursuant to this title.

(2) Any of the following has occurred:

(A) All bonds issued pursuant to Title 18 (commencing with Section 99050) and all ancillary obligations relating thereto have been paid or retired.

(B) Payment of the principal of and interest on all of those bonds and the payment of ancillary obligations identified in subparagraph (A) has been irrevocably provided for pursuant to the related resolution and no bonds or ancillary obligations are deemed "outstanding" pursuant to that resolution.

(C) The Fiscal Recovery Fund holds sufficient funds to pay the principal of, and interest to final maturity on, all of the bonds and to pay ancillary obligations identified in subparagraph (A) that are outstanding.

(D) The Economic Recovery Bond Act was not approved by the voters.

(c) Notwithstanding any other provision of law, Section 5924 shall not apply to payment of any fees or costs of any ancillary obligations entered into by the authority or the Treasurer in connection with any bonds issued pursuant to this title.

(d) For purposes of subdivision (d) of Section 6051.5, and subdivision (d) of Section 6201.5, of the Revenue and Taxation Code, and Section 99010 of this code, notification pursuant to subdivision (b) shall be deemed to be given by the Director of Finance only when the notifications described in both paragraph (1) and paragraph (2) of subdivision (b) have been given.

(Amended by Stats. 2003, 5th Ex. Sess., Ch. 2, Sec. 1.5. Effective December 12, 2003. Operative March 3, 2004, pursuant to Sec. 8 of Ch. 2.)

99007. Section 10295 of, and Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of, the Public Contract Code do not apply to agreements entered into by the authority or any individual to whom the authority delegates contracting authority in connection with the sale of bonds or other matters authorized under this title.

(Added by Stats. 2003, 1st Ex. Sess., Ch. 13, Sec. 2. Effective October 28, 2003.)