



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 1. GENERAL [8000 - 8899.95] (Division 1 enacted by Stats. 1943, Ch. 134.)

CHAPTER 7.4. Oil Spill Response and Contingency Planning [8670.1 - 8670.73] (Chapter 7.4 added by Stats. 1990, Ch. 1248, Sec. 17.)

ARTICLE 7.5. Borrowing Authority [8670.53.1 - 8670.53.95] (Article 7.5 added by Stats. 1990, Ch. 1248, Sec. 17.)

8670.53.1. (a) Following an oil spill, the administrator, in consultation with the Treasurer, shall notify the Governor if the administrator determines that it is likely that there will not be sufficient moneys in the fund, including both projected revenues to the fund and the financial security obtained pursuant to subdivision (o) of Section 8670.48, to pay, in a timely manner, the expected costs permitted under this chapter.

(b) Following an oil spill, if the Treasurer has obtained financial security pursuant to subdivision (o) of Section 8670.48 in the form of a loan from the Pooled Money Investment Account, the Treasurer shall notify the Governor if the draws on the financial security will likely create a cashflow problem for the Pooled Money Investment Account that would require the loan to be repaid and replaced by borrowing from another source.

(c) Upon notification pursuant to subdivision (a) or (b), the Governor shall request that the federal government pay the cost for response, containment, cleanup, wildlife rehabilitation, and payment of damages. If sufficient federal funds are not available within five days, the Governor shall make a written request to the Treasurer to borrow and deposit in the fund the amount necessary, as determined by the administrator, to pay those estimated excess response costs, including costs specified in paragraphs (1), (2), (3), (4), (6), and (8) of subdivision (k) of Section 8670.48, and, if necessary, to repay any draws upon the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48.

(d) The Governor, the Controller, the Treasurer, and the administrator shall immediately take whatever action is necessary and appropriate to ensure that the state has the ability to borrow the maximum additional amount necessary to carry out this chapter.

(e) The party responsible for the spill shall be liable to the state for all money borrowed by the Treasurer under this chapter, including draws on the financial security obtained pursuant to subdivision (o) of Section 8670.48, for the purpose of responding to the oil spill, including principal, interest, and premium, if any, and all associated fees, costs, and other charges incurred by the state in connection with that borrowing, whether or not all or a portion of the borrowed money has been repaid through the oil spill response fee or by federal funds.

(f) No funds available pursuant to this article may be expended for any activities which result in a net environmental enhancement. It is the intent of the Legislature that borrowed funds be expended solely for oil spill response, containment, cleanup, wildlife rehabilitation, and damages resulting from oil spills.

(Amended by Stats. 2007, Ch. 373, Sec. 10. Effective October 10, 2007.)

8670.53.2. Money borrowed pursuant to this chapter, including draws on the financial security obtained pursuant to subdivision (o) of Section 8670.48, shall be expended and repaid pursuant to Sections 8670.48 and 8670.49. So long as any of those borrowings are outstanding, fees and any other moneys in the fund are pledged to the repayment of the borrowings, to the extent provided in a resolution of the Pooled Money Investment Board in connection with a loan from the Pooled Money Investment Account or a resolution of issuance for any other borrowing arranged by the Treasurer. The pledge shall constitute a first lien and security interest, ratably with all other prior or subsequent borrowings unless the Treasurer provides in a resolution of issuance, that any borrowing shall constitute a junior lien, which shall immediately attach on the fees deposited in the fund, and shall be effective, binding, and enforceable against the state and any other person asserting rights therein without need of any physical delivery, recordation, filing, or other action.

(Amended by Stats. 2007, Ch. 373, Sec. 11. Effective October 10, 2007.)

8670.53.3. (a) For purposes of this section, the following definitions shall apply:

(1) "Bond" means any bond, note, commercial paper, bond anticipation note, or other evidence of indebtedness that the Treasurer is authorized to issue for purposes of this chapter.

(2) "Standby arrangement" means a line of credit, letter of credit, or other financial arrangement with a financial institution or lending entity that allows for ready access to money.

(b) To provide funds to pay for costs of an oil spill, as set forth in Section 8670.48, in excess of money in the fund as set forth in subdivision (a) of Section 8670.53.1, the Treasurer shall make necessary financial arrangements to obtain the additional money needed to pay those costs, and that borrowing shall be reimbursed or repaid from future deposits into the fund. The Treasurer may also enter any financial arrangement necessary or appropriate to refund any draw by the administrator pursuant to subdivision (o) of Section 8670.48, and that borrowing shall be reimbursed or repaid from future deposits into the fund. The financial arrangements may take the following forms, or any combination thereof:

(1) Establishment of one or more standby arrangements.

(2) Sale of bonds to provide funds for purposes of this chapter, to repay any prior drawings by the Treasurer on a standby arrangement or any drawings by the administrator on the financial security obtained by the Treasurer pursuant to subdivision (o) of Section 8670.48, to repay money borrowed from the Pooled Money Investment Account, or to refund or extend any previously issued bonds.

(3) Borrowing from the Pooled Money Investment Account.

(4) Any other financial arrangement the Treasurer determines to be appropriate and cost effective.

(c) The Treasurer may enter into any financial arrangement authorized in subdivision (b) at any time, or from time to time, on a negotiated or competitive bid basis, as the Treasurer shall determine to be advisable.

(d) (1) The Governor, in any written request to the Treasurer pursuant to subdivision (c) of Section 8670.53.1, shall, to the extent feasible, state both of the following:

(A) The amount of funds needed each month over the period covered by the request.

(B) The estimated income to the fund each month from all sources that will be available to pay or retire any debt service or to pay any other expenses, fees, or costs incurred in connection with obligations issued pursuant to this chapter.

(2) The Governor may submit multiple requests to the Treasurer with respect to the same oil spill, or with respect to different oil spills. On receipt of a written request pursuant to this section, the Treasurer may draw on a standby arrangement, may use any other financial arrangement, or may issue bonds to provide funds not exceeding the amounts requested.

(e) Upon receipt of a written request for funds from the Governor, the following shall occur:

(1) The Treasurer shall convene a meeting of the Pooled Money Investment Board to obtain the funds through interim borrowing from the Pooled Money Investment Account except that no meeting is required where the request to borrow is for the purpose of repayment of a loan from the Pooled Money Investment Account.

(2) The Treasurer shall ensure that the funds will thereafter be available in accordance with a financing schedule mutually agreeable to the administrator and the Treasurer.

(f) This article does not require the Treasurer to borrow more money than can be repaid from amounts available to the fund for that purpose. The Treasurer shall not be required to consider as available to the fund any future deposits resulting from an increase of the fees specified in Section 8670.48.5 until that increase has actually become effective. Once effective, the administrator shall not retract, reduce, or reject the increase unless the Treasurer certifies to the administrator that the retraction, reduction, or rejection will not diminish the security for, or ability to repay, amounts borrowed under this article or drawn pursuant to subdivision (o) of Section 8670.48. The amount of borrowing that can be repaid from amounts available to the fund for that purpose shall be determined by the Treasurer in his or her sole discretion, giving due consideration to factors concerning security for, marketability of, and repayment of, any financial arrangements or other obligations that the Treasurer elects to make, incur, or issue for the purposes of complying with this chapter.

(Amended by Stats. 2007, Ch. 373, Sec. 12. Effective October 10, 2007.)

8670.53.4. (a) With the exception of borrowing from the Pooled Money Investment Account, which shall be on the terms determined by the Pooled Money Investment Board, the entry into or issuance of any financial arrangement pursuant to this article and obtaining the financial security pursuant to subdivision (o) of Section 8670.48, including the issuance of bonds, or other obligations, shall be authorized by a resolution adopted by the Treasurer. Any of these financial arrangements, including bonds or other obligations, (1) may be negotiable, (2) may be payable to order or to the bearer, (3) may be in any denomination, (4) shall be payable not later than 20 years from the date of issuance, (5) may bear interest at a fixed or variable rate or rates to be determined as provided by the resolution and payable as provided therein, (6) may be payable on a fixed date or upon demand of the holder, (7) may be made subject to the prepayment or redemption at the option of the state or at the option of the holder, and (8) may contain such other terms as the Treasurer may determine to be necessary and appropriate.

(b) In connection with any financial arrangement made or issued by the Treasurer pursuant to this chapter, including the issuance of bonds or other obligations, the Treasurer may obtain or arrange for any insurance, letter of credit, or other credit enhancement or liquidity arrangements as the Treasurer determines to be appropriate and cost effective, and may enter into any contracts or agreements for those arrangements not inconsistent with this chapter.

(c) Proceeds of any borrowing authorized pursuant to this chapter, including from the issuance of any bonds, other obligations, or drawings on any standby arrangement or other financial arrangements, shall be deposited in the fund.

(d) Any bonds or other obligations issued under this chapter may be secured by a trust agreement or indenture by and between the state and a trustee. The trustee may be the Treasurer or a bank or trust company chartered under the laws of this state or of the United States and designated by the Treasurer.

(e) The Treasurer may provide for the issuance and sale or exchange of refunding bonds for the purpose of redeeming, retiring, or purchasing for retirement, outstanding bonds at or before their maturity, if the Treasurer and the administrator determines that refunding is necessary or advisable in order to do either of the following:

- (1) To effect a favorable reorganization of the debt structure of the bonds.
- (2) To effect a saving in debt service cost, as measured by the present value of that saving.

(Amended by Stats. 2007, Ch. 373, Sec. 13. Effective October 10, 2007.)

8670.53.5. Any financial arrangements made or issued pursuant to this article or subdivision (o) of Section 8670.48, including the issuance of bonds or other obligations, and the repayment of any of these obligations, shall be special obligations of the state secured solely by the moneys in the fund. None of these financial arrangements, including bonds or other obligations, shall be or become a lien, charge, or liability against the State of California or against its property or funds except to the extent of the pledges expressly made by this article. Each of these financial arrangements, including bonds or other obligations, shall contain a recital stating that neither the payment of the principal thereof, nor any interest thereon, constitutes a debt, liability, or general obligation of the State of California other than as provided in this article, and neither the faith and credit nor the taxing power of the state are pledged to the repayment thereof.

(Amended by Stats. 2007, Ch. 373, Sec. 14. Effective October 10, 2007.)

8670.53.7. (a) All financial arrangements made or issued pursuant to this article or subdivision (o) of Section 8670.48, including bonds or other obligations, are a legal investment for any of the following:

- (1) Trust funds.
- (2) Funds of insurers.
- (3) Funds of savings and loan associations.
- (4) Funds of banks.
- (5) Funds of state agencies, cities, counties, cities and counties, or other public agencies or corporations.

(b) All financial arrangements, made or issued pursuant to this article or subdivision (o) of Section 8670.48, including bonds or other obligations, are acceptable and may be used as security for the faithful performance of any public or private trust or obligation or for the performance of any act, including the use of notes by banks as security for deposits of funds of the state and its agencies, or of any city, county, city and county, or other public agency or corporation.

(Amended by Stats. 2007, Ch. 373, Sec. 15. Effective October 10, 2007.)

8670.53.8. Notwithstanding Section 13340, there is hereby appropriated from the fund, without regard to fiscal years, any and all moneys necessary to pay principal, interest, premium, if any, and fees, costs, or charges of any kind incurred by the state under or in connection with any standby arrangement, or other financial arrangement, including bonds or other obligations, made or issued pursuant to this article and pursuant to subdivision (o) of Section 8670.48, or any rebate penalty, or other payment necessary to maintain the federal tax-exempt status of that financial arrangement, including bonds or other obligations. The Treasurer shall advise the administrator and the Controller of amounts necessary to pay the principal, interest, premiums, fees, costs, or charges on any of those arrangements or obligations made or issued pursuant to this article and subdivision (o) of Section 8670.48, and those amounts shall not be available for expenditure for other purposes.

(Amended by Stats. 2007, Ch. 373, Sec. 16. Effective October 10, 2007.)

8670.53.9. Whenever the Treasurer determines that it will increase the marketability or reduce the cost of obtaining any standby arrangement, other arrangement, or of issuing any bonds to obtain, prior to or after sale, a legal opinion as to the validity of the standby arrangement, other arrangement, or bonds from attorneys other than the Attorney General, the Treasurer may obtain such a legal opinion.

(Added by Stats. 1990, Ch. 1248, Sec. 17. Effective September 24, 1990.)

8670.53.95. Section 10295 and Sections 10336 to 10381, inclusive, of the Public Contract Code shall not apply to agreements entered into by the Treasurer in connection with making or issuing of any financial arrangements, including the issuance of bonds or other obligations, authorized by this article or by subdivision (o) of Section 8670.48.

(Amended by Stats. 2007, Ch. 373, Sec. 17. Effective October 10, 2007.)