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**GOVERNMENT CODE - GOV**

**TITLE 3. GOVERNMENT OF COUNTIES [23000 - 33205]** ( Title 3 added by Stats. 1947, Ch. 424. )

**DIVISION 3. FINANCIAL PROVISIONS [29000 - 30406]** ( Division 3 added by Stats. 1947, Ch. 424. )

**CHAPTER 10. Orange County Financial Control [30400 - 30406]** ( Chapter 10 added by Stats. 1995, Ch. 747, Sec. 3. )

**30400.** (a) It is in the interest of the state and all public debt issuers within the state to enable the County of Orange to finance an acceptable plan of adjustment in order to improve the credit standing of California public debt issuers and to preserve and protect the health, safety, and welfare of the residents of the county and the state. To that end, successfully resolving the county bankruptcy and restoring the financial position of county government is a matter of statewide interest and concern.

(b) As a further guarantee that the county will be able to prepare and obtain confirmation of an acceptable plan of adjustment, it is appropriate to create a back-up mechanism for appointment of a state trustee.

(c) It is in the further interest of the state to facilitate and expedite the confirmation of an acceptable plan of adjustment by vesting in a state trustee the authority and discretion to present and enforce certain claims held by cities, public districts, or other governmental agencies against the county.

(Amended (as added by Stats. 1995, Ch. 747) by Stats. 1995, Ch. 748, Sec. 7. Effective January 1, 1996.)

**30400.5.** For purposes of this chapter, the following words have the following meanings:

(a) "Confirmation of the plan" means confirmation of the plan of adjustment pursuant to Section 943 of Title 11 of the United States Code.

(b) "County" means the County of Orange.

(c) "Investment pools case" means Case No. SA-94-22273-JR in the United States Bankruptcy Court for the Central District of California.

(d) "Pending case" means Case No. SA-94-22272-JR in the United States Bankruptcy Court for the Central District of California.

(e) "Plan of adjustment" means a plan of adjustment as that term is used in Sections 941 and 942 of Title 11 of the United States Code, that contains provisions incorporating the material terms of the county consensus recovery plan, as specified in the Joint Agreement of the County of Orange, the Official Investment Pool Participants' Committee and Each Option A Pool Participant for Resolution of All Claims Against the County of Orange, September 6, 1995. A plan of adjustment may contain other terms and provisions that are not inconsistent with the joint agreement.

(f) "Specified county officers" means the treasurer-tax collector, auditor, chief executive officer, and assessor.

(g) "Trustee" means the person appointed by the Governor pursuant to Section 30401.

(Amended (as added by Stats. 1995, Ch. 747) by Stats. 1995, Ch. 748, Sec. 8. Effective January 1, 1996.)

**30401.** (a) If the county has not filed a plan of adjustment with the bankruptcy court by January 1, 1996, the Governor may appoint an individual to serve as trustee of the county. The appointment may occur at any time after January 1, 1996, until confirmation of the plan. Notwithstanding the timely filing of a plan of adjustment, the Governor shall appoint a trustee if the Governor determines that, as of May 1, 1996, or any date thereafter, the parties specified below have failed to reach substantial agreement on the terms of the plan of adjustment and the timely confirmation of the plan appears unlikely. Before reaching the foregoing determination, the Governor or his or her designee shall first consult with (1) the specified county officers and the board of supervisors, (2) the Official Committee of Unsecured Creditors of the County of Orange appointed in the pending case, and (3) the Official Committee of Investment Pools Participants appointed in the investment pools case. The trustee is a public official of the state and shall serve at the pleasure of, and is responsible to, the Governor.

(b) The trustee shall have recognized expertise in management and public finance.

(c) The trustee may institute a financial plan for the county if the county fails to present a balanced budget.

(d) In implementing a financial plan for the county, the trustee may exercise all necessary and appropriate powers of the county board of supervisors, subject to the same legal limitations that apply to the board of supervisors.

(e) The trustee shall exercise the powers granted pursuant to this chapter for an emergency period that ends upon the adoption, after the appointment of the trustee, of two consecutive balanced final budgets and achievement of two positive audited fund balances, as determined by the Governor or his or her designee.

*(Amended by Stats. 2001, Ch. 745, Sec. 102. Effective October 12, 2001.)*

**30402.** (a) If a trustee is appointed pursuant to this chapter, all powers granted to the county board of supervisors, including, but not limited to, those powers granted by Section 29530.5, shall be withdrawn and delegated to the trustee. However, the trustee may provide for the continued exercise of all or specified powers by the board of supervisors. Further, the trustee shall oversee the pending case and may exercise the county's right to file a plan of adjustment.

(b) If at any time, in the discretion of the trustee, after consultation with (1) the specified county officers and the board of supervisors, (2) the Official Committee of Unsecured Creditors of the County of Orange appointed in the pending case, and (3) the Official Committee of Investment Pool Participants appointed in the investment pools case, the trustee determines that the continued exercise of specified powers by the board of supervisors is not conducive to the most effective action for resolving the pending case, the trustee shall reassume those powers.

(c) Upon termination of the emergency period specified in subdivision (g) of Section 30401 all powers otherwise granted to the board of supervisors shall revert to the board of supervisors.

*(Added by Stats. 1995, Ch. 747, Sec. 3. Effective January 1, 1996.)*

**30403.** (a) The trustee may employ any staff necessary to assist him or her.

(b) To facilitate the appointment of the trustee and the employment of any necessary staff, for the purposes of this section, the trustee is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(c) Notwithstanding any other provision of law, the trustee may appoint employees of the state to assist the trustee for up to the duration of the trusteeship. The salary and benefits of the employees shall be established by the trustee and paid by the county. During the time of the appointment, the employees shall be deemed to be employees of the county but shall remain in the same retirement system under the same plan as if the employee had remained an employee of the state. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the state. The time served in the appointment shall be counted for all purposes as if the employee had served that time in his or her former position with the state.

*(Added by Stats. 1995, Ch. 747, Sec. 3. Effective January 1, 1996.)*

**30404.** (a) The trustee may issue or execute and deliver for and in the name and on behalf of the county, any of the following forms of debt or other obligations:

(1) Notes, tax anticipation warrants, or other evidences of indebtedness pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840), or Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5.

(2) Grant anticipation notes pursuant to Article 7.7 (commencing with Section 53859) of Chapter 4 of Part 1 of Division 2 of Title 5.

(3) Revenue bonds pursuant to Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5.

(4) Refunding bonds pursuant to Article 9 (commencing with Section 53550) or Article 10 (commencing with Section 53570) of Chapter 3 of Part 1 of Division 2 of Title 5.

(5) Certificates of participation or lease revenue bonds to finance the lease or lease-purchase of property and for this purpose may lease property, for and in the name and on behalf of the County of Orange, to or from any other public or private entity.

(b) If the trustee issues notes, tax anticipation warrants, or any other evidence of indebtedness or other obligation pursuant to subdivision (a), the trustee may provide, in the terms of the issuance, for the pledge of any taxes, income, revenue, cash receipts, rents, or other moneys of the county, including moneys deposited in inactive or term deposit accounts, or rights to receive the same, to the extent that the taxes, income, revenue, cash receipts, rents, or other moneys could have been used to pay principal or interest on the issuance. The priority and perfection of the pledge shall be governed by Chapter 5.5 (commencing with Section 5450) of Division 6 of Title 1.

*(Added by Stats. 1995, Ch. 747, Sec. 3. Effective January 1, 1996.)*

**30405.** (a) If a trustee is appointed pursuant to this chapter, the trustee may assume and exercise, solely to the extent necessary to prevent denial of confirmation of the plan of adjustment and consistent with the interests of the state to promote the timely confirmation of the plan, the following specified powers of those cities, public districts, or other governmental agencies holding claims against the county based upon investment losses incurred or derived from the failure of the Orange County Investment Pools:

(1) The authority to vote to accept or reject the plan of adjustment filed by the county in the pending case, or to change or withdraw such an acceptance or rejection.

(2) The authority to subordinate or otherwise restructure the claims specified in this subdivision against the county.

(3) The authority to take actions in the pending case that are consistent with the timely confirmation of the plan.

(4) Other powers that are necessary and proper to execute the authority conferred by this section.

(b) In exercising the authority conferred by subdivision (a), the trustee shall be serving the public purpose of a speedy and just resolution to the pending case. To that end, the trustee shall not act in a manner inconsistent with the fair treatment of any parties subject to this section.

*(Added by Stats. 1995, Ch. 747, Sec. 3. Effective January 1, 1996.)*

**30406.** The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

*(Added by Stats. 1995, Ch. 747, Sec. 3. Effective January 1, 1996.)*