



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

Code: Section:

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

GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] (Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 3. Bonds [53400 - 53595.55] (Chapter 3 added by Stats. 1949, Ch. 81.)

ARTICLE 9. Refunding of Bonded Indebtedness of Local Agencies [53550 - 53569] (Article 9 added by Stats. 1971, Ch. 1710.)

53550. The following terms shall have the following meanings:

(a) "Local agency" means public district, public corporation, authority, agency, board, commission, county, city and county, city, school district, or other public entity.

(b) "Bonds" means bonds, warrants, notes or other evidence of indebtedness of a local agency or any improvement district or zone thereof payable, both principal and interest, from the proceeds of ad valorem taxes or ad valorem assessments which may be levied without limitation as to rate or amount upon property in the local agency or any improvement district or zone thereof subject to taxation or assessment, or any outstanding indebtedness payable to the State Board of Equalization as repayment of the local agency's share of refunds made as a result of the California Court of Appeal decision in Aerospace Corporation v. State Board of Equalization, 218 Cal. App. 3d 1300, which indebtedness is hereby imposed on all the local agencies that are required to participate in the refund obligations arising from this decision and that are declared and determined to have been imposed by law.

(c) "Legislative body" means the board of directors or other governing body of the local agency, unless the context otherwise requires.

(d) "Principal act" means the law under which bonds to be refunded were issued.

(e) "Costs of issuing the refunding bonds" means those of the following costs and expenses designated by the legislative body in the resolution providing for the issuance of the bonds:

(1) All expenses incident to the calling, retiring or paying of the bonds to be refunded and to the issuance of refunding bonds, including the charges of any escrow agent or trustee in connection with the issuance of the refunding bonds or in connection with the redemption or retirement of the bonds to be refunded.

(2) Either of the following:

(A) Interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds, or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(B) Interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(3) Any premium necessary in the calling or retiring of the bonds to be refunded.

(f) "Designated costs of issuing the refunding bonds" means whichever of the items specified in subdivision (e) that are designated by the legislative body in the resolution providing for the issuance of refunding bonds.

(g) "Federal securities" means those securities described in Sections 1360 and 1360.1 of the Financial Code.

(Amended by Stats. 1992, Ch. 802, Sec. 2. Effective September 22, 1992.)

53551. The legislative body of any local agency may issue negotiable coupon bonds, to be denominated refunding bonds, for the purpose of refunding any of the indebtedness of the local agency evidenced by bonds, whether due or not due, or which has or may hereafter become payable at the option of such local agency or by consent of the bondholders, or by any lawful means, whether such indebtedness, evidenced by bonds be now existing or may hereafter be created, and there shall not be moneys in a special fund in the treasury of such local agency irrevocably pledged to the payment or redemption of all such bonds; but the amount of such refunding bonds to be issued under the provisions of this article shall first be determined by such legislative body by resolution entered upon the minutes of such legislative body.

(Added by Stats. 1971, Ch. 1710.)

53552. Whenever the legislative body of a local agency determines that prudent management of the fiscal affairs of the local agency requires that it issue refunding bonds under the provisions of this article, it may do so without submitting the question of the issuance of the refunding bonds to a vote of the qualified electors of the local agency, unless the legislative body determines to submit the question to a vote, in which case the election shall be held in accordance with the principal act pursuant to which the bonds to be refunded were issued. Refunding bonds shall not be issued if the total net interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds exceeds the total net interest cost to maturity on the bonds to be refunded plus the principal amount of the bonds to be refunded, provided that this limitation shall not apply to bonds issued to refund indebtedness imposed by subdivision (b) of Section 53550 as a result of the court decision in *Aerospace Corporation v. State Board of Equalization*, 218 Cal. App. 3d 1300. Subject to this limitation, the principal amount of the refunding bonds may be more than, less than, or the same as the principal amount of the bonds to be refunded.

(Amended by Stats. 1992, Ch. 802, Sec. 3. Effective September 22, 1992.)

53553. When the legislative body determines to issue refunding bonds pursuant to this article, it shall adopt a resolution providing for the issuance of such bonds. Such resolution shall:

- (a) Describe the bonds being refunded; and the date on which it is anticipated that the exchange, purchase or call and redemption necessary to effect the refunding shall occur;
- (b) Fix the date of such refunding bonds;
- (c) Designate the denomination or denominations thereof;
- (d) Fix the rate or rates of interest to be borne by such refunding bonds, which rate or rates shall not exceed 8 percent per annum, payable semiannually, except that interest for the first year from date of issuance may be payable at the end of said year;
- (e) Fix the maturity dates of such refunding bonds, which shall not exceed 40 years from the date of such refunding bonds, or the latest maturity date of the bonds being refunded, whichever occurs earlier;
- (f) Designate the place or places of payment of both principal and interest;
- (g) Prescribe the form of such refunding bonds; and
- (h) State the designated costs of issuing the refunding bonds.

(Amended by Stats. 1975, Ch. 130.)

53554. Such refunding bonds shall:

- (a) Be negotiable in form;
- (b) Recite that they are bonds of the local agency issuing the bonds;
- (c) Recite that they are issued pursuant to the provisions of this article;
- (d) Be executed in the name of the local agency; and
- (e) Be signed by the president or chairman of the legislative body of the local agency, and executed, countersigned or attested by such officer or officers of the local agency as are required to execute, countersign or attest bonds issued pursuant to the principal act, as the case may be.

The interest coupons shall be signed in the same manner as interest coupons attached to bonds issued by the local agency pursuant to the principal act. The provisions of the Uniform Facsimile Signatures of Public Officials Act (Chapter 6, (commencing with Section 5500), Division 6, Title 1) apply to refunding bonds issued pursuant to this article.

(Added by Stats. 1971, Ch. 1710.)

53555. Refunding bonds issued pursuant to this article may be exchanged for the bonds to be refunded on such basis as the legislative body determines is for the benefit of the local agency but in no case on the basis that the principal amount of refunding bonds exceeds the principal amount of the bonds to be refunded plus the costs of issuing the refunding bonds. As an alternative to

exchanging the refunding bonds for the bonds to be refunded, the legislative body may sell the refunding bonds at public or private sale for not less than their par value. The proceeds of any sale of refunding bonds for cash shall be placed in the treasury of the local agency to the credit of a fund to be established for the purpose of refunding the bonds to be refunded, which fund shall be designated the "funding fund," and such proceeds shall be applied only as permitted by this article.

(Amended by Stats. 1972, Ch. 531.)

53556. The designated costs of issuing the refunding bonds may be paid by the purchaser of the refunding bonds or may be paid from any other legally available source, including the general fund of the local agency, other available revenues of the local agency under the control of the legislative body, the proceeds of sale of the refunding bonds, the interest or other gain derived from the investment of any of the proceeds of sale of the refunding bonds, any other moneys in escrow or in trust or any combination thereof as the legislative body may determine; provided, however, that any amounts paid by the local agency other than from the proceeds of sale of the refunding bonds or from interest or other gains derived from the investment of such proceeds shall be added to the total net interest cost to maturity on the refunding bonds in determining whether the test of the second sentence of Section 53552 has been met.

(Repealed and added by Stats. 1972, Ch. 531.)

53557. Any proceeds of sale of any refunding bonds may be deposited in escrow or trust with any bank or trust company within or without the state, or both within and without the state, and shall be secured in accordance with the laws applicable to funds of the local agency and may (along with any other moneys available for that purpose similarly deposited) be invested or reinvested in federal securities.

(Added by Stats. 1972, Ch. 531.)

53558. Such proceeds and investments in escrow or trust shall be in an amount at the time of issuance of such refunding bonds which is certified by a certified public accountant licensed to practice in this state to be sufficient to meet the requirements of subdivision (a) or paragraph (b) of this section.

(a) Such proceeds and investments, together with any interest or other gain to be derived from any such investment, shall be in an amount at least sufficient to pay (i) the principal of and interest and redemption premiums, if any, on the refunded bonds as they become due or at designated dates prior to maturity (in connection with which the legislative body has exercised or has obligated itself to exercise a redemption privilege on behalf of the local agency) and (ii) the designated costs of issuance of the refunding bonds, or

(b) Such proceeds and investments, together with any interest or other gain to be derived from any such investment, shall be in an amount at least sufficient to pay (i) the principal of and interest and redemption premiums, if any, on the refunding bonds prior to the maturity of the bonds to be refunded or prior to a designated date or dates before the maturity of the bonds to be refunded (in connection with which the legislative body has exercised or has obligated itself to exercise a redemption privilege on behalf of the local agency), (ii) the principal of and any redemption premiums due on such refunded bonds at maturity or at said designated date or dates and (iii) the designated costs of issuance of the refunding bonds.

(Repealed and added by Stats. 1972, Ch. 531.)

53559. Following the issuance of any refunding bonds pursuant to this article, the legislative body of the local agency shall provide for the payment of principal and interest thereon in the same manner and at the same times as it provides for payment of principal and interest on bonds issued pursuant to its principal act and which constitute general obligations of such local agency. The legislative body may provide in the resolution of issuance of such refunding bonds for the pledge of revenues of any revenue-producing facility of the local agency as additional security for the refunding bonds to the same extent that such revenues were pledged as additional security for the bonds to be refunded.

(Added by renumbering Section 53557 by Stats. 1972, Ch. 531.)

53560. Upon the issuance, sale and delivery or exchange of refunding bonds pursuant to this article:

(a) If only the refunding bonds remain outstanding, such refunding bonds shall constitute indebtedness of the local agency issuing such bonds and shall be included in any computation of general obligation indebtedness of such local agency for purposes of any debt limitation applicable to bonds of such local agency under the principal act or for any other lawful purpose;

(b) If both the refunding bonds and the bonds to be refunded remain outstanding for any period of time following the date of the issuance, sale and delivery of the refunding bonds, then until the date on which the bonds to be refunded are no longer outstanding;

(i) If the local agency has met the test of subdivision (a) of Section 53558 the refunding bonds shall constitute indebtedness of the local agency issuing such bonds and shall be included in any computation of general obligation indebtedness of such local agency for purposes of any debt limitation applicable to bonds of such local agency under the principal act or for any

other lawful purpose, but the bonds to be refunded shall no longer be considered outstanding in any computation of the general obligation indebtedness of such local agency;

(ii) If the local agency has met the test of subdivision (b) Section 53558 then such refunding bonds shall, until the date on which the refunding bonds are no longer outstanding, constitute a special obligation of the local agency issuing such bonds and shall not be included in any computation of general obligation indebtedness of such local agency for any purpose, and the bonds to be refunded shall be considered outstanding in any computation of the general obligation bonded indebtedness of such local agency; but from and after the date on which the refunded bonds are no longer outstanding the refunding bonds shall constitute indebtedness of the local agency issuing such bonds and shall be included in any computation of general obligation indebtedness.

(Added by Stats. 1972, Ch. 531.)

53561. It is hereby declared that it is a public purpose for a local agency to issue refunding bonds for the purposes set forth in this article and to invest and reinvest the proceeds thereof, and any other funds legally available therefor, for the purposes set forth herein; provided, however, that it is the intent of this article, and this article shall be so construed, that in no single fiscal year shall a tax be levied or shall funds of a local agency other than those expressly permitted herein be used to pay the principal of and interest and redemption premium, if any, on both the refunding bonds and on the bonds to be refunded.

(Added by Stats. 1972, Ch. 531.)

53562. The powers conferred by this article are in addition and supplemental to, and not in substitution for, and the limitations imposed by this article shall not affect the powers conferred by, any other law.

(Amended by Stats. 1973, Ch. 140.)

53569. Before selling any refunding bonds subject to the provisions of this article, any local agency shall advertise such bonds for sale at public sale and shall invite sealed bids therefor by publication of a notice once at least 10 days before the date of such public sale in a newspaper of general circulation circulated within the boundaries of each local agency to be aided by the public project to be financed by the issuance of such bonds; provided that, if an issue of bonds is less than five hundred thousand dollars (\$500,000), a local agency is not required to advertise such bonds for public sale or to accept bids thereon pursuant to this section. If one or more satisfactory bids are received pursuant to such notice, such bonds shall be awarded to the highest responsible bidder. If no bids are received or if the local agency determines that the bids received are not satisfactory as to price or responsibility of the bidders, the local agency may reject all bids received, if any, and either readvertise or sell such bonds at private sale.

(Amended by Stats. 1976, Ch. 247.)