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**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 4. Financial Affairs [53600 - 53997]** ( Chapter 4 added by Stats. 1949, Ch. 81. )

**ARTICLE 6.5. Building Certificates [53800 - 53814]** ( Article 6.5 added by Stats. 1959, Ch. 2070. )

**53800.** The following terms whenever used in this article have the meanings given in this section except where the context clearly indicates otherwise:

- (a) "Local agency" means any county, city, or city and county.
- (b) "Board" means the legislative body of the local agency.
- (c) "Investing agency" means the Public Employees' Retirement System, as defined by Section 20004.
- (d) "Construction" includes the extension, enlargement, repair, renovation, restoration, improvement, and equipping of any public building.
- (e) "Public building" includes any structure, building, facility, or work which a local agency is authorized to construct and automobile parking lots, landscaping, and other facilities, including equipment, incidental to the use of any building, and also includes the site thereof, and any easements or rights-of-way appurtenant thereto or necessary for its full use.
- (f) "Acquire" includes purchase, condemnation, lease, and gift.
- (g) "Cost of a public building" includes, but is not limited to, the cost of all real estate, properties, rights, and easements acquired, the cost of construction of public buildings and equipment of them, all financing charges, interest prior to, during and for a period of six months after construction, engineering, architects' and legal expenses, including the cost of plans, specifications, and surveys, estimates of cost and revenues, administrative expenses, and such other expenses as are necessary or incident to the financing of public buildings, or to determine the feasibility or practicability of any public buildings, and the condemnation of property necessary for use of, or in connection with, any public building.
- (h) "Property" includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this part.

(Amended by Stats. 1969, Ch. 122.)

**53801.** The board may issue certificates to the investing agency pursuant to this article to obtain funds to pay the cost of public buildings, secure the payment of certificates and interest thereon by pledging all or part of its revenues, rentals, and receipts, and provide for the security of the certificates and the rights of the holders thereof. The board may also obtain insurance against loss by fire or other hazards on public buildings, both during and after construction and obtain insurance against loss of revenues from any cause whatsoever, for the protection of the certificate holders.

(Added by Stats. 1959, Ch. 2070.)

**53802.** Certificates issued pursuant to this article are negotiable instruments and are transferable between local agencies and state agencies or between such agencies and other persons having jurisdiction over special or trust funds at a price mutually agreed upon by the agencies or by such agencies and other persons.

(Amended by Stats. 1976, Ch. 391.)

**53803.** The board has no power at any time or in any manner to pledge the credit or taxing power of the local agency.

(Added by Stats. 1959, Ch. 2070.)

**53804.** The preparation of plans and specifications of any public building constructed pursuant to this article shall be the responsibility of the board.

*(Added by Stats. 1959, Ch. 2070.)*

**53805.** The local agency shall be responsible for the maintenance and repair of all public buildings constructed, acquired or operated by the board.

*(Added by Stats. 1959, Ch. 2070.)*

**53806.** The certificates shall be authorized by resolutions of the board, and shall bear such dates, mature at such time or times not exceeding 25 years from their respective dates, bear interest at such rate or rates agreed upon between the board and the investing agency, not exceeding 6 percent per year, payable semiannually, be in such denominations and in such form, be payable in such medium of payment and at such place or places, and subject to such terms of redemption at such prices not exceeding 106 percent of the principal amount as the resolutions provide.

*(Added by Stats. 1959, Ch. 2070.)*

**53807.** The certificates shall be sold by the board at their face value to the investing agency. Such certificates are a legal investment by the investing agency notwithstanding any provision of law limiting the investment which may be made by the investing agency. Payment of the purchase price of certificates may be made in accordance with mutual agreement between the investing agency and the board, which agreement may provide for such payment in installments as work upon the public building or buildings progresses and funds necessary therefor are required.

*(Added by Stats. 1959, Ch. 2070.)*

**53808.** Any resolutions authorizing the issue of certificates may contain provisions which are part of the contract with the investing agency as to:

- (a) Pledging all or any of the revenues, rentals, or receipts of the local agency from specific properties.
- (b) The construction or acquisition of any public building and the duties of the board with reference thereto.
- (c) The terms and provisions of the certificates.
- (d) Limitations on the purposes to which the proceeds of the certificates, then or thereafter to be issued may be applied.
- (e) The rate of rentals and other charges for use of the public buildings of, or for the services rendered by, the board, including limitations upon the power of the board to modify any leases or other agreements pursuant to which any rentals or other charges are payable.
- (f) The setting aside of reserves or sinking funds and the regulation and disposition of them.
- (g) Limitations on the issuance of additional certificates.
- (h) Any other agreements with the certificate holders.

*(Added by Stats. 1959, Ch. 2070.)*

**53809.** The board may provide, by resolution, for the issuance of refunding certificates for the purpose of refunding any certificates of the board issued pursuant to this article and then outstanding, either by voluntary exchange with the holders of the outstanding certificates, or to provide funds to redeem and retire the outstanding certificates, with accrued interest and any redemption value payable on any call date. The issuance of the refunding certificates, the maturities and other details of the certificates, the rights of the certificate holders, and the duties of the board in respect to the certificates, are governed by the provisions of this article insofar as they are applicable. Refunding certificates may be issued by the board to refund certificates originally issued or to refund certificates of the board previously issued for refunding purposes.

*(Added by Stats. 1959, Ch. 2070.)*

**53810.** The treasurer of the local agency shall act as trustee for the board and the holders of the certificates issued under this article and the board may authorize the trustee to act on behalf of the holders of the certificates, or any stated percentage thereof, and to exercise and prosecute on behalf of the holders of the certificates such rights and remedies as may be available to the holders.

The board shall, by resolution, prescribe the duties and powers of such trustee with respect to the issuance, authentication, sale, and delivery of the certificates, and the payment of principal and interest thereof, the redemption of the certificates, and the management, exclusive of the investment or reinvestment thereof, of any sinking fund or other funds provided as security for the certificates.

*(Added by Stats. 1959, Ch. 2070.)*

**53811.** The rights and remedies conferred by this article upon or granted to certificate holders are in addition to and not in limitation of any rights and remedies lawfully granted to such certificate holders by the resolutions providing for the issuance of certificates.

If the board defaults in the payment of principal or interest on any of the certificates after such principal or interest becomes due, whether at maturity or upon call for redemption, and if such default continues for a period of 60 days, or if the board fails or refuses to comply with the provisions of this article or defaults in any agreement made with the certificate holders, the holders of 25 percent in aggregate principal amount of the certificates then outstanding by instruments filed in the office of the recorder of the county in which the local agency is situated, and acknowledged in the same manner as a deed to be recorded except as this right is limited under the provisions of any deed of trust, indenture, or other agreement, may appoint a trustee to represent the certificate holders for the purposes provided in this article. The trustee or any trustee under any deed of trust, indenture or other agreements may, and upon written request of the holders of 25 percent in principal amount of the certificates then outstanding, or such other percentage as is specified in the deed of trust, indenture or other agreement, shall in his name:

(a) By proper proceedings and actions enforce all rights of the certificate holder, including the right to require the board to collect rates, rentals and other charges adequate to carry out any agreement as to the revenues or the pledge of revenues or receipts of the board, to lease public buildings and require the board to carry out any other agreements with or for the benefit of the certificate holders, and to perform its duties under this article.

(b) Bring suit upon the certificates.

(c) By an action require the board to account as if it were the trustee of an express trust for the certificate holders.

(d) By an action enjoin any acts or things which may be unlawful or in violation of the certificate holders' rights.

(e) By notice in writing to the board declare certificates due and payable, and if all defaults are made good then with the consent of the holders of 25 percent of the principal amount of the certificates then outstanding or such other percentage as is specified in any deed of trust, indenture, or other agreement, annul the declaration that certificates are due and payable.

*(Added by Stats. 1959, Ch. 2070.)*

**53812.** A trustee, appointed pursuant to Section 53811, or acting under a deed of trust, indenture, or other agreement, whether or not all certificates have been declared due and payable, may have a receiver appointed. The receiver may, to the same extent that the board itself could do, enter and take possession of the public buildings of the board, or any parts thereof, the revenues, rentals, or receipts from which are applicable to the payment of the certificates in default, and operate and maintain the public buildings and collect and receive all rentals and revenues thereof arising therefrom in the same manner as the board might do. The receiver shall deposit money in a separate account and apply it in such manner as the court directs. In any action or proceeding by the trustees, the fees, counsel fees, and expenses of the trustees, and of the receiver, and all costs and disbursements allowed by the court, are a first charge on any revenues and receipts derived from the public buildings of the board, the revenues or receipts from which are or may be applicable to the payment of the certificates in default. The trustee shall have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth in this article or incident to the general representation of the certificate holders in the protection and enforcement of their rights; provided, however, that nothing in this section or any other section in this article shall authorize any trustee appointed pursuant to Section 53811, for the purpose of operating and maintaining any public buildings of the board, to sell, assign, mortgage, or otherwise dispose of, any of the assets of whatever kind and character belonging to the board.

*(Added by Stats. 1959, Ch. 2070.)*

**53813.** In addition to all other rights and all other remedies the holder of certificates of the board may by an action at law enforce his rights against the board, including the right to require the board to collect fees, rentals, and other charges adequate to carry out any agreement as to fees, rentals, or other charges or income, revenue and receipts and require the board to carry out any of its covenants and agreements with the certificate holders and perform its duties under this article.

*(Added by Stats. 1959, Ch. 2070.)*

**53814.** All money received by the board from whatever source derived, shall be transmitted by the board at least once in every calendar month to the county treasurer, and shall be deposited in the county treasury to the credit of the public buildings construction fund, which fund shall be created for the purpose hereinafter provided. There shall be maintained within the fund three separate accounts for each series of certificates covering all the public buildings authorized, under this article:

(a) A construction account.

(b) A revenue account.

(c) A sinking fund account.

There shall be deposited to the credit of the respective series in the construction account the proceeds from the sale of each series of certificates authorized under the provisions of this article. The money in each such account shall be expended, for the purposes authorized by this article, or as provided in the resolution, for the acquisition and construction of the public buildings, and in addition, for the payment of all costs and expenses of, and incident to, the issuance and sale of certificates and the payment of interest due or to become due on the certificates during the period of actual construction, and for such further period as may be specified in the resolution for the issuance of the certificates, not exceeding six months after the period of construction.

There shall be deposited to the credit of the respective series in the revenue account all revenues, rentals, or receipts received from the operation of each series of public buildings acquired, constructed, or operated by the board under the provisions of this article, and all other money received by the board from whatever source derived, the disposition of which is not otherwise provided by this article.

The money in each revenue account shall be expended for the payment of the costs of operation and maintenance of the public buildings authorized by this article, including administrative expenses of the board, and for such other purposes as may be provided in the resolution, subject to any restrictions provided by law or by the resolution.

All money in each revenue account, shall be set aside at regular intervals as provided in the resolution in separate sinking fund accounts for each series of certificates, which are pledged to and charged with the payment of:

- (a) The interest upon such certificates as the interest falls due.
- (b) The principal of the certificates as it falls due.
- (c) Any redemption value upon certificates.

The use and disposition of the sinking fund account is subject to the regulations provided in the resolution. Each separate sinking fund account is an account for the benefit of each of the respective series of the certificates issued, without distinction or priority of one over another, except as to series. Subject to the provisions of the resolution, any money in the sinking fund account of each series in excess of the amount equal to one year's interest on all certificates of that series then outstanding may be applied to the purchase or redemption of certificates of such series. All certificates purchased or redeemed shall be canceled and shall not be issued again.

*(Added by Stats. 1959, Ch. 2070.)*