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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 7. Temporary Borrowing [53820 - 53833]** ( Article 7 added by Stats. 1949, Ch. 81. )

**53820.** As used in this article, "local agency" means county, city, regional park district, school district, community college district, or any other municipal or public corporation or district.

(Amended by Stats. 1978, Ch. 380.)

**53821.** Subsequent to approval of the final budget and levy of taxes, if funds are needed for the immediate requirements of a local agency in any fiscal year to pay obligations lawfully incurred in the fiscal year and before the receipt of income for the fiscal year sufficient to meet the payments, money may be borrowed by:

- (a) The legislative body of a county on the recommendation of the auditor and treasurer.
- (b) The legislative body of the county having the largest area within the regional park district on the recommendation of the auditor and treasurer.
- (c) A school district, county board of education, or community college district on the request of two-thirds of the members of its governing board, approved by the county auditor and treasurer.
- (d) A regional park district on the request of four-fifths of the members of its legislative body, approved by the auditor and treasurer of the county having the largest area within the district.
- (e) The legislative body of a city on the recommendation of the city treasurer and chief accounting officer.
- (f) The legislative body of any other municipal or public corporation or district on the recommendation of the officers performing the functions of auditor and treasurer.

(Amended by Stats. 1980, Ch. 447.)

**53821.5.** Proceeds of sales or funds set aside for the repayment of any notes issued pursuant to this article shall not be invested for a term that exceeds the term of the notes.

(Added by Stats. 1995, Ch. 784, Sec. 19. Effective January 1, 1996.)

**53822.** Money may be borrowed on notes, tax anticipation warrants, or other evidences of indebtedness on behalf of the local agency in an amount not to exceed 50 percent of:

- (a) The revenue from taxes for the current fiscal year or that portion of the taxes not collected at the time of borrowing, where the borrowing is by a county, city, or municipal or public corporation or district, other than a school district, county board of education, or community college district.
- (b) The estimated income and revenue for the current fiscal year or that portion not collected at the time of borrowing, where the borrowing is by a school district, county board of education, or community college district.

(Amended by Stats. 1980, Ch. 447.)

**53823.** In addition, a school district, county board of education, or community college district may borrow money at any time between July 15th and August 30th of any fiscal year in an amount not to exceed 25 percent of the estimated income and revenue to

be received during the current fiscal year by the district or county office of education from apportionments of the state, high school, or community college fund and of the State General Fund, based on the average daily attendance of pupils in the schools or colleges of the district or in schools operated by the county board of education for the preceding school year. The notes shall be repaid not later than December 31st in the fiscal year exclusively from the state apportionments.

*(Amended by Stats. 1980, Ch. 447.)*

**53824.** All such notes, tax anticipation warrants, or other evidences of indebtedness shall be issued only after the adoption of a resolution by a four-fifths vote of all members of the legislative body.

*(Added by Stats. 1949, Ch. 81.)*

**53825.** The resolution shall state the necessity for the borrowing and:

(a) The amount of revenue from taxes provided for the county, city, or municipal or public corporation or district, other than a school district, county board of education, or community college district, for the current fiscal year.

(b) The amount of income and revenue provided for the current fiscal year for the school or community college district or the estimated amount of income and revenue to be received during the current fiscal year from apportionments from the State School Fund, high school fund, or community college fund and from the State General Fund, if the borrowing is by a school district, county board of education, or community college district and occurs before taxes are levied.

*(Amended by Stats. 1980, Ch. 447.)*

**53826.** All such notes, tax anticipation warrants, or other evidences of indebtedness shall be offered at public sale by the legislative body after not less than two days advertising in a newspaper of general circulation within the county, within the county having the largest area within the regional park district, or within the city, as the case may be, and not less than three days after the last day on which the advertisement is published.

*(Added by Stats. 1949, Ch. 81.)*

**53827.** The sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the local agency. Notwithstanding the provision of Section 53531, the rate of interest shall not exceed 15 percent a year.

*(Amended by Stats. 1983, Ch. 489, Sec. 1.)*

**53828.** The notes, tax anticipation warrants, or other evidences of indebtedness shall be signed by:

(a) The chairman of the board of supervisors and countersigned by the auditor and treasurer of the county or of the county having the largest area within the regional park district.

(b) The mayor, and countersigned by the city treasurer and chief accounting officer, for a city.

(c) The presiding officer of the legislative body, and countersigned by the officers performing the functions of auditor and treasurer of the municipal or public corporation or district.

*(Amended by Stats. 1953, Ch. 1151.)*

**53829.** The repayment of money borrowed by a county, city, or municipal or public corporation or district other than a school district, county board of education, or community college district constitutes a first lien and charge against the taxes levied for the fiscal year in which it was borrowed and shall be repaid from the first money received by the county, city, or municipal or public corporation or district other than a school district, county board of education, or community college district from the taxes.

*(Amended by Stats. 1980, Ch. 447.)*

**53830.** The repayment of money borrowed by any school district, county board of education, or community college district constitutes a first lien and charge against the taxes, revenue, and other income collected during the fiscal year in which the money was borrowed and shall be repaid from the first money received by such school district, county board of education, or community college district from the taxes, revenue, and income.

*(Amended by Stats. 1980, Ch. 447.)*

**53830.5.** (a) As to any notes, tax anticipation warrants, or other evidences of indebtedness issued by a school district, county board of education, or community college district pursuant to this article on or after January 1, 1993, the governing board may elect, by the adoption of a resolution by affirmative vote of the number of governing board members required for the adoption of the resolution described in Section 53825, to guarantee payment in accordance with the following:

(1) The governing board making the election authorized by this subdivision shall so notify the Controller. That notice shall include a schedule of payment for the notes, tax anticipation warrants, or other evidences of indebtedness, and shall identify the trustee appointed by the governing board for the purposes of paragraphs (2) and (3). For purposes of this section, "notes, tax anticipation warrants, or other evidences of indebtedness" means any debt with a maximum maturity not exceeding one year from the date of issue and a maturity date that is within the fiscal year of issue.

(2) If, for any reason, the funds otherwise available to the agency for any payment due under the terms of the notes, tax anticipation warrants, or other evidences of indebtedness will not be sufficient for that purpose at the time payment is required as to any one or more of the notes, tax anticipation warrants, or other evidences of indebtedness, the agency shall so notify the trustee. The trustee immediately shall communicate that information to the affected person or persons holding the notes, tax anticipation warrants, or other evidences of indebtedness, and to the Controller. If the agency is a school district, the trustee also shall communicate that information immediately to the county superintendent of schools.

(3) When the Controller receives from the trustee the notice described in paragraph (2), or the agency fails to make any payment of one or more of the notes, tax anticipation warrants, or other evidences of indebtedness at the time that payment is required, the Controller shall make one or more apportionments to the trustee, subject to paragraph (4), in a total amount equal to the amount of the required payment from moneys appropriated to the State School Fund, and the trustee thereupon shall make that payment. The Controller shall withhold the amount of any payment made under this paragraph, including reimbursement of the Controller's administrative costs as determined under a schedule approved by the California Debt Advisory Commission, from any subsequent apportionment or apportionments to be made to the agency from the State School Fund.

(4) The amount apportioned to a trustee pursuant to paragraph (3) in any month shall not exceed the amount that otherwise would be apportioned to the agency for that month from the State School Fund. This paragraph does not prohibit the Controller from making two or more apportionments to a trustee pursuant to paragraph (3) as necessary to satisfy a required payment in accordance with that paragraph.

(5) The resolution shall state both of the following:

(A) That the agency maintains an overall positive fund equity as of the date of the adoption of the resolution, and that the governing board anticipates that the agency will maintain an overall positive fund equity at the end of the fiscal year in which the notes, tax anticipation warrants, or other evidences of indebtedness are issued. For purposes of this section, "overall positive fund equity" means that the sum of the cash available to the agency and its accounts receivable exceeds the amount of the accounts payable by the agency.

(B) That the governing board of the agency understands, in authorizing the Controller to make the payment described in paragraph (3) and, accordingly, to withhold certain funds that otherwise would be apportioned to the agency, that the nonpayment of salaries or other obligations of the agency may result.

(6) Upon the adoption of a resolution as described in this section by the governing board of a school district, that governing board shall file a copy of the resolution with the appropriate county superintendent of schools at least 20 days prior to the sale of any notes, tax anticipation warrants, or other evidences of indebtedness authorized pursuant to the resolution. At the request of the school district governing board, the county superintendent of schools may waive or reduce the 20-day requirement described in this paragraph.

(b) This section shall not be construed to obligate the State of California to make any payment to or on behalf of any school district, county board of education, or community college district from the State School Fund in any amount, or pursuant to any particular allocation formula, or to make any other payment to or on behalf of a school district, county board of education, or community college district, including, but not limited to, any payment in satisfaction of any debt or liability incurred or guaranteed by a school district, county board of education, or community college district pursuant to this section or any other provision of this article.

(c) This section shall not be applied so as to impair the obligation of any contract that is in effect as of January 1, 1993, in a manner that would violate either Section 9 of Article I of the California Constitution or Section 10 of Article I of the United States Constitution.

(d) Any apportionment made by the Controller pursuant to paragraph (3) of subdivision (a) shall be deemed to be an allocation to a school district for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution, and for purposes of Chapter 2 (commencing with Section 41200) of Part 24 of the Education Code.

*(Amended by Stats. 1993, Ch. 589, Sec. 77. Effective January 1, 1994.)*

**53831.** All such notes, tax anticipation warrants, or other evidences of indebtedness issued for funds borrowed prior to December 31st in any fiscal year shall be repaid not later than that date. All other evidences of indebtedness for funds borrowed in any fiscal year shall be repaid not later than May 30th of such fiscal year. Notes, tax anticipation warrants, or other evidences of indebtedness shall not be issued after December 31st in any fiscal year if funds borrowed prior to December 31st are not repaid prior to that date.

*(Added by Stats. 1949, Ch. 81.)*

**53832.** Loans made pursuant to this article shall be made solely for the purpose of anticipating income. In the case of a county, a city, or a municipal or public corporation or district other than a school district, county board of education, or community college district, the loans shall be made solely upon the credit of revenue from taxes provided for the fiscal year in which loans are made. In the case of a school district, county board of education, or community college district, the loans shall be made solely upon the credit of income and revenue provided for the fiscal year in which loans are made.

*(Amended by Stats. 1980, Ch. 447.)*

**53833.** The legislative body of each local agency may include in its budget, separately stated, amounts of anticipated disbursement to meet the interest to be paid on any funds borrowed pursuant to this article.

*(Added by Stats. 1949, Ch. 81.)*