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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 7.6. Temporary Borrowing [53850 - 53858] (Article 7.6 repealed and added by Stats. 1963, Ch. 748.)

53850. (a) As used in this article, "local agency" means a county, city and county, city, school district of any type, community college district, county board of education, or any other municipal or public corporation or district.

(b) For purposes of this article only, "local agency" also includes a charter school. This subdivision does not make a charter school a local agency for any purpose other than for this article.

(Amended by Stats. 2012, Ch. 38, Sec. 73. (SB 1016) Effective June 27, 2012.)

53851. The powers conferred by this article are in addition to and an alternative to any power conferred by any other law for borrowing by a local agency and any amount borrowed hereunder shall not be considered in any limitation on the amount which may be borrowed by any such local agency under any other law.

(Repealed and added by Stats. 1963, Ch. 748.)

53852. On or after the first day of any fiscal year a local agency may borrow money pursuant to this article, the indebtedness to be represented by a note or notes issued to the lender pursuant to this article. The money borrowed may be used and expended by the local agency for any purpose for which the local agency is authorized to use and expend moneys, including but not limited to current expenses, capital expenditures, investment and reinvestment, and the discharge of any obligation or indebtedness of the local agency.

(Amended by Stats. 1987, Ch. 1388, Sec. 1.4.)

53852.5. 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. 21. Effective January 1, 1996.)

53853. (a) The note or notes shall be issued pursuant to a resolution adopted by the legislative body of the local agency authorizing the issuance of the note or notes, except that the note or notes of a county board of education, school district, charter school, or community college district that has not been accorded fiscal accountability status pursuant to Section 1080, 42647, 42650, or 85266 of the Education Code shall be issued in the name of the school district, charter school, or community college district by the board of supervisors of the county, the county superintendent of which has jurisdiction over the school district, charter school, or community college district, as soon as possible following receipt of a resolution of the governing board or body of the school district, charter school, or community college district requesting the borrowing and the note or notes of a county board of education shall be issued in the name of the county board of education by the board of supervisors of the county as soon as possible following receipt of a resolution of the county board of education requesting that the county assist in that borrowing. The school district, charter school, community college district, or county board of education that submits that resolution to the county board of supervisors shall simultaneously provide a copy of the resolution to the county superintendent of schools and the county treasurer.

(b) Notwithstanding subdivision (a), if the appropriate county board of supervisors fails to authorize, by resolution, the issuance of a note or notes in the name of a county board of education, school district, charter school, or community college district as specified by that subdivision within 45 calendar days following its receipt of the resolution of the county board of education, the governing board

of the school district or community college district, or the governing body of the charter school requesting that issuance, or if the county board of supervisors notifies the county board of education, school district, charter school, or community college district that it will not authorize that issuance within that 45-day period, then the note or notes may be issued by the county board of education, school district, charter school, or community college district in its name pursuant to the previously adopted resolution. The resolution adopted by the governing board or body of the school district, charter school, or community college district, or by the county board of education, shall not contain direction to the county treasurer for the investment of any proceeds of the note or notes while deposited in the county treasury, but may direct the investment of proceeds of the note or notes held by a trustee and any other amounts held by that trustee or pledged for repayment or security of the note or notes. This subdivision applies only in the case of a note or notes of a county board of education, school district, charter school, or community college district to be issued in conjunction with a note or notes of one or more other county board of education, school district, charter school, or community college district. A county board of supervisors, county treasurer, or county auditor shall not be deemed to have any fiduciary responsibility with regard to any note or notes issued pursuant to this subdivision. This subdivision shall not apply to a county board of education, school district, charter school, or community college district that is under the authority of a trustee as a result of accepting an emergency apportionment.

(c) Notes authorized to be issued may be issued from time to time as provided in the resolution. The resolution of the county board of education, school district, charter school, or community college district shall set forth the form and the manner of execution of the note or notes.

(Amended by Stats. 2012, Ch. 38, Sec. 74. (SB 1016) Effective June 27, 2012.)

53854. Any note issued under this article may be negotiable, may be payable to order or to bearer and may be in any denomination. Such note shall be payable not later than the last day of the fiscal year in which it is issued; provided that such note may be made payable during the fiscal year succeeding the fiscal year in which issued, but in no event later than 15 months after the date of issue, when such note is payable only from revenue received or accrued during the fiscal year in which issued. Such note may bear interest not to exceed 10 percent per annum, payable as provided therein. Such interest may be represented by coupons attached to said note.

(Amended by Stats. 1980, Ch. 278.)

53855. The resolution authorizing the issuance of any note may provide that such note shall be subject to call and redemption prior to maturity, at the option of the local agency, at such price or prices as may be fixed in the resolution, not exceeding a premium of 3 percent of the par value of the note so subject to redemption. The resolution shall fix the method of giving notice of redemption to the holder of the note to be redeemed and the price or prices at which the note shall be subject to redemption. A note so subject to call and redemption prior to maturity shall contain a recital to that effect on its face, and no note shall be subject to call or redemption prior to its fixed maturity date unless it contains such recital.

(Repealed and added by Stats. 1963, Ch. 748.)

53856. Any taxes, income, revenue, cash receipts, or other moneys of the local agency, including moneys deposited in inactive or term deposits, may be pledged to the payment of the note or notes and the interest thereon, except, however, that no moneys which, when received by the local agency, will be encumbered for a special purpose may be pledged for the payment of the note or notes or the interest thereon unless an equivalent amount of the proceeds from said note or notes is set aside for and used for said special purpose. The resolution authorizing the issuance of the note or notes shall specify what taxes, income, revenue, cash receipts or other moneys are pledged for the payment thereof. The note or notes and the interest thereon shall be a first lien and charge against, and shall be payable from the first moneys received by the local agency from, such pledged moneys.

For the purposes of this section, "revenue" includes, but is not limited to, revenue from the state and federal governments.

(Amended by Stats. 1982, Ch. 274, Sec. 1. Effective June 16, 1982.)

53856.1. (a) The Board of Supervisors of Orange County, in the resolution authorizing the issuance of any note or notes, may provide that the board elects to guarantee payment of the note or notes in accordance with the following:

(1) If Orange County elects to participate under this section, it shall provide notice to the Controller of that election, which notice shall include a schedule for the repayment of principal and interest on the notes, and identify a note trustee appointed by Orange County for the purposes of this section.

(2) In the event that, for any reason, the funds made available pursuant to this article for the payment of principal and interest of the notes will not be sufficient for that purpose at the time payment on principal, interest, or both, is required as to any one or more of those notes, Orange County shall so notify the trustee. The trustee shall immediately communicate that information to the affected noteholders and to the Controller.

(3) When the Controller receives notice from the trustee as described in paragraph (2) that the funds made available pursuant to this article for the payment of principal and interest of the notes is not sufficient for that purpose at the time payment on principal,

interest, or both, is required as to any one or more of those notes, the Controller shall make an apportionment to the trustee in the amount of that required payment for the purpose of making that payment. The Controller shall make that payment only from moneys credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund to which Orange County is entitled at that time under Chapter 5 (commencing with Section 11001) of Part 5 of Division 2 of the Revenue and Taxation Code, and shall thereupon reduce, by the amount of the payment, the subsequent allocation or allocations to which Orange County would otherwise be entitled under that chapter.

(4) As an alternate to the procedure set forth in paragraphs (2) and (3), Orange County may specify in the notice provided to the Controller pursuant to paragraph (1) a schedule of payments to be made on specified dates to the trustee, and the Controller shall, subject to the limitation in the second sentence of paragraph (3), make apportionments to the trustee in the amount of the required payments on the specified dates.

(b) This section shall not be construed to obligate the State of California to make any payment to Orange County from the Motor Vehicle License Fee Account in the Transportation Tax Fund in any amount or pursuant to any particular allocation formula, or to make any other payment to Orange County, including, but not limited to, any payment in satisfaction of any debt or liability incurred or guaranteed by Orange County in accordance with this section.

(Added by Stats. 1995, 2nd Ex. Sess., Ch. 2, Sec. 3. Effective May 15, 1995.)

53857. Notwithstanding the provisions in Section 53856, any note issued pursuant to this article shall be a general obligation of the local agency, and, to the extent not paid from the taxes, income, revenue, cash receipts or other moneys of the local agency pledged for the payment thereof shall be paid with the interest thereon from any other moneys of the local agency lawfully available therefor; provided, however, that any tax levied by a county for interest on notes for borrowed money shall be in addition to all other taxes and shall not be less than sufficient to pay the interest on notes for borrowed money as is to become due before the time for making the next general tax levy.

(Amended by Stats. 1972, Ch. 1384.)

53858. Notes shall not be issued pursuant to this article in any fiscal year in an amount which, when added to the interest payable thereon, shall exceed 85 percent of the estimated amount of the then uncollected taxes, income, revenue, cash receipts, and other moneys of the local agency which will be available for the payment of said notes and the interest thereon; provided, however, that to the extent that any principal of or interest on such notes is secured by a pledge of the amount in any inactive or term deposit of the local agency, the term of which will terminate during said fiscal year, such principal and interest may be disregarded in computing said limit.

For the purposes of this section, "revenue" includes, but is not limited to, revenue from the state and federal governments.

(Amended by Stats. 1982, Ch. 274, Sec. 2. Effective June 16, 1982.)