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AB-2738 School bonds: local school bonds: investment. (2015-2016)

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Assembly Bill No. 2738

CHAPTER 472

An act to amend Section 15146 of the Education Code, relating to school bonds.

[Approved by Governor September 22, 2016. Filed with Secretary of State September 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2738, Olsen. School bonds: local school bonds: investment.

The California Constitution limits the maximum amount of any ad valorem tax on real property to 1% of the full cash value of the property. The California Constitution states that the 1% limitation for ad valorem taxes does not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities approved by 55% of the voters if the proposition includes specified accountability requirements. Existing law requires the proceeds of the sale of the bonds, exclusive of any premium received, to be deposited in the county treasury to the credit of the building fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual.

This bill would prohibit the proceeds from the sale of bonds from being withdrawn by the school district or community college district for investment outside the county treasury.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 15146 of the Education Code is amended to read:

15146. (a) The bonds shall be issued and sold pursuant to Section 15140, payable out of the interest and sinking fund of the school district or community college district. The governing board of the school district or community college district may sell the bonds at a negotiated sale or by competitive bidding.

(b) (1) Before the sale, the governing board of the school district or community college district shall adopt a resolution, as an agenda item at a public meeting, that includes all of the following:

(A) Express approval of the method of sale.

(B) Statement of the reasons for the method of sale selected.

(C) Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are used for the sale, unless these individuals have not been selected at the time the resolution is adopted, in

which case the governing board of the school district or community college district shall disclose their identities at the public meeting occurring after they have been selected.

(D) Estimates of the costs associated with the bond issuance.

(E) If the sale includes bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, disclosure of the financing term and time of maturity, repayment ratio, and the estimated change in the assessed value of taxable property within the school district or community college district over the term of the bonds.

(2) If the sale includes bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, the resolution shall be publicly noticed on at least two consecutive meeting agendas, first as an information item and second as an action item.

(c) If the sale includes bonds that allow for the compounding of interest, including, but not limited to, capital appreciation bonds, the agenda item shall identify that bonds that allow for the compounding of interest are proposed and the governing board of the school district or community college district shall be presented with all of the following:

(1) An analysis containing the total overall cost of the bonds that allow for the compounding of interest.

(2) A comparison to the overall cost of current interest bonds.

(3) The reason bonds that allow for the compounding of interest are being recommended.

(4) A copy of the disclosure made by the underwriter in compliance with Rule G-17 adopted by the federal Municipal Securities Rulemaking Board.

(d) After the sale, the governing board of the school district or community college district shall do both of the following:

(1) Present the actual cost information for the sale at its next scheduled public meeting.

(2) Submit an itemized summary of the costs of the bond sale to the California Debt and Investment Advisory Commission.

(e) The governing board of the school district or community college district shall ensure that all necessary information and reports regarding the sale or planned sale of bonds by the school district or community college district it governs are submitted to the California Debt and Investment Advisory Commission in compliance with Section 8855 of the Government Code.

(f) The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not to exceed the maximum rate permitted by law. If the sale is by competitive bid, the governing board of the school district or community college district shall comply with Sections 15147 and 15148. The bonds shall be sold by the governing board of the school district or community college district no later than the date designated by the governing board of the school district or community college district as the final date for the sale of the bonds.

(g) The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any purposes other than those for which the bonds were issued. At no time shall the proceeds be withdrawn by the school district or community college district for investment outside the county treasury. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the school district or community college district.

(h) The governing board of the school district or community college district may cause to be deposited proceeds of sale of any series of the bonds in an amount not exceeding 2 percent of the principal amount of the bonds in a costs of issuance account, which may be created in the county treasury or held by a fiscal agent appointed by the school district or community college district for this purpose, separate from the building fund and the interest and sinking fund of the school district or community college district. The proceeds deposited shall be drawn out on the order of the governing board of the school district or community college district or an officer of the school district or community college district duly authorized by the governing board of the school district or community college district to make the order, only to pay authorized costs of issuance of the bonds. Upon the order of the governing board of the school district or community college district or duly authorized officer of the school district or community college district, the remaining balance shall be transferred to the county treasury to the credit of the building fund of the school district or community college district. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the school district or community college district.

(i) The governing board of the school district or community college district may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the school district or community college district in the amount of the annual

reserve permitted by Section 15250 or in any lesser amount, as the governing board of the school district or community college district shall determine from time to time. The deposit of bond proceeds pursuant to this subdivision shall be a proper charge against the building fund of the school district or community college district.

(j) The governing board of the school district or community college district may cause to be deposited proceeds of sale of any series of the bonds in the interest and sinking fund of the school district or community college district in the amount not exceeding the interest scheduled to become due on that series of bonds for a period of two years from the date of issuance of that series of bonds. The deposit of bonds proceeds pursuant to this subdivision shall be a proper charge against the building fund of the school district or community college district.