Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Juan Carrillo, Chair
AB 407 (Jackson) – As Amended April 23, 2025

SUBJECT: California Pollution Control Financing Authority.

SUMMARY: Makes numerous changes to state oversight of rate reduction bonds for local publicly-owned utilities (POUs) and the California Capital Access Fund (CalCAP Fund) administered by the California Pollution Control Financing Authority (CPCFA) Specifically, **this bill**:

1) Repeals CPCFA oversight of rate reduction bonds for local POUs.

2) Specifies that the CalCAP Fund may receive and accept any other private, state, or federal funding source not otherwise described in laws governing the CalCAP Fund to provide financial assistance, as specified.

3) Provides that when the CPCFA gains access to a funding source described in 2), above, the CPCFA shall develop and adopt by resolution the terms and conditions describing the financial assistance to be provided with moneys from the funding source.

4) Authorizes the CPCFA to divide the CalCAP Fund into separate accounts.

5) Specifies that all moneys accruing to the CPCFA, pursuant to existing law, from any source shall be deposited into the CalCAP Fund.

6) Adds "financial assistance" to the list of program expenditures from the California Americans with Disabilities Act Small Business Capital Access Loan Program Fund (CalCAP/ADA) and the California Seismic Safety Capital Access Loan Program (CalCAP Seismic), as specified. "Financial assistance" means any of the following:

   a) Loans.

   b) Loan loss reserves.

   c) Interest rate deductions.

   d) Proceeds of bonds issued by the authority.

   e) Bond insurance.

   f) Loan participation payments.

   g) Credit enhancements.

   h) Liquidity facilities.

i) Contributions of money.

j) A combination of any of (a) to (i), above.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

1) **Bill Summary and Author's Statement.** This bill removes CPCFA's review and reporting requirements on the issuance of RRBs by POUs. This bill also makes various changes to programs administered by CPCFA including, CalCAP, CalCAP/ADA and CalCAP Seismic. The California State Treasurer, Fiona Ma, is the sponsor of this bill.

   According to the author, "AB 407 is critical for California's future, the bill tackles urgent needs with practical solutions. Our local agencies, small businesses, and homeowners face growing challenges—aging infrastructure, economic pressures, and natural risks like earthquakes. This legislation is necessary to meet those challenges head-on and keep our state moving forward. This bill is necessary because delays and outdated rules hurt our communities. It's about giving people the tools they need to succeed and stay safe, right now. California thrives when we act boldly, and this legislation delivers that boldness with common-sense fixes."

2) **Joint Powers Authorities and POUs**. California's Joint Powers Act authorizes the joint exercise of powers by federal, state, and local public agencies that jointly perform functions that each entity may perform on its own. This structure allows multiple agencies to collaborate on addressing public needs, such as financing public infrastructure, forming insurance pools, and enhancing planning and regulation. A joint exercise of powers can be limited to a joint powers agreement (akin to a contract) among participating agencies. It can also include the creation of a new, separate entity that administers the joint powers agreement. These are variously called joint powers agencies or JPAs.

   POU activities and rates are regulated by locally elected boards and/or city councils. POUs are subject to the Ralph M. Brown Act, the Public Records Act, and competitive bid requirements.

3) **Rate Reduction Bonds**. RRBs are asset-backed securities that are structured to minimize borrowing costs by qualifying for AAA credit ratings, which allow borrowing at an interest rate that is well below the rate that would otherwise apply to a utility's long-term debt. To qualify for a AAA rating, RRB financing typically includes:

   a) Statutory authority to impose a dedicated charge on utility customers to repay the bonds.

   b) A requirement that the bonds must be issued, and the dedicated charge must be imposed, by a "bankruptcy-remote special purpose entity."

   c) A "true-up" mechanism that allows the dedicated charge to be regularly adjusted to ensure that the bonds are paid off at the final maturity date.

   d) A pledge made by the state not to impair the right to collect the dedicated charge until the bonds are paid in full.

RRBs were introduced in response to electricity market deregulation in the 1990s to allow investor-owned utilities (IOUs) in deregulated markets to recover so-called "stranded" costs of investments the utilities made before deregulation. California's IOUs used RRBs when the state restructured its energy industry. In that instance, the California Infrastructure and Development Bank (I-Bank) formed a trust that issued the bonds on behalf of the IOUs.

4) **AB 850 of 2013 – RRBs for California's POUs**. California's POUs were first authorized to use RRBs by AB 850 (Nazarian), Chapter 636, Statutes of 2013. This enabling legislation allowed JPAs to issue RRBs to finance specified projects for specified POUs. The bill included the following parameters:

   a) Types of POUs were limited to POUs that provide water service.

   b) Size of POUs was limited to POUs that have at least 25,000 retail customers.

   c) Types of projects were limited to infrastructure projects for conservation or reclamation purposes, or projects necessary to respond to or comply with a water quality mandate (such as a mandate under the Safe Drinking Water Act).

   Bond proceeds were allowed to fund projects that reduce the amount of potable water supplied by the utility or reduce the amount of water imported by the utility. This included projects for storm water capture and treatment, water recycling, development of local groundwater resources, groundwater recharging, and water reclamation.

   Los Angeles Department Water & Power (LADWP) sought this financing structure because it qualifies for a higher bond-rating (AAA) than other types of financing available to the utility, reducing interest rates and financing costs and, ultimately, rates for its customers. At the time, LADWP estimated that ratepayers would save as much as $3 million per year for each $100 million of financing under the provisions of AB 850. In the case of LADWP, with its planned spending for water quality and local water supply projects, rates were projected to be 2-4% lower during the course of the ensuing five years than they would have been absent the financing approach allowed by AB 850.

5) **AB 305 of 2019**. Although enacted in 2013, the authority to issue RRBs had not yet been exercised when AB 305 (Nazarian), Chapter 225, Statutes of 2019, was introduced to address challenges LADWP had encountered in using the financing mechanism. According to LADWP, the utility had formed a JPA in October of 2016, completed stakeholder and city review and approvals, and engaged in extensive interaction with CPCFA. LADWP made substantial progress toward issuing RRBs in 2017, including production of near final documents and opinions which involved extensive feedback on the rating agency requirements. Unfortunately, work on the issuance of the RRBs stopped as the result of problems with the implementation of a new billing system at LADWP, which prevented the utility from meeting rating agency requirements for the direct billing and collection of the utility project charge.

   AB 305 contained changes to the RRB statutes that LADWP reported were necessary as a result of rating agency requirements raised in connection with the attempt to issue RRBs in 2017, clarifications the RRB working group realized were needed resulting from LADWP's efforts to implement a RRB program, or the result of LADWP's interactions with CPCFA.

AB 305 made a number of changes to the authorization to issue RRBs, including the following:

a) Expanded the types of POUs allowed to form JPAs and issue RRBs to include those that provide wastewater service.

b) Expanded the types of projects that may be financed to include projects that facilitate the use of wastewater by a POU for conservation purposes, and wastewater recycling.

c) Allowed RRBs to be used to refinance projects.

d) Altered the determinations a POU with 500,000 or more retail customers must make as a condition of applying for RRB financing.

e) Required CPCFA to determine that an issue of RRBs is qualified for issuance solely on the basis of submitted documentation, and prohibited the determination from being conditional in any respect, including conditional on the submission or review of additional material after the determination.

f) Eliminated CPCFA review of the issuance of RRBs if the determinations of the local agency that must be made before the agency can apply for RRB financing are subject to review by a ratepayer advocate or similar entity whose function is to provide public independent analysis of a public utility's actions as they relate to water or wastewater rates.

g) Made a number of additional changes to the RRB statutes.

h) Extended the sunset date until December 31, 2026.

6) **AB 785 of 2021**. AB 758 (Nazarian), Chapter 233, Statutes of 2021 made additional changes to the authorization of RRBs. Specifically, the bill:

a) Expanded the types of POUs that can use RRBs to include POUs that provide electric service. The measure further expanded the types of projects that RRBs can finance to include projects:

   i) Used in connection with future operations of a POU.

   ii) For the provision of generation, transmission, or distribution of electrical service.

   iii) For any other utility purpose designated a "utility project" by a POU.

b) Clarified that CPCFA must submit its report to the Legislature to relevant policy committees with jurisdiction over energy and public utilities.

c) Extended the sunset date for the authorization to issue RRBs from December 31, 2026, to December 31, 2036.

7) **Role of the California Pollution Control Financing Authority**. The CPCFA is housed in the State Treasurer's office, and provides low-cost financing for projects that control pollution. It also assists with clean-up of contaminated sites. Among other activities, CPCFA assists the California Alternative Energy and Advanced Transportation Financing Authority, which provides financing for facilities needed to develop and commercialize advanced transportation and alternative energy technologies that reduce air pollution, conserve energy, and promote economic development and jobs. CPCFA's mission has expanded from supporting pollution control to promoting broader economic development through programs like the Small Business Assistance Fund (SBAF) and the California Capital Access Program (CalCAP).

   Amendments to AB 850 adopted in the Senate required CPCFA to review each issue of bonds and determine whether the issue is qualified for issuance under the bill's provisions, "in order to allow the state to review the issuance of RRBs, collect data, ensure transparency, and conduct an independent analysis of the effectiveness of the use of RRBs." It also required CPCFA to report annually to the Legislature on its activities related to the bill.

   Specifically, the CPCFA must determine that an issuance of RRBS satisfies the following:

   a) The project to be financed or refinanced is a utility project.

   b) The local agency is electing to finance or refinance costs of the utility project, as specified, and the financing costs associated with the financing are to be paid from the utility project.

   c) Based on information available to, and projections used by, the legislative body, the rates of the POU plus the utility project charge resulting from the financing from the financing of the utility project with RRBs are expected to be lower than the rates of the POU if the utility project was financed with bonds payable from revenues of the POU.

   d) A POU having 500,000 or more retail customers may, in instead of making the determination in c), above, determine that the use of RRBs to finance a project provides substantial benefits to the POU, as specified.

   The CPCFA is required to establish procedures for the review of a proposed issuance, including, but not limited to, the establishment of reasonable application fees to reimburse the CPCFA for costs associated with administering the review. AB 1765 (Nazarian), Chapter 322, Statutes of 2022, specifically allowed the CPCFA to charge additional fees to retain an independent financial advisor to review applications for RRBs. Existing law also requires the CPCFA to provide an explanation in writing for any refusal to qualify a proposed issuance but may not alter or modify any term or condition related to the utility project property. The CPCFA must take action within 60 days following the receipt of an application report annually to the Legislature on its activities related RRBs, which includes a listing of applications received, a listing of proposed issuances, a report of bonds sold which contains specified information, a specification of proposed issuances qualified but not yet issued, and a comparison of the interest rates and transactional costs on issuances.

   The requirements for review do not apply to RRBs for a POUs that are subject to review by a ratepayer advocate or similar entity whose function is to provide public independent analysis of a POU's actions as they relate to water, wastewater, or electric rates. Lastly, a JPA issuing a RRB must include in its preliminary notice and final report for the RRB submitted to the California Debt and Investment Advisory Commission (CDIAC), pursuant to exiting law, a statement that the RRBs are being issued. The JPA must also include, in its final report submitted to CDIAC, the estimated savings or local agency benefit realized by issuing RRBs rather than bonds payable from the revenues of the POU. According to its 2024 Annual Report published in March 2025, CPCFA did not receive any requests to review applications for POU RRBs, nor has it in any previous year.

8) **California Debt and Investment Advisory Commission.** CDIAC provides information, education and technical assistance on debt issuance and public fund investments to local public agencies and other public finance professionals. CDIAC was created in 1981 and serves as the State's clearinghouse for public debt issuance information. CDIAC is also required to assist state and local agencies with the monitoring, issuance and management of public debt.

   State and local agencies are required to submit information to CDIAC regarding any issuance of debt, including an annual report for any issue of debt that includes the following information:

   a) Debt authorized during the annual reporting period.

   b) Debt outstanding during the annual reporting period.

   c) The use of proceeds of issued debt during the annual reporting period.

9) **CalCAP.** CalCAP for Small Businesses was established in 1994, and provides credit enhancement to encourage financial institutions to lend to small businesses. CalCAP operates through two primary mechanisms: loan loss reserve and cash pledge, both of which reduce lender risk and expand access to capital. The program has evolved over the years to include multiple variants, including state and federally funded programs, as well as specialized initiatives in partnership with independent contributors.

   The CalCAP/ADA program, established in 2015, helps very small businesses finance ADA-compliant tenant improvements by encouraging lenders to make qualifying loans. CPCFA was allocated $10 million to administer the program using the CalCAP credit enhancement model. It also provides borrowers with a rebate to offset the cost of a Certified Access Specialist (CAS) Report.

   The CalCAP Seismic Program was established in 2016 with a one-time $10 million allocation to support seismic retrofitting for small businesses and residential property owners by offering credit enhancements through loan loss reserve accounts for participating lenders.

   For additional discussion of this bill's provisions related to CalCAP and how this bill affects some of CPCFA's other programs, please refer to the analysis prepared by the Assembly Committee on Banking and Finance.

10) **Policy Consideration.** State and local agencies are required to submit a report of any proposed issuance of debt to CDIAC. While issuers of RRBs also have to provide certain information to CDIAC, it is unclear if this information is the same that the CPCFA is

required to review and report on, including whether or not the issuance of a RRB meets the requirements enumerated in law and a comparison of the interest rates and transactional costs on RRB issuances.

This bill seeks to remove the requirement that CPCFA review the issuance of RRBs and report information regarding their issuance to the Legislature. As stated in CPCFA's most recent report, it has never received a request to review a POU RRB. According to the Senate Governance and Finance Committee analysis for AB 850, "Government programs start with the best intentions but, if no one pays attention, they can sometimes go awry. Recent experiences in the financial markets demonstrate that complex structured-financing mechanisms that receive AAA ratings don't always work as expected and can harbor unanticipated risks. The type of securitization financing AB 850 authorizes has never been used by public agencies to finance the types projects described in the bill. Fundamental assumptions underlying a JPA's decision to issue rate reduction bonds may prove to be flawed. A projection that ratepayers will pay lower overall rates as a result of rate reduction bond financing is no guarantee that ratepayers will actually realize those savings. Allowing local utilities to use off balance-sheet accounting for assets involved in rate reduction bond financing may distort measures of a public utilities fiscal condition."

Accordingly, in order to review the issuance of RRBs, AB 850 added the requirements that CPCFA must review them. Given that no POU has issued a RRB under this authority, the Committee may wish to consider if the requirement to review and report on RRB issuances should be removed completely, or if another entity, like CDIAC, may be better suited for this task.

11) **Committee Amendment.** In order to respond to the above policy consideration, the Committee may wish to consider restoring the review and reporting requirement by removing Section one of the bill.

12) **Arguments in Support.** According to the California State Treasurer Fiona Ma, "After AB 850 (Nazarian, 2013), CPCFA was inserted into the rate reduction bond review process. Rate reduction bonds, upon approval of joint powers authorities, are issued to local public utilities (POU) to finance utility projects. However, under current law, CPCFA cannot issue tax-exempt private activity bonds to POUs, so reviewing rate reduction bonds for POUs requires hiring specialist consultants, resulting in additional costs for CPCFA and bond applicants, which has limited applications to these local programs. There have been no applications since CPCFA has been included. This bill would revert this oversight review back to the joint powers authorities.

"Further, California Capital Access Program (CalCAP), a program under the CPCFA, encourages lenders to loan to small businesses by providing risk management tools. Using CalCAP, lenders provide private capital to fund loans to small businesses, and CalCAP funds provide a safeguard against total loss to the lender due to default by the borrower. California Americans with Disabilities Act Small Business Capital Access Loan Program (CalCAP/ADA) helps small businesses to finance retrofitting their facilities to be ADA complaint. California Seismic Safety Capital Access Loan Program (CalCAP Seismic) helps small businesses to retrofitting their facilities to be less vulnerable to extreme seismic facility.

"However, CalCAP has seen issues with accessibility under current law. The narrowness of eligibility to utilize the CalCAP/ADA and CalCAP Seismic programs has limited these programs' ability to provide these financial tools to small businesses seeking to make their facilities ADA compliant or retrofitted to safety standards. Potential applicants to CalCAP/ADA and CalCAP Seismic who have contacted CPCFA about these programs have identified the lack of resources to repay a loan as a significant concern for applying.

"This bill removes CPCFA's involvement in rate reduction bond issuance for publicly owned utilities, allowing the process to be handled at the local level. This bill also adjusts programs like CalCAP/ADA and CalCAP Seismic to provide additional assistance, such as interest rate reductions and contributions, at no additional cost to the General Fund. Improving administrative processes and increasing accessibility to these programs would provide financial relief and support for small businesses throughout California."

13) **Arguments in Opposition.** None on file.

14) **Double-Referral.** This bill is double-referred to the Assembly Banking and Finance Committee, where it passed on 9-0 vote on April 21, 2025.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Treasurer, Fiona Ma [SPONSOR]

Opposition

None on file

Analysis Prepared by: Jimmy MacDonald / L. GOV. / (916) 319-3958