

Date of Hearing: June 29, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

SB 1029 (Hertzberg) – As Amended June 15, 2016

SENATE VOTE: 39-0

SUBJECT: California Debt and Investment Advisory Commission: accountability reports.

SUMMARY: Requires state and local government debt issuers to report information regarding proposed and outstanding debt to the California Debt and Investment Advisory Commission (CDIAC). Specifically, **this bill:**

- 1) Requires the report of proposed debt issuance submitted to CDIAC, pursuant to existing law, to include a certification by the issuer that it has adopted local debt policies concerning the use of debt and that the contemplated debt issuance is consistent with those local debt policies. Requires a local debt policy to include all of the following:
 - a) The purposes for which the debt proceeds may be used;
 - b) The types of debt that may be issued;
 - c) The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable;
 - d) Policy goals related to the issuer's planning goals and objectives; and,
 - e) The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.
- 2) Provides that a bond issuer that issues bonds on behalf of another governmental entity may rely upon a certification by that other governmental entity that it has adopted specified debt policies.
- 3) Requires, on or after January 21, 2017, any state or local government debt issuer to provide an annual report to CDIAC for any issue of debt for which the issuer has submitted a report of final sale, pursuant to existing law.
- 4) Requires the annual report to cover a reporting period from July 1 to June 30, inclusive, and to be submitted no later than seven months after the end of the reporting period by any method approved by CDIAC.
- 5) Requires the annual report to contain the following information:
 - a) Debt authorized during the reporting period, which includes the following:
 - i) Debt authorized at the beginning of the reporting period;

- ii) Debt authorized and issued during the reporting period;
 - iii) Debt authorized but not issued at the end of the reporting period; and,
 - iv) Debt authority that has lapsed during the reporting period;
- b) Debt outstanding during the reporting period, which includes the following:
- i) Principal balance at the beginning of the reporting period;
 - ii) Principal paid during the reporting period; and,
 - iii) Principal outstanding at the end of the reporting period;
- c) The use of proceeds of issued debt during the reporting period, which includes the following:
- i) Debt proceeds available at the beginning of the reporting period;
 - ii) Proceeds spent during the reporting period and the purposes for which it was spent; and,
 - iii) Debt proceeds remaining at the end of the reporting period.
- 6) Requires compliance with the annual reporting requirements for each issue of debt with outstanding debt, debt that has been authorized but not issued, or both during the reporting period.
- 7) Authorizes CDIAC, if technology permits, to develop an alternate reporting method, provided that any alternate reporting method is in furtherance of the purpose of collecting the data required by this bill.
- 8) Expands the list of CDIAC's responsibilities under existing law to include tracking and reporting on all state and local outstanding debt, until fully repaid or redeemed.
- 9) Deletes the existing requirement that specified information from CDIAC must be readily available upon request by any public official or any member of the public, and instead, requires the information to be available to the public.
- 10) Makes findings and declarations, including that California's 4,200 units of local government have issued \$1.5 trillion in debt since 1984.
- 11) Provides that is the intent of the Legislature that all debt issuance of state and local governments be published in a single, transparent online database that allows the citizens of California to analyze, interpret, and understand how debt authorized by the public is utilized to finance facilities and services at the state and local level.

EXISTING LAW:

- 1) Establishes the composition of CDIAC and requires CDIAC to fulfill a number of duties, including collecting, maintaining, and providing comprehensive information of all state and local debt authorization and issuance, and serving as a statistical clearinghouse for all state and local debt. Requires this information to be readily available upon request by any public official or any member of the public.
- 2) Requires a state or local government issuer of proposed debt to submit a report, no later than 30 days prior to the sale of any debt issue, to CDIAC by any method approved by CDIAC.
- 3) Requires a state or local government issuer of debt, no later than 21 days after the sale of debt, to submit a report of final sale to CDIAC, as specified. Requires the issuer to provide each of the following documents, if they exist, with the report of final sale:
 - a) Other disclosure document;
 - b) Indenture;
 - c) Installment sales agreement;
 - d) Loan agreement;
 - e) Promissory note;
 - f) Bond purchase contract;
 - g) Resolution authorizing the issue; and,
 - h) Bond specimen.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Current Reporting Requirements.** Under the State Treasurer, CDIAC collects, maintains, and provides comprehensive information on all state and local debt authorization and issuance, and serves as a statistical clearinghouse for all state and local debt issues.

Existing law contains reporting requirements on proposed debt and following the sale of debt, which applies to any state and local government debt issuer. State and local government debt issuers must report to CDIAC on proposed debt 20 days prior to the sale of debt issuance. Additionally, no later than 21 days after the sale of debt, state and local government debt issuers must submit a report of final sale to CDIAC accompanied by the final official statement for the issue and specified documents.

Some types of statutory authority for bond issuance also contain additional reporting requirements. For example, among the list of reports that state and local government debt issuers are required to submit to CDIAC is a specific requirement on all local government issuers of Mello-Ross Community Facilities District bonds to provide a fiscal status report

containing specified information to CDIAC by October 30 of every year, until the bonds have been retired.

- 2) **Bill Summary.** This bill builds on existing reporting requirements to CDIAC for state and local government debt issuers. This bill adds to the report that state and local government issuers of proposed debt must submit to CDIAC to include a certification that the issuer has adopted local debt policies and that the use of debt is consistent with adopted local policies. Additionally, state and local debt issuers that submit a report, pursuant to existing law, following the sale of debt will also be required to submit an annual report. This bill is sponsored by California State Treasurer, John Chiang.
- 3) **Author's Statement.** According to the author, "SB 1029 imposes some additional reporting requirements on debt issuers that will benefit taxpayers, investors, and public agencies. Taxpayers deserve to have enough information to determine, with confidence, that public officials are being good stewards of public funds. Investors will benefit from having more knowledge about the types of internal controls that governments have in place to ensure that debt proceeds are used as promised. Following broadly-accepted best-practices, like adopting debt policies, will benefit government debt issuers by reducing the potential for incidents of fraud or mismanagement, thereby improving fiscal outcomes for public agencies. The enhanced transparency requirements imposed by SB 1029 are similar to requirements that already apply to some types of debts, including Mello-Roos districts' bonds and school districts' general obligation bonds. Applying similar standards to all types of state and local debt is a common-sense response to concerns about how debt proceeds are being managed in California."
- 4) **Task Force.** Following the controversy in 2015, when news reports revealed that approximately \$1.3 million in bond proceeds held by the Association for Bay Area Governments' Finance Authority were missing, State Treasurer John Chiang created a Task Force on Bond Accountability. The Task force developed best practice guidelines for how bond proceeds should be managed to reduce the risk of fraud, waste, and abuse and to identify strategies to increase transparency and oversight of the use of bond funds.
- 5) **Arguments in Support.** State Treasurer John Chiang argues that this bill builds on the work of the Task Force on Bond Accountability and will give the public the information necessary to assess whether bond proceeds were utilized for their lawful and intended purpose.
- 6) **Arguments in Opposition.** California's Coalition for Adequate School Housing (CASH), argues "Due to the duplicative efforts and additional costs that the bill would make on K-12 school districts we respectfully request that schools be excluded from SB 1029..."

REGISTERED SUPPORT / OPPOSITION:

Support

California State Treasurer, John Chiang [SPONSOR]
California Association of County Treasurers and Tax Collectors
California Professional Firefighters
California Taxpayers Association
Little Hoover Commission

Opposition

Association of California School Administrators (unless amended)
California's Coalition for Adequate School Housing (unless amended)

Analysis Prepared by: Misa Lennox / L. GOV. / (916) 319-3958