

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 450 (Hertzberg) – As Amended May 17, 2017

SENATE VOTE: 40-0

SUBJECT: Public bodies: bonds: public notice.

SUMMARY: Requires the governing body of a public body to obtain and disclose specified information in a public meeting prior to authorizing the issuance of bonds. Specifically, **this bill:**

- 1) Requires the governing body of a public body, county, city, city and county, public district, authority and corporation, nonprofit corporation or other statutorily constituted public entity that is authorized to issue bonds, to obtain and disclose the following information in a meeting open to the public prior to authorizing the issuance of bonds with a term greater than 13 months:
 - a) The true interest cost of the bonds, which means the cost of interest expressed as a yearly rate;
 - b) The finance charge of the bonds, which means the sum of all fees and charges paid to third parties;
 - c) The amount of proceeds received by the public body for sale of the bonds less the finance charge of the bonds and any reserves or capitalized interest paid or funded with the proceeds of the bonds; and,
 - d) The total payment amount, which means the sum total of all payments the borrower will make to pay debt service on the bonds plus the finance charge of the bonds not paid with proceeds of the bonds. Requires the total payment amount to be calculated to the final maturity of the bonds.
- 2) Requires the information in 1), above, to be obtained as a good faith estimate from an underwriter, financial advisor, or private lender, or from a third-party borrower, subject to the following requirements:
 - a) Requires, if the public body issuing bonds is a conduit financing provider issuing bonds on behalf of a third-party borrower, the information to be presented to the third-party borrower as a good faith estimate by an underwriter, financial advisor, or private lender engaged by the third-party borrower;
 - b) Requires, if the third-party borrower has a governing board, the information to be presented to the governing board or the official, officials, or committee designated by the governing board to obligate the third-party borrower in connection with the financing. Requires, if the third-party borrower does not have a governing board, the information to

be presented to the officials of the third-party borrower who has the authority to obligate the third-party borrower in connection with the financing; and,

- c) Requires the third-party borrower to provide the information to the public body prior to the disclosure of the information specified in 1), above.
- 3) Prohibits the requirements in this bill from applying to any public body that is a state entity. Defines "state entity" to mean any agency, department, bureau, board, or commission of any kind.
- 4) Specifies that failure to comply with the requirements of this bill does not affect the validity of the bonds or their authorization.
- 5) Finds and declares that Section 1 of the bill furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies, and declares, pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, that the Legislature makes the following findings: This bill ensures the public's right of access to information about the conduct of their government agencies relating to the issuance of bonds.
- 6) Provides that no reimbursement is required by this bill because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Bonds.** Existing law grants local agencies, and in some cases nonprofit and public corporations, the authority to issue a variety of types of bonds to fund a wide range of infrastructure projects, including assessment bonds, general obligation (GO) bonds, revenue bonds, Mark-Roos bonds, and Mello-Roos bonds. Each type of bond has different requirements for issuance and provides funding for different types of infrastructure development and maintenance. Some types of bonds must be approved by a two-thirds vote like GO bonds (except for school bonds, which require a 55% vote) while others can be issued with a majority vote. Each bond type has different restrictions and is secured by a specific revenue source.

Current law also authorizes local agencies to issue bonds for the purpose of making loans to entities other than state or local governments commonly referred to as "conduit bonds," and state or local governments which issue these bonds are commonly referred to as "conduit issuers." A conduit issuer in a conduit bond financing typically issues the bonds and loans the bond proceeds to a conduit borrower. A conduit borrower is generally responsible for the payment of debt service on the conduit bond issue and is usually contractually obligated to maintain the tax-exempt status of the bonds.

- 2) **Current Reporting Requirements.** Under the State Treasurer, the California Debt and Investment Advisory Commission (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 30 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.

SB 1029 (Hertzberg), Chapter 307, Statutes of 2016, added to existing reporting 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 following the sale of debt also must submit an annual report.

- 3) **Bill Summary.** This bill requires, prior to the authorization to issue bonds with a term greater than 13 months, the governing body of a city, county, special district, public authority, public corporation, nonprofit corporation or any other statutorily constituted public entity, that is authorized to issue bonds to obtain and disclose specified information in a public meeting. This information must include the annual interest rate, finance charge, total amount financed, and total payment amount of the bond. This bill requires that the specified information is obtained as a good faith estimate from an underwriter, financial advisor, or private lender. This bill establishes requirements when the information is provided by a third-party borrower. This bill is sponsored by California State Treasurer John Chiang.
- 4) **Author's Statement.** According to the author, "The public cannot readily evaluate whether bond financing is a prudent investment choice if they do not completely understand the cost of long-term borrowing and the dimensions of the obligation being undertaken. SB 450 would present financial data in a form similar to that required by federal law for mortgage loans. Bonds are not free money. Although taxpayers may know the principal amount borrowed by the local entity, they may not have a full picture as to annual costs of borrowing, the costs associated with bond transactions, and the total amount that will be paid by taxpayers over lifetime of the bond. This ensures the public's right of access to information about the issuance of bonds."
- 5) **Arguments in Support.** California State Treasurer John Chiang, argues "SB 450 will provide that information by requiring local entities to obtain a "Truth in Public Borrowing Statement" from their underwriter, financial intermediary, or private lender before the authorization of long-term debt obligations. This statement will provide financial

information in a form similar to that required by federal law for mortgage loans, and include the annual percentage rate, finance charge, total amount financed, and total payment amount of the bond."

- 6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Treasurer John Chiang [SPONSOR]
California Association of County Treasurers and Tax Collectors
California Taxpayers Association (CalTax)

Concerns

California Special Districts Association

Opposition

None on file

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