



**Government Finance & Administration Policy
Committee**
CSAC Legislative Conference
Thursday, May 19, 2016 — 8:15 a.m. – 9:45 a.m.
Hyatt Regency Sacramento, Regency A
Sacramento County, California

Supervisor Henry Perea, Fresno County, Chair
Supervisor Erin Hannigan, Solano County, Vice Chair

- 8:15 a.m. I. **Welcome and Introductions**
Supervisor Henry Perea, Fresno County, Chair
Supervisor Erin Hannigan, Solano County, Vice Chair
- 8:20 a.m. II. **State Budget Update and Fiscal Forecast**
Carolyn Chu, Senior Fiscal & Policy Analyst, Legislative Analyst's Office
- 8:35 a.m. III. **November Ballot Measure: Revenue Bonds by Statewide Voter Approval – ACTION ITEM**
Kurt Oneto, Partner, Nielsen Merksamer Parrinello Gross & Leoni, LLP
Brandon Castillo, Partner, Bicker, Castillo & Fairbanks
- 9:05 a.m. IV. **SB 272 Open Data Law Compliance**
Faith Conley, Legislative Representative, CSAC
County of Sacramento
- 9:20 a.m. V. **Broadband Legislative and Regulatory Update**
Sunne Wright McPeak, President and CEO, California Emerging Technology Fund
- 9:30 a.m. VI. **Legislative Update**
Faith Conley, Legislative Representative, CSAC
Dorothy Holzem, Legislative Representative, CSAC
- 9:40 a.m. VII. **Open Source Voting Systems**
Brent Turner, Secretary, California Association of Voting Officials
- 9:45 a.m. VIII. **Ballot Measures Update – Informational Item**
- 9:45 a.m. IX. **Closing Comments and Adjournment**
Supervisor Henry Perea, Fresno County, Chair
Supervisor Erin Hannigan, Solano County, Vice Chair

ATTACHMENTS

November Ballot Measure: Revenue Bonds by Statewide Voter Approval

- Attachment One Memo on 2016 Ballot Measure “No Blank Checks” Revenue Bond Approval
- Attachment Two “No Blank Checks” Initiative Language as Submitted
- Attachment Three Fiscal Analysis by Legislative Analysts’ Office and Department of Finance
- Attachment Four Background Paper from Joint Legislative Hearing

SB 272 Open Data Law Compliance

- Attachment Five Senate Bill 272 Language

Legislative Update

- Attachment Six..... Memo on Legislative Update

Ballot Measures Update

- Attachment Seven..... Memo on 2016 Ballot Measures

November Ballot Measure: Revenue Bonds by Statewide Voter Approval

Attachment One

Memo on 2016 Ballot Measure “No Blank Checks” Revenue Bond Approval



May 6, 2016

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To: Members, Government Finance and Administration Policy Committee

From: Dorothy Holzem, CSAC Legislative Representative
Betsy Hammer, CSAC Legislative Analyst

Re: **2016 Ballot Measure “No Blank Checks” Revenue Bond Approval, Initiative No. 15-0003 – ACTION ITEM**

Recommendation. Staff recommends the Government Finance and Administration Policy Committee recommends a position of “No Position” to the Executive Committee.

Background. In sum, this measure requires statewide voter approval for the state to issue revenue bonds exceeding \$2 billion dollars for any single project. The proponent’s intent is to bring greater accountability and transparency to state financed infrastructure projects through mandatory voter-approved action.

Unlike general obligation bonds, revenue bonds are not currently subject to voter approval requirements. They can be passed by a majority of the Legislature with an identified and designated revenue source that will be used to repay investors. The voter-approved distinction is based on the fact that revenue bonds do not put the state General Fund at risk, unlike general obligation bonds. Recently, revenue bonds have been used to finance capital improvement projects for the University of California, California Department of Corrections and Rehabilitation, and the State Water Project. The California Earthquake Authority issues revenue bonds backed by insurance premiums to pay claims.

The \$2 billion dollar threshold would be adjusted annually to reflect inflation, as determine by the Consumer Price Index. Voter approval must be achieved at a “statewide election” which could be interpreted to mean the vote could be held during a primary, general or special election.

Attorney General’s Summary. Requires statewide voter approval before any revenue bonds can be issued or sold by the state for projects that are financed, owned, operated, or managed by the state or any joint agency created by or including the state, if the bond amount exceeds \$2 billion. Prohibits dividing projects into multiple separate projects to avoid statewide voter approval requirement.

Fiscal Impact. The Legislative Analyst Office offers that the fiscal effect on state and local governments is unknown and would vary by project. It would depend on (1) the outcome of projects brought before voters, (2) the extent to which the state relied on alternative approaches to the projects or alternative financing methods for affected projects, and (3) whether those methods have higher or lower costs than revenue bonds. The State Treasurer’s Office concurs that fiscal impacts are hard to determine due to undefined terms in the measure’s language and unknown outcomes from approved or rejected bond proposals.

Staff Comments.

Impact on Projects Statewide. The measure’s definition of impacted projects is limited to the state only. It defines the state as expressly not including counties, amongst other local

government entities. However, there are two likely scenarios where this measure could impact counties. First, if counties enter into a JPA with the state, or are part of a state-created JPA, those projects would be subject to the revenue bond voter-approval requirements. The Bay Area Toll Authority and the Orange County Transportation Corridor Agencies are two current JPA's with a state and local partnership. JPAs formed by legislative special acts would also be subject to the "No Blank Checks" measure.

Local Control Threat. The second possible impact is less direct but speaks to the issue of local control. Revenue bonds are repaid by "users" of a project who directly benefit, through toll roads or toll bridges or parking garage fees, and not taxpayers statewide. One could argue that requiring statewide voter approval on projects ultimately paid for by users within a local region, for the benefit of that region, is not consistent with local control policies.

Definitions Unclear. Other general concerns that may or may not impact counties include undefined terms such as "revenue bond" and "project." The measure also offers that multiple projects are considered to be the same single project if 1) they are physically or geographically proximate to each other or 2) it cannot complete its purpose or function without the completion of another allegedly separate project. This could expand the number of projects potentially subject to the voter approval requirements.

Ballot Measure Review Process. Following referral by the CSAC Officers, the GF&A Policy Committee may recommend a position, including "No Position." The recommendation will be forwarded to the CSAC Executive Committee and, if the motion is approved, then it will be forwarded to the CSAC Board of Directors for action before the November 2016 statewide election. The California statewide General Election will be held on Tuesday, November 8, 2016.

If "No Position" is recommended by the Committee, it will be forwarded to the Executive Committee as an informational item only. This will be subsequently forwarded to the Board of Directors as an informational item, unless the Executive Committee votes to take a "Support" or "Oppose" position.

Staff Contacts. Please contact Dorothy Holzem (dholzem@counties.org or 916/650-8133) or Betsy Hammer (bhammer@counties.org or 916/650-8108) for additional information.

Attachments.

- 1) Full Text of Ballot Initiative
- 2) Fiscal Analysis by Legislative Analyst's Office and California Department of Finance
- 3) Background Paper: Joint Legislative Hearing of the Senate Committee on Governance & Finance and Assembly Committee on Appropriations

November Ballot Measure: Revenue Bonds by Statewide Voter Approval

Attachment Two

“No Blank Checks” Initiative Language as Submitted

January 7, 2015

RECEIVED
JAN 07 2015

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA PERSONAL DELIVERY

The Honorable Kamala D. Harris
Attorney General
1300 I Street, 17th Floor, P.O. Box 944255
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Request for Title and Summary for Proposed Initiative Constitutional
Amendment

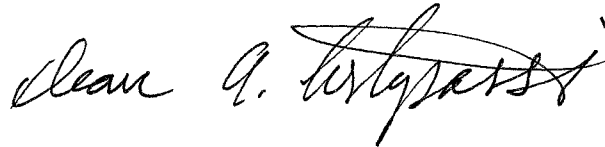
Dear Ms. Harris:

Pursuant to Article II, Section 10(d) of the California Constitution, I hereby submit the attached proposed Initiative Constitutional Amendment, entitled the "No Blank Checks Initiative," to your office and request that you prepare a title and summary of the measure as provided by law. Included with this submission is the required proponent affidavit signed by the proponent of this measure pursuant to Section 9608 of the California Elections Code. My address as a registered voter is attached to this letter, along with a check for \$200.00.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Gross & Leoni, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Kurt Oneto (telephone: 916/446-6752).

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, reading "Dean A. Cortopassi". The signature is written in a cursive style with a large, sweeping flourish over the last name.

Dean Cortopassi, Proponent

Enclosure: Proposed Initiative Constitutional Amendment

Section 1. Title.

This Act shall be known and may be cited as the No Blank Checks Initiative.

Section 2. Findings and Declarations.

The People of the State of California find and declare as follows:

(a) The politicians in Sacramento have mortgaged our future with long-term bond debt obligations that will take taxpayers, our children, and future generations decades to pay off.

(b) Under current rules, the sale of state bonds only needs to be approved by voters if they will be repaid out of the state's general revenues. But state politicians can sell billions of dollars of additional bond debt without ever getting the voters' approval if the bonds will be repaid with specific revenue streams or charges imposed directly on Californians like taxes, fees, rates, tolls, or rents. The politicians should not be allowed to issue blank checks Californians have to pay for. Voters must provide prior approval for all major state bond sale decisions, because voters are the ones who ultimately pay the bill.

(c) According to a 2014 report from California's independent, nonpartisan Legislative Analyst's Office, the State of California is carrying \$340 billion in public debt. (*Legislative Analyst's Office*, "Addressing California's Key Liabilities," Mar. 7, 2014.) Interest and principal payments on our long-term debt obligations will cripple the state if we keep spending the way we do now—reducing cash available for public safety, schools, and other vital state programs.

(d) Moreover, voters are rarely told the true costs of bond-funded projects. We were originally told that the bullet train would cost \$9 billion. But now the estimated cost has ballooned to nearly \$70 billion. (*Los Angeles Times*, "The Hazy Future of California's Bullet Train," Jan. 14, 2014.)

(e) This measure puts the brakes on our state's public debt crisis by giving the voters a say in all major state bond debt proposals that must be repaid through specific revenue streams or charges imposed directly on Californians like taxes, fees, rates, tolls, or rents.

Section 3. Statement of Purpose.

The purpose of this measure is to bring the state's public debt crisis under control by giving the voters a say in all major state bond-funded projects that will be paid off through specific revenues streams or higher taxes, fees, rates, tolls, or rents collected from Californians, their children, and future generations.

Section 4. Section 1.6 is added to Article XVI of the California Constitution, to read:

Section 1.6. (a) Notwithstanding any other provision of law, all revenue bonds issued or sold by the State in an amount either singly or in the aggregate over two billion dollars (\$2,000,000,000) for any single project financed, owned, operated, or managed by the State must first be approved by the voters at a statewide election. "State" means the State of California, any agency or department thereof, and any joint powers agency or similar body created by the State or in which the State is a member. "State" as used herein does not include a city, county, city and county, school district, community college district, or special district. For purposes of this section, "special district" refers only to public entities formed for the performance of local governmental functions within limited boundaries.

(b) A single project for which state revenue bonds are issued or sold in an amount over two billion dollars (\$2,000,000,000) may not be divided into, or deemed to be, multiple separate projects in order to avoid the voter approval requirements contained in this section. For purposes of this section, multiple allegedly separate projects shall be deemed to constitute a single project including, but not limited to, in the following circumstances: (1) where the allegedly separate projects will be physically or geographically proximate to each other; or (2) where the allegedly separate projects will be physically joined or connected to each other; or (3) where one allegedly separate project cannot accomplish its stated purpose without the completion of another allegedly separate project.

(c) The two billion dollar (\$2,000,000,000) threshold contained in this section shall be adjusted annually to reflect any increase or decrease in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Bureau of Labor Statistics. The Treasurer's Office shall calculate and publish the adjustments required by this subdivision.

Section 5. Liberal Construction.

This act shall be liberally construed in order to effectuate its purposes.

Section 6. Conflicting Measures.

(a) In the event that this measure and another measure or measures relating to voter approval requirements for state bonds shall appear on the same statewide election ballot, the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by the voters but superseded in whole or in part by any other conflicting initiative approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

Section 7. Severability.

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

Section 8. Legal Defense.

If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint

independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

November Ballot Measure: Revenue Bonds by Statewide Voter Approval

Attachment Three

Fiscal Analysis by Legislative Analyst's Office and Department of Finance

LAO

February 26, 2015

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

RECEIVED

FEB 26 2015

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative regarding voter approval of certain revenue bonds (A.G. File No. 15-0003).

Background

Bonds Are One Source of Funding for Government Projects. Bonds are a way the state and local governments borrow money. Governments sell bonds to investors to provide “up-front” funding for projects (such as infrastructure projects) and then commit to repay the investors, with interest, over a period of time. Governments use bonds to fund projects for a variety of reasons. For instance, bonds are sometimes used to help pay for costly projects that may be difficult to pay for all at once. Bonds spread the costs of projects over time, which may make sense when projects provide services over many years. In addition to bonds, governments in California often use a variety of other funding sources (such as grants, taxes, and fees) to help pay for projects.

Voters Must Approve Some Types of Bonds. General obligation bonds and revenue bonds are two types of bonds issued by state and local governments in California. State general obligation bonds are guaranteed by the state government’s full faith and credit and are generally repaid using the state’s general tax revenues. Local general obligation bonds are typically funded by increased property taxes. The California Constitution requires voter approval of state and local general obligation bonds.

Unlike general obligation bonds, revenue bonds are not guaranteed directly by state or local government taxing powers. Instead, revenue bonds are repaid using designated funding streams generally associated with the projects they finance. For example, funding generated by fees or other charges paid by users of a project (such as bridge tolls) are used to repay the project’s revenue bonds. In addition, in some cases, governments pay for a type of revenue bond called a “lease revenue bond,” often through a lease or rent paid from a government’s general tax or special fund revenues. Unlike general obligation bonds, revenue bonds do not require voter approval under existing state law. Some examples of projects that are often funded by revenue bonds include public office buildings, bridges, and water treatment facilities.

Legislative Analyst’s Office
California Legislature
Mac Taylor • Legislative Analyst
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(916) 445-4656 • FAX 324-4281

Proposal

Requires Voter Approval for Certain Revenue Bonds. The measure requires statewide voter approval for revenue bonds for projects that meet all of the following conditions:

- The total amount of revenue bonds sold for the project exceeds \$2 billion. The measure specifies that the \$2 billion threshold be adjusted annually based on the Consumer Price Index.
- The project funded by the revenue bonds would be funded, owned, operated, or managed by the state, including any joint powers agency or similar body created by the state or in which the state is a member.

Fiscal Effects

The fiscal effects of this measure on state and local governments are subject to substantial uncertainty. In particular, it is unclear (1) how certain provisions of the measure would be interpreted by government agencies and the courts, which could affect the number of projects subject to the measure's voter requirements; and (2) how affected governments would respond to the measure and election outcomes. As a result, there is substantial uncertainty regarding the fiscal impacts of the measure on state and local governments. Specifically, it is:

- ***Uncertain Which Projects Would Be Affected by Measure.*** The measure does not provide a definition for a project. For example, a project could be limited to what is built on a given site at a specific time (such as an individual medical building) or could include larger systems of improvements constructed over time (such as a medical center with multiple buildings). A broader definition of a project would result in more instances in which the \$2 billion threshold is reached, thus triggering the measure's voting requirements. Accordingly, there is uncertainty regarding which projects government agencies and the courts would determine are subject to the requirements of this measure.
- ***Uncertain How Affected Entities Would Respond to Measure.*** Governments could vary in how they respond to the requirements of the measure, as well as the results of future elections. For example, the voter requirement might discourage certain project proponents from pursuing projects due to the additional costs and uncertainty associated with the voter approval process. The measure could also result in some projects being funded through other financing methods rather than revenue bonds. For example, the state might rely more heavily on up-front spending or might turn to partnerships with the private sector to provide financing (often referred to as "public-private partnerships").

Impact on Projects. The fiscal impacts to state and local governments associated with the measure are unknown and would vary by project. In any case, there would likely be relatively few projects large enough to come under the measure's requirement of voter approval. To the extent that voters did not approve these projects, there would be a reduction in the issuance of revenue bonds for large infrastructure projects, which would reduce costs to those individuals whose fees or other charges are dedicated to paying off the bond. However, if these projects

could no longer be completed, the state would likely have to take other actions to meet the concerns the projects were intended to address:

- To the extent the state used non-infrastructure approaches (such as demand management or incentive payments), the impact on fees and charges paid by individuals for their services could be less than or greater than under a revenue-bond financed project.
- To the extent that the measure results in some projects being funded through other financing methods rather than revenue bonds, there could be various fiscal effects. For example, some projects might rely more heavily on general obligation bonds or up-front spending, which could result in some project savings over the course of the repayment period (due to lower interest costs). However, up-front spending—in the shorter term—could result in reduced spending in other areas of the budget or pressure for increased revenues (such as taxes or user fees). Alternatively, the use of public-private partnerships could be more expensive for the state than traditional revenue bonds, in part because bonds issued by private entities usually do not qualify for the same tax preferences as state revenue bonds.


Administrative Costs. State and local governments would also incur some administrative costs related to placing certain revenue bonds on the ballot. These costs would be relatively minor.

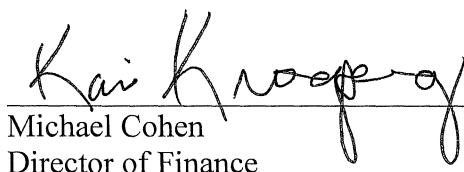
Summary of Fiscal Effects. This measure would have the following major fiscal effect:


- The fiscal effect on state and local governments is unknown and would vary by project. It would depend on (1) the outcome of projects brought before voters, (2) the extent to which the state relied on alternative approaches to the projects or alternative financing methods for affected projects, and (3) whether those methods have higher or lower costs than revenue bonds.

Sincerely,




Mac Taylor
Legislative Analyst




Michael Cohen
Director of Finance

November Ballot Measure: Revenue Bonds by Statewide Voter Approval

Attachment Four

Background Paper from Joint Legislative Hearing

JOINT LEGISLATIVE HEARING
SENATE COMMITTEE ON GOVERNANCE & FINANCE
ASSEMBLY COMMITTEE ON APPROPRIATIONS

March 2, 2016

Committee Background

This background paper prepares the members of the Assembly Appropriations Committee and the Senate Governance and Finance Committee for the March 2, 2016, hearing on Initiative No. 15-0003, titled by its proponents as “The No Blank Checks Initiative.” The measure proposes to amend the California Constitution to require voter approval for the state to issue revenue bonds to finance certain projects. This paper:

- Provides background regarding the state’s issuance of bonds, specifically revenue bonds.
- Summarizes the pending initiative.
- Includes arguments from the initiative proponent and opponents.

New Initiative Review Process

The committees are hearing the initiative to satisfy the new requirements of Elections Code 9034, as amended by SB 1253 (Steinberg, 2014):

- Proponents of a proposed initiative who have gathered 25% of required signatures must certify under penalty of perjury to the Secretary of State they have done so.
- The Secretary of State then transmits the certification, along with the Attorney General’s title and summary, to the Senate and the Assembly.
- The two houses then refer the measure to appropriate policy committees for joint hearings, to be held not later than 131 days before the election at which voters will consider the measure -- June 30th this year.
- The Legislature can neither amend the initiative, nor prevent it from appearing on the ballot.
- Secretary of State Alex Padilla determined on November 2, 2015 that Initiative No. 15-0003 has received sufficient signatures to be eligible for the November 2016 ballot.

- Should proponents not withdraw the measure before June 30th, the measure officially qualifies for the November ballot on July 1st.

Types of California Bonds

Bonds Generally. When public agencies issue bonds, they essentially borrow money from investors. Investors provide cash in exchange for an agency's commitment to repay the bond, plus interest. Bonds are usually either revenue bonds or general obligation bonds.

- Revenue bonds repay investors out of revenue generated from the project the agency builds with bond proceeds, such as fees and charges for a utility service (water, sewer, or electricity), parking garage revenues or bridge tolls.
- General obligation bonds, usually designated as supported by the issuing agency's full faith and credit, are repaid with the state's general revenues, or in the case of local agencies, from a dedicated tax above the Proposition 13 limit.
- Revenue bonds are explicitly **not** guaranteed by the issuing agency's full faith and credit; bondholders can only be repaid out of revenues pledged for the purpose.

Approval Process for Bonds. Because revenue bonds and general obligation bonds are distinct, the process for authorizing and approving each is different.

- Section One of Article XVI of the California Constitution requires a two-thirds vote of the Assembly and Senate and majority voter approval to issue state **general obligation bonds**, as was recently done with the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (AB 1471, Rendon).
 - Voters can also place general obligation bonds on the ballot by initiative, as they have in recent years for children's hospitals, water projects, and stem cell research, among others.
 - Either way, general obligation bonds issued by the state must be ratified by majority vote of the state's electorate, which differs from local general obligation bonds. (Local general obligation bonds require approval of two-thirds of voters residing within the local agency's boundaries, except for school districts, which require only 55% voter approval.)
- Alternatively, to issue state **revenue bonds**, the Legislature enacts a bill authorizing the issuance of the bonds, and pledges the specific revenues necessary to repay investors. Revenue bonds issued by the state are **not** subject to the Constitution's voter approval requirements that apply to general obligation bonds.

Revenue Bonds. In recent years, revenue bonds have been a valuable tool for the state to finance capital improvements, such as the State Water Project, improvements at the University of California and California State University, California Department of Corrections and Rehabilitation facilities, and state office buildings, among others. Additionally:

- California issued Power Supply Revenue Bonds to finance the Department of Water Resources' purchase of electricity on behalf of utility customers as a result of the energy crisis.
- The California Infrastructure and Economic Development Bank, housed in the Governor's Office of Business and Economic Development, can issue conduit bonds on behalf of non-profit organizations and certain types of private companies. Financing authorities in the Treasurer's Office, including the California Pollution Control Financing Authority, California Educational Facilities Authority, California School Finance Authority, and the California Health Facilities Financing Authority, issue similar bonds.
- The California Earthquake Authority issues revenue bonds backed by insurance premiums to pay claims.

Currently, the Constitution does not require voter approval to issue revenue bonds, or refund or refinance existing ones.

The state repays each revenue bond from the distinct source of funds authorized by the Legislature, which vary according to the purpose of that bond issue.

- For State Public Works Board lease revenue bonds, state agencies lease facilities from the Board, and the Legislature appropriates funds to state agencies to pay the leases. These bonds are not general obligations because the Legislature is not obligated to pay the lease rentals if the building is not available for use and occupancy.
- State Water Project bonds are repaid out of water delivery charges to 29 contractors.
- Ratepayers within the service territories of the state's three investor-owned utilities and other electricity users pay a charge on their electricity bills imposed by the California Public Utilities Commission to repay the Power Supply Revenue Bonds.

Under no circumstance is the State's General Fund at risk for repaying these bonds if the pledged revenue source turns out to be insufficient.

Proposed Initiative

On March 13, 2015, Attorney General Kamala Harris prepared the title and summary for Initiative No. 15-0003, as follows:

REVENUE BONDS. STATEWIDE VOTER APPROVAL. INITIATIVE
CONSTITUTIONAL AMENDMENT.

Requires statewide voter approval before any revenue bonds can be issued or sold by the state for projects that are financed, owned, operated, or managed by the state or any joint agency created by or including the state, if the bond amount exceeds \$2 billion. Prohibits dividing projects into multiple separate projects to avoid statewide voter approval requirement.

Included with the title and summary is an estimate of the fiscal impact on state and local government prepared by the Legislative Analyst's Office (LAO) and the Director of Finance (DOF):

The fiscal effect on state and local governments is unknown and would vary by project. It would depend on (1) the outcome of projects brought before voters, (2) the extent to which the state relied on alternative approaches to the projects or alternative financing methods for affected projects, and (3) whether those methods have higher or lower costs than revenue bonds.

Voter approval requirements. Specifically, the initiative, titled by the proponents as the “No Blank Checks Initiative,” adds Section 1.6 to Article XVI of the California Constitution. It would require majority voter approval before issuing or selling any state revenue bonds in an amount over two billion dollars for any single project financed, owned, operated, or managed by the state. The measure applies the two billion dollar threshold to bonds issued either singly or in aggregate, and applies notwithstanding any other law. The initiative also directs the Treasurer's Office to adjust the two billion dollar threshold annually for inflation.

While the measure does not define either “revenue bonds” or “single project,” the initiative precludes the state from avoiding its voter approval requirements by dividing or deeming a single project as multiple separate projects. The initiative states that “multiple allegedly separate projects shall be deemed to constitute a single project” under certain circumstances. The measure sets forth three examples of such projects which must be considered a single project for its purposes, *including, but not limited to*:

- Where the allegedly separate projects will be physically or geographically proximate to each other,
- Where the allegedly separate projects will be physically joined or connected with each other, or
- Where one allegedly separate project cannot accomplish its stated purpose without the completion of another allegedly separate project.

The measure also defines the term “state” to mean the State of California, any agency or department thereof, and any joint powers agency or similar body created by the State, or in which the state is a member. The measure excludes from the definition of “state” any city, county, city and county, school district, community college district, or “special district,” a term the initiative states refers only to public entities formed for the performance of local government functions within limited boundaries.

Other Provisions.

- The initiative states that it should be liberally construed to effectuate its purposes.
- In the event that this initiative and any other measure or measures relating to voter approval requirements for state bonds appear on the same statewide election ballot, the measure deems the other measure or measures to be in conflict with this one. In such a case, if voters approve all the measures, this one becomes effective in its entirety if it receives more votes than the others, but if the others do, this one is nullified.
- Additionally, the initiative provides that in the event its provisions are superseded by another conflicting initiative, but the other initiative is subsequently held invalid, then this initiative is self-executing and given full force and effect.
- The measure also contains a severability clause, which in the event some part of it is held invalid for any reason, provides that the invalidity of one part does not affect any of its remaining provisions.
- In the event the voters approve the measure, but it is then subjected to a legal challenge in which the Governor and Attorney General refuse to provide a defense, then the Attorney General must:
 - Appoint independent counsel to faithfully and vigorously defend the initiative, and
 - Prior to appointing or substituting independent counsel, exercise due diligence in determining the qualification of independent counsel, including written affirmation from the independent counsel that he or she will faithfully and vigorously defend the act. This affirmation must be made available to the public upon request.
 - The initiative provides a continuous appropriation from the General Fund without regard to fiscal year in an amount necessary to cover the cost of independent counsel.
- The measure states that its purpose is to bring the state’s public debt crisis under control and contains various additional findings and declarations.

Arguments from the Proponent. According to the proponent, the initiative would require statewide voter approval for state revenue bond projects costing more than \$2 billion, but exempts cities, counties, special districts, school districts and community college districts. The proponent also asserts that the University of California is exempted under Article IX, § 9 of the California Constitution although this is not specified in the initiative.

The proponent believes that voters should have a say in the state's largest, most consequential revenue bond projects, asserting that they, and future generations, will be expected to pay for the bonds over many years to come. He asserts that the measure does not veto or stop any revenue bond project, but rather simply puts the bonds up for a vote of the people, just as general obligation bonds are already required to do. The proponent also argues that the initiative closes a loophole that allows state agencies to issue massive new debt for multi-billion dollar projects, without giving Californians the right to vote.

In summary, the proponent asserts that his measure will protect the right to vote on major bond debt, close a loophole that allows massive new debt to be issued without a vote, hold politicians accountable, give voters a say in new state debt, and ensure that voters understand the full cost of future projects.

The proponent argues that California is saddled with historic levels of debt that puts the state's long-term fiscal health in danger. Citing LAO, the proponent believes that California's outstanding liabilities, totaling over \$330 billion¹, are unsustainable. Further he states that California has the third worst credit rating of any state in the nation and that, as a share of personal income, population, and gross domestic product, California's debt load is the third worst among the ten largest states². He believes that new major bond debt affects all Californians and they deserve the right to vote on these bonds.

The proponent cites projects under discussion in Sacramento, indicating costs estimated at nearly \$100 billion, and believes that voters should have an opportunity to stop such spending. He believes that the pending projects have been structured to avoid "the public review and accountability that comes with getting voter approval," and characterizes this as "a loophole that will allow them to borrow billions in new revenue bond debt without giving voters a voice."

Arguments from Opponents. According to opponents, the measure would delay or stop much needed repairs to roads, bridges, water supply and delivery systems, hospitals and universities all over the state, at a time when there is a significant infrastructure backlog. Opponents also believe that the measure is deceptive and assert that the proponent's real goal is to try to disrupt one specific project – the California Water Fix, but will have far more sweeping consequences.

¹ Legislative Analyst's Office, "Addressing California's Key Liabilities," Mar. 7, 2014.

² John Chiang, California State Treasurer, "California Debt Affordability Report," Oct. 2015.

Opponents argue that the initiative is misleading in that private investors bear the financial risk for revenue bonds, not the state or its general fund, with revenue bonds repaid by users of a project who directly benefit, not taxpayers. For instance, repairs to a bridge would be paid by tolls on the bridge, not taxpayers. Opponents believe that it does not make sense to have a statewide election on projects not financed by taxpayers for which the state and local governments bear none of the financial risk.

Additionally, opponents assert that the measure erodes local control. Under this measure, cities and towns that want to come together with the state and form a JPA to issue revenue bonds to upgrade local water systems, roads, bridges, ports and energy systems would have to put their project on a statewide ballot, which to opponents means that voters in faraway regions would be empowered to deny funding for local projects outside of their community. Opponents cite as two examples the Bay Area Toll Authority and the Orange County Transportation Corridor Agencies, two local JPAs formed in partnership with the state to finance local infrastructure. They also believe that numerous other JPAs have been created by special statewide legislation and would be covered by the initiative.

Finally, opponents express concern that the measure would create “vast uncertainty, lawsuits and red tape” that could delay or stop a large number of infrastructure projects because the initiative fails to define the key term “project.” The opponents cite a part of the LAO/DOF fiscal analysis:

“The measure does not provide a definition for a project. For example, a project could be limited to what is built on a given site at a specific time (such as an individual medical building) or could include larger systems of improvements constructed over time (such as a medical center with multiple buildings). A broader definition of a project would result in more instances in which the \$2 billion threshold is reached, thus triggering the measure’s voting requirements. Accordingly, there is uncertainty regarding which projects government agencies and the courts would determine are subject to the requirements of this measure.”

Opponents believe that the uncertainty of this provision makes it ripe for abuse and will be used by project opponents to call for statewide votes or to engage in litigation that could tie up projects or make projects far more expensive to finance.

SB 272 Open Data Law Compliance
Attachment Five
Senate Bill 272 Language

Senate Bill No. 272

CHAPTER 795

An act to add Section 6270.5 to the Government Code, relating to public records.

[Approved by Governor October 11, 2015. Filed with
Secretary of State October 11, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 272, Hertzberg. The California Public Records Act: local agencies: inventory.

Existing law, the California Public Records Act, requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. The act declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

This bill would require each local agency, except a local educational agency, in implementing the California Public Records Act, to create a catalog of enterprise systems, as defined, to make the catalog publicly available upon request in the office of the person or officer designated by the agency's legislative body, and to post the catalog on the local agency's Internet Web site. The bill would require the catalog to disclose a list of the enterprise systems utilized by the agency, and, among other things, the current system vendor and product, unless, on the facts of the particular case, the public interest served by not disclosing that information clearly outweighs the public interest served by disclosure, in which case the local agency may instead provide a system name, brief title, or identifier of the system. Because the bill would require local agencies to perform additional duties, it would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers this purpose.

This bill would make legislative findings to that effect.

Existing constitutional provisions require a statute that limits the right of public access to meetings or writings of public officials to be adopted with findings demonstrating the interest to be protected by that limitation and the need to protect that interest.

This bill would declare that it includes limitations on access, that the interest to be protected is the security of enterprise systems in public agencies, and that the need to protect that interest is that enterprise systems

can contain information that, if released to the public, could result in negative consequences.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) New information technology has dramatically changed the way people search for and expect to find information in California.

(b) This technology has unlocked great potential for government to better serve the people it represents. A recent study estimated that digitizing government data could generate one trillion dollars in economic value worldwide through cost savings and improved operational performance.

(c) California plays a vitally important role in moving our nation forward in the world of technology. Just as the state's thriving tech industry surges ahead in setting new standards for society, so too must California.

(d) As several nations, states, and cities have begun to embrace policies of online access to public sector data, they have enjoyed the benefits of increased operational efficiency and better collaboration. Here in California, cities across the state are turning internally gathered and maintained data into usable information for the public to access and leverage for the benefit of their communities.

(e) In moving government to a more effective digital future, standards should be adopted to ensure that data collection and publication are standardized, including uniform definitions for machine-readable data. Online portals should also be developed to assist with public access to collected data.

(f) With a public sector committed to success in the digital age, the residents and businesses of California will stand to benefit from the greater collaboration and integration, improved accountability, and increased productivity that will result.

(g) In making California government more accessible to the people of the state, paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution requires local governments to comply with the California Public Records Act and with any subsequent statutory enactment amending that act and furthering that purpose.

SEC. 2. Section 6270.5 is added to the Government Code, to read:

6270.5. (a) In implementing this chapter, each local agency, except a local educational agency, shall create a catalog of enterprise systems. The catalog shall be made publicly available upon request in the office of the person or officer designated by the agency's legislative body. The catalog shall be posted in a prominent location on the local agency's Internet Web

site, if the agency has an Internet Web site. The catalog shall disclose a list of the enterprise systems utilized by the agency and, for each system, shall also disclose all of the following:

- (1) Current system vendor.
- (2) Current system product.
- (3) A brief statement of the system's purpose.
- (4) A general description of categories or types of data.
- (5) The department that serves as the system's primary custodian.
- (6) How frequently system data is collected.
- (7) How frequently system data is updated.

(b) This section shall not be interpreted to limit a person's right to inspect public records pursuant to this chapter.

(c) For purposes of this section:

(1) "Enterprise system" means a software application or computer system that collects, stores, exchanges, and analyzes information that the agency uses that is both of the following:

(A) A multidepartmental system or a system that contains information collected about the public.

(B) A system of record.

(2) "System of record" means a system that serves as an original source of data within an agency.

(3) An enterprise system shall not include any of the following:

(A) Information technology security systems, including firewalls and other cybersecurity systems.

(B) Physical access control systems, employee identification management systems, video monitoring, and other physical control systems.

(C) Infrastructure and mechanical control systems, including those that control or manage street lights, electrical, natural gas, or water or sewer functions.

(D) Systems related to 911 dispatch and operation or emergency services.

(E) Systems that would be restricted from disclosure pursuant to Section 6254.19.

(F) The specific records that the information technology system collects, stores, exchanges, or analyzes.

(d) Nothing in this section shall be construed to permit public access to records held by an agency to which access is otherwise restricted by statute or to alter the process for requesting public records, as set forth in this chapter.

(e) If, on the facts of the particular case, the public interest served by not disclosing the information described in paragraph (1) or (2) of subdivision (a) clearly outweighs the public interest served by disclosure of the record, the local agency may instead provide a system name, brief title, or identifier of the system.

(f) The local agency shall complete and post the catalog required by this section by July 1, 2016, and thereafter shall update the catalog annually.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 6270.5 to the Government Code, 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. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Because increased information about what data is collected by local agencies could be leveraged by the public to more efficiently access and better use that information, the act furthers the purpose of Section 3 of Article I of the California Constitution.

SEC. 4. The Legislature finds and declares that Section 2 of this act limits the public’s right of access to public documents within the meaning of paragraph (2) of subdivision (b) of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest and the need for protecting that interest:

(a) The interest protected by this limitation is the security of enterprise systems in public agencies.

(b) The need for protecting that interest is that enterprise systems can contain information that, if released to the public, could result in negative consequences.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution 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.

O

Legislative Update
Attachment Six
Memo on Legislative Update



May 6, 2016

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To: Members, Government Finance and Administration Committee

From: Faith Conley, Legislative Representative, CSAC – Employee Relations & Administrative Services
Dorothy Holzem, Legislative Representative, CSAC – Finance and Operations
Betsy Hammer, Legislative Analyst, CSAC – Government Finance and Administration

RE: Legislative Update – INFORMATIONAL

Recommendation. This is an informational item only.

Background. The 2015-16 legislative session reconvened on January 4, 2016. Government Finance and Administration (GFA) staff have reviewed hundreds of introduced and amended bills concerning a wide range of topics that include financial reporting, public budgeting, broadband, public records, minimum wage, employment practices, elections reforms, economic development tools, and more.

The fast pace will continue as we reach peak time for the state budget process and bill deadlines. Several key deadlines are approaching:

- May 27: Fiscal Committee deadline to hear and pass bills introduced in their house
- June 3: House of Origin deadline for each house to pass bills introduced in their house
- June 15: Constitutional deadline for Legislature to pass budget (by midnight)
- July 1: Summer Recess begins
- August 1: Legislature reconvenes from Summer Recess
- August 31: Final day of Session

As legislation is moving rapidly in order to meet deadlines, GFA Committee staff will bring copies of legislative bulletins to the committee meeting on May 19. This will ensure that committee members receive the most up-to-date and accurate information.

Materials. Legislative Bulletins for the Employee Relations & Administrative Services policy unit and the Finance & Operations policy unit.

Staff Contacts. Please contact Faith Conley (fconley@counties.org or 916/650-8117), Dorothy Holzem (dholzem@counties.org or 916/650-8133), or Betsy Hammer (bhammer@counties.org or 916/650-8108) for additional information.

Ballot Measures Update
Attachment Seven
Memo on 2016 Ballot Measures



May 6, 2016

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To: Members, Government Finance and Administration Committee

From: Dorothy Holzem, Legislative Representative, CSAC
Betsy Hammer, Legislative Analyst, CSAC

RE: 2016 Statewide Ballot Measures Informational Update

The November 2016 ballot will likely feature a lengthy list of statewide ballot measures in addition to local policy and tax measures and candidate contests. As of May 4, there are:

- 67 initiatives currently circulating for signature
- 15 initiative with 25% of signatures reached – at this point, proponents must certify this threshold to the Secretary of State, who must then provide copies of the proposal to the Senate and Assembly for committee review and public hearings
- 2 initiatives pending signature verification
- 1 initiative pending at the Attorney General’s office, awaiting title and summary
- 9 measures that have qualified for either the June or November 2016 ballot

Initiatives working their way through the petition process will have until June 30 to qualify for the November 2016 ballot, while referenda placed on the ballot by the Legislature need to be qualified just 31 days before the election. Qualified ballot measures may also be withdrawn by the proponents by the June 30 deadline. CSAC is monitoring the progress of all of the proposed ballot initiatives. The following measures are currently qualified for the November 2016 ballot, except for the “Suspension of a Legislator” measure that is qualified for June 2016.

Subject/Title	Summary
Suspension of a Legislator. (Chapter 805, Statutes of 2014)	This measure would allow the Senate or Assembly to suspend a respective member and deem the salary and benefits of that member to be forfeited. Requires a two-thirds vote of the house and a motion or resolution stating the basis for the suspension. It also prohibits a suspended legislator from exercising any of the rights, duties or privileges of his or her office or using legislative resources.
Federal Medi-Cal Matching Funds	This measure would protect the nearly \$3 billion Quality Assurance Fee contributed by hospitals and used by the state to draw down federal Medicaid matching funds for hospital Medi-Cal services by constitutionally prohibiting the funding from being diverted to other uses and removing the 2017 sunset date. Note: The CSAC Board of Directors have adopted a “support” position on this measure following action at the December 2015 meeting.
Referendum to Overturn Plastic Bag Ban	This measure would reverse current law that prohibits grocery and other retail stores from providing single-use bags but permits sale of recycled paper bags and reusable bags, enacted through SB 270 (Padilla; Chapter 850, Statutes of 2014). This law has temporarily been suspended by court order until the outcome of the referendum is determined.

English Language Education (Chapter 753, Statutes of 2014)	This measure amends and repeals various provisions of Prop 227, related to English language instruction. It provides that school districts and county offices of education shall, at a minimum, provide English language learners with a structured English immersion program and that these offices must solicit input on, and provide to pupils, effective and appropriate instructional methods.
Statewide Voter Approval for Revenue Bonds	This measure would require statewide voter approval (at statewide general elections) for any revenue bonds issued or sold by the state or any joint agency created by or including the state, if the bond amount exceeds \$2 billion. While directed at Governor Brown's water pipeline project, this could impact all state and local projects meeting the designated bond threshold level.
State Prescription Drug Purchases Pricing Standards	This measure would prohibit state agencies from paying more for a prescription drug than the lowest price paid for the drug by the U.S. Department of Veterans Affairs. The prohibition applies to any program where the state is the ultimate payer for the drug, even if the state does not purchase the drug directly, though certain purchases of prescription drugs funded through Medi-Cal are exempt.
Health Requirements for Adult Films	This measure would require performers in adult films to use condoms during filming of sexual intercourse, and requires producers to pay for vaccines, testing, and examinations. The measure imposes liability on producers for violators.
School Bonds for K-12 Schools and Community College Facilities	Authorizes \$3 billion in general obligation bonds for new construction and \$3 billion for modernization of K-12 public school facilities. Authorizes \$1 billion in general obligation bonds for charter schools and vocational education facilities. Authorizes \$2 billion for community college facilities.
Minimum Wage Increase and Future Adjustments	Increases California's minimum wage to \$15 dollars per hour by January 1, 2021. After this date, the minimum wage would be annually adjusted based on the rate of inflation in the previous year. Note: Similar provisions were signed into law earlier this year through Senate Bill 3.

There is still time for additional measures to qualify for the ballot. The Legislature may seek to qualify measures with two-thirds approval of the Senate and Assembly. Also, measures related to criminal sentences, campaign finance, plastic bags, legislative proceedings, taxes, and water have reached 25 percent of the required number of signatures. Proponents of the death penalty and recreational marijuana legalization measures both recently announced they have met the total required signatures; the next step for these measures is signature verification.

CSAC Policy and Procedure For Ballot Measures: Initiatives that qualify for the ballot of a scheduled election and have an impact to counties will be referred by the CSAC Officers to the appropriate Policy Committee(s), which will make recommendations to the Executive Committee and, if approved, be reviewed the Board of Directors. CSAC Policy Committee members will be notified when their committee has been assigned a ballot measure to review.

Staff Contacts. Please contact Dorothy Holzem (dholzem@counties.org or 916/650-8133) or Betsy Hammer (bhammer@counties.org or 916/650-8108) for additional information.