

AMENDED IN ASSEMBLY MAY 14, 2015

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 746

Introduced by Assembly Member Ting

(Coauthor: Assembly Member Chiu)

(Coauthors: Senators ~~Hancock~~ *Hancock*, Hill, and Leno)

February 25, 2015

An act to amend Sections 66702.5, 66703, 66704, 66704.05, and 66706 of the Government Code, relating to the San Francisco Bay Restoration Authority.

LEGISLATIVE COUNSEL'S DIGEST

AB 746, as amended, Ting. San Francisco Bay Restoration Authority.

(1) Existing law, the San Francisco Bay Restoration Authority Act, until January 1, 2029, establishes the San Francisco Bay Restoration Authority to raise and allocate resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitat in the San Francisco Bay and along its shoreline. The act establishes a governing board of the authority composed of specified members, including a member who is a resident of the San Francisco Bay area who serves as the chair. The act grants to the board all powers that are necessary to carry out the act, including, among other things, the power to levy specified benefit assessments, special taxes, and property-related fees, and to issue revenue *bonds and general obligation* bonds. However, the act limits the total amount of indebtedness incurred pursuant to those provisions authorizing the issuance of ~~revenue~~ *general obligation*

bonds ~~from exceeding~~ *to* 10% of the authority's total revenues in the preceding fiscal year. Existing law generally requires a district to reimburse the county elections official for the actual costs incurred in conducting an election for the district. However, the act authorizes, until January 1, 2017, the authority to reimburse only the incremental costs, as defined, that are incurred by the county elections official related to submitting a special tax measure to the voters.

This bill would delete the requirement that one member of the board, who serves as the chair, be a resident of the San Francisco Bay area and would instead require that member to be an elected official of a bayside city or county. The bill would also delete the limit on the authority's total amount of *general obligation* bonded indebtedness based on prior fiscal year revenues. The bill would extend to January 1, 2019, the operation of the provision authorizing the authority to reimburse county elections officials for only the incremental costs of submitting a special tax measure to the voters, expanded to apply to other specified measures that would generate revenues for the authority. The bill would postpone to January 1, 2049, the repeal date for the act, and would make related conforming changes. By imposing additional duties on local government officials with regard to implementation of the act, the bill would impose a state-mandated local program.

The act ~~requires~~ *specifies* that the special taxes *are to* be levied, and submitted to the voters, consistent with specified provisions of the California ~~Constitution~~. *Constitution relating to voter approval for local tax levies and property-related fees, charges, and assessments.*

This bill would ~~additionally require the special taxes to be levied, and~~ *instead specify that measures that will generate revenues are to be* submitted to the voters, consistent with *those requirements of the California Constitution and the requirements of Article XIII A of the California Constitution relating to general obligation bond indebtedness and ad valorem taxes.*

(2) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 *SECTION 1. Section 66702.5 of the Government Code is*
2 *amended to read:*

3 66702.5. (a) It is the intent of the Legislature that the authority
4 should complement existing efforts by cities, counties, districts,
5 the San Francisco Bay Conservation and Development
6 Commission, the State Coastal Conservancy, and other local,
7 regional, and state entities, related to addressing the goals described
8 in this title.

9 (b) *It is further the intent of the Legislature to explicitly affirm*
10 *the San Francisco Bay Restoration Authority's authority to incur*
11 *general obligation bond indebtedness under paragraph (2) of*
12 *subdivision (b) of Section 1 of Article XIII A of the California*
13 *Constitution, and Article 11 (commencing with Section 5790) of*
14 *Chapter 4 of Division 5 of the Public Resources Code.*

15 ~~SECTION 1.~~

16 SEC. 2. Section 66703 of the Government Code is amended
17 to read:

18 66703. (a) The authority shall be governed by a board
19 composed of seven voting members, as follows:

20 (1) One member shall be an elected official of a bayside city or
21 county with expertise in the implementation of Chapter 4.5
22 (commencing with Section 31160) of Division 21 of the Public
23 Resources Code and shall serve as the chair.

24 (2) One member shall be an elected official of a bayside city or
25 county in the North Bay. For purposes of this subdivision, the
26 North Bay consists of the Counties of Marin, Napa, Solano, and
27 Sonoma.

28 (3) One member shall be an elected official of a bayside city or
29 county in the East Bay. For purposes of this subdivision, the East
30 Bay consists of Contra Costa County and the portion of Alameda
31 County that is north of the southern boundary of the City of
32 Hayward, excluding the Delta primary zone.

33 (4) One member shall be an elected official of a bayside city or
34 county in the South Bay. For purposes of this subdivision, the
35 South Bay consists of Santa Clara County, the portion of Alameda
36 County that is south of the southern boundary of the City of
37 Hayward, and the portion of San Mateo County that is south of
38 the northern boundary of Redwood City.

(5) One member shall be an elected official of a bayside city or county in the West Bay. For purposes of this subdivision, the West Bay consists of the City and County of San Francisco and the portion of San Mateo County that is north of the northern boundary of Redwood City.

(6) Two members shall be elected officials of one or more of the following:

(A) A bayside city or county.

(B) A regional park district, regional open-space district, or regional park and open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of the Public Resources Code that owns or operates one or more San Francisco Bay shoreline parcels.

(b) The Association of Bay Area Governments shall appoint the members.

(c) Each member shall serve at the pleasure of his or her appointing authority.

(d) A vacancy shall be filled by the Association of Bay Area Governments within 90 days from the date on which the vacancy occurs.

~~SEC. 2.~~

SEC. 3. Section 66704 of the Government Code is amended to read:

66704. The authority has, and may exercise, all powers, expressed or implied, that are necessary to carry out the intent and purposes of this title, including, but not limited to, the power to do all of the following:

(a) (1) Levy a benefit assessment, special tax levied pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5, or property-related fee consistent with the requirements of Articles XIII A, XIII C, and XIII D of the California Constitution, including, but not limited to, a benefit assessment levied pursuant to paragraph (2), except that a benefit assessment, special tax, or property-related fee shall not be levied pursuant to this subdivision after December 31, 2048.

(2) The authority may levy a benefit assessment pursuant to any of the following:

(A) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

1 (B) The Improvement Bond Act of 1915 (Division 10
2 (commencing with Section 8500) of the Streets and Highways
3 Code).

4 (C) The Municipal Improvement Act of 1913 (Division 12
5 (commencing with Section 10000) of the Streets and Highways
6 Code).

7 (D) The Landscaping and Lighting Act of 1972 (Part 2
8 (commencing with Section 22500) of Division 15 of the Streets
9 and Highways Code), notwithstanding Section 22501 of the Streets
10 and Highways Code.

11 (E) Any other statutory authorization.

12 (b) Apply for and receive grants from federal and state agencies.

13 (c) Solicit and accept gifts, fees, grants, and allocations from
14 public and private entities.

15 (d) Issue revenue bonds for any of the purposes authorized by
16 this title pursuant to the Revenue Bond Law of 1941 (Chapter 6
17 (commencing with Section 54300) of Part 1 of Division 2 of Title
18 5).

19 (e) Incur bond indebtedness, *consistent with paragraph (2) of*
20 *subdivision (b) of Section 1 of Article XIII A of the California*
21 *Constitution*, subject to the following requirements:

22 (1) The principal and interest of any bond indebtedness incurred
23 pursuant to this subdivision shall be paid and discharged prior to
24 January 1, 2049.

25 (2) For purposes of incurring bond indebtedness pursuant to
26 this subdivision, the authority shall comply with the requirements
27 of Article 11 (commencing with Section 5790) of Chapter 4 of
28 Division 5 of the Public Resources ~~Code except where those~~
29 ~~requirements are in conflict with this provision.~~ *Code*. For purposes
30 of this subdivision, all references in Article 11 (commencing with
31 Section 5790) of Chapter 4 of Division 5 of the Public Resources
32 Code to a board of directors shall mean the board and all references
33 to a district shall mean the authority.

34 (f) Receive and manage a dedicated revenue source.

35 (g) Deposit or invest moneys of the authority in banks or
36 financial institutions in the state in accordance with state law.

37 (h) Sue and be sued, except as otherwise provided by law, in
38 all actions and proceedings, in all courts and tribunals of competent
39 jurisdiction.

40 (i) Engage counsel and other professional services.

1 (j) Enter into and perform all necessary contracts.

2 (k) Enter into joint powers agreements pursuant to the Joint
3 Exercise of Powers Act (Chapter 5 (commencing with Section
4 6500) of Division 7 of Title 1).

5 (l) Hire staff, define their qualifications and duties, and provide
6 a schedule of compensation for the performance of their duties.

7 (m) Use interim or temporary staff provided by appropriate state
8 agencies or the Association of Bay Area Governments. A person
9 who performs duties as interim or temporary staff shall not be
10 considered an employee of the authority.

11 ~~SEC. 3.~~

12 *SEC. 4.* Section 66704.05 of the Government Code is amended
13 to read:

14 66704.05. (a) If the authority proposes a measure pursuant to
15 subdivision (a) or (e) of Section 66704 that will generate revenues,
16 the board of supervisors of the county or counties in which the
17 measure is proposed shall call a special election on the measure.
18 The special election shall be consolidated with the next regularly
19 scheduled statewide election and the measure shall be submitted
20 to the voters in the appropriate counties, consistent with the
21 requirements of Articles XIII A, XIII C, and XIII D of the California
22 Constitution, as applicable.

23 (b) (1) The authority is a district, as defined in Section 317 of
24 the Elections Code. Except as otherwise provided in this section,
25 a measure proposed by the authority that requires voter approval
26 shall be submitted to the voters of the authority in accordance with
27 the provisions of the Elections Code applicable to districts,
28 including the provisions of Chapter 4 (commencing with Section
29 9300) of Division 9 of the Elections Code.

30 (2) Because the authority has no state revenues as of the
31 effective date of this paragraph, the appropriations limit for the
32 authority shall be originally established based on receipts from the
33 initial measure that would generate revenues for the authority
34 pursuant to subdivision (a), and that establishment of an
35 appropriations limit shall not be deemed a change in an
36 appropriations limit for purposes of Section 4 of Article XIII B of
37 the California Constitution.

38 (c) The authority shall file with the board of supervisors of each
39 county in which the measure shall appear on the ballot a resolution
40 of the authority requesting consolidation, and setting forth the

1 exact form of the ballot question, in accordance with Section 10403
2 of the Elections Code.

3 (d) The legal counsel for the authority shall prepare an impartial
4 analysis of the measure. The impartial analysis prepared by the
5 legal counsel for the authority shall be subject to review and
6 revision by the county counsel of the county that contains the
7 largest population, as determined by the most recent federal
8 decennial census, among those counties in which the measure will
9 be submitted to the voters.

10 (e) Each county included in the measure shall use the exact
11 ballot question, impartial analysis, and ballot language provided
12 by the authority. If two or more counties included in the measure
13 are required to prepare a translation of ballot materials into the
14 same language other than English, the county that contains the
15 largest population, as determined by the most recent federal
16 decennial census, among those counties that are required to prepare
17 a translation of ballot materials into the same language other than
18 English shall prepare the translation and that translation shall be
19 used by the other county or counties, as applicable.

20 (f) Notwithstanding Section 13116 of the Elections Code, if a
21 measure proposed by the authority pursuant to this article is
22 submitted to the voters of the authority in two or more counties,
23 the elections officials of those counties shall mutually agree to use
24 the same letter designation for the measure.

25 (g) The county clerk of each county shall report the results of
26 the special election to the authority.

27 (h) (1) Notwithstanding Section 10520 of the Elections Code,
28 for the first election at which the authority proposes a measure
29 pursuant to subdivision (a) or (e) of Section 66704 that would
30 generate revenues, the authority shall reimburse each county in
31 which that measure appears on the ballot only for the incremental
32 costs incurred by the county elections official related to submitting
33 the measure to the voters.

34 (2) For purposes of this subdivision, “incremental costs” include
35 all of the following:

36 (A) The cost to prepare, review, and revise the impartial analysis
37 of the measure that is required by subdivision (d).

38 (B) The cost to prepare a translation of ballot materials into a
39 language other than English by any county, as described in
40 subdivision (e).

(C) The additional costs that exceed the costs incurred for other election races or ballot measures, if any, appearing on the same ballot in each county in which the measure appears on the ballot, including both of the following:

- (i) The printing and mailing of ballot materials.
- (ii) The canvass of the vote regarding the measure pursuant to Division 15 of the Elections Code.

(3) This subdivision is repealed on January 1, 2019.

~~SEC. 4.~~

SEC. 5. Section 66706 of the Government Code is amended to read:

66706. This title shall remain in effect only until January 1, 2049, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2049, deletes or extends that date.

~~SEC. 5.~~

SEC. 6. The Legislature finds and declares that the San Francisco Bay Restoration Authority has not assumed any existing duties from another local or state government entity and has received no state or local government revenues not counted toward another entity's appropriations limit. Therefore, the authority has no associated appropriations limit pursuant to Article XIII B of the California Constitution as of the date of enactment of this bill.

~~SEC. 6.~~

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.