

AMENDED IN SENATE JUNE 10, 2015

AMENDED IN ASSEMBLY MAY 14, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 746

Introduced by Assembly Member Ting
(Coauthor: Assembly Member Chiu)
(Coauthors: Senators 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 *with expertise in the implementation of the San Francisco Bay Conservancy Program*, 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 *outstanding* indebtedness incurred pursuant to those provisions authorizing the issuance of general obligation bonds 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 *with expertise in the implementation of the San Francisco Bay Conservancy Program* and would instead require that member to be an elected official of a bayside city or ~~county~~ *county, or an elected member of a special district, with expertise in the implementation of the San Francisco Bay Conservancy Program*. The bill would also delete the limit on the authority's total amount of *outstanding* general obligation bonded indebtedness ~~based on prior fiscal year revenues~~ *and would, instead, prohibit the authority from having a total amount of outstanding bonded indebtedness that exceeds \$1,500,000,000. The bill would specify that the authority may incur general obligation bonded indebtedness for the acquisition or improvement of real property or for the funding or refunding of any outstanding bonded indebtedness incurred by the authority*. 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 specifies that the special taxes are to be levied, and submitted to the voters, consistent with specified provisions of the California Constitution relating to voter approval for local tax levies and property-related fees, charges, and assessments.

This bill would 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 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 ~~SEC. 2.~~

16 ~~SECTION 1.~~ Section 66703 of the Government Code is
17 ~~amended 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, or an elected member of a special district, with expertise~~
22 ~~in the implementation of Chapter 4.5 (commencing with Section~~
23 ~~31160) of Division 21 of the Public Resources Code and shall~~
24 ~~serve as the chair.~~

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

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

6 (4) One member shall be an elected official of a bayside city or
7 county in the South Bay. For purposes of this subdivision, the
8 South Bay consists of Santa Clara County, the portion of Alameda
9 County that is south of the southern boundary of the City of
10 Hayward, and the portion of San Mateo County that is south of
11 the northern boundary of Redwood City.

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

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

19 (A) A bayside city or county.

20 (B) A regional park district, regional open-space district, or
21 regional park and open-space district formed pursuant to Article
22 3 (commencing with Section 5500) of Chapter 3 of Division 5 of
23 the Public Resources Code that owns or operates one or more San
24 Francisco Bay shoreline parcels.

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

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

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

32 ~~SEC. 3.~~

33 *SEC. 2.* Section 66704 of the Government Code is amended
34 to read:

35 66704. The authority has, and may exercise, all powers,
36 expressed or implied, that are necessary to carry out the intent and
37 purposes of this title, including, but not limited to, the power to
38 do all of the following:

39 (a) (1) Levy a benefit assessment, special tax levied pursuant
40 to Article 3.5 (commencing with Section 50075) of Chapter 1 of

1 Part 1 of Division 1 of Title 5, or property-related fee consistent
2 with the requirements of Articles XIII A, XIIC, and XIID of the
3 California Constitution, including, but not limited to, a benefit
4 assessment levied pursuant to paragraph (2), except that a benefit
5 assessment, special tax, or property-related fee shall not be levied
6 pursuant to this subdivision after December 31, 2048.

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

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

11 (B) The Improvement Bond Act of 1915 (Division 10
12 (commencing with Section 8500) of the Streets and Highways
13 Code).

14 (C) The Municipal Improvement Act of 1913 (Division 12
15 (commencing with Section 10000) of the Streets and Highways
16 Code).

17 (D) The Landscaping and Lighting Act of 1972 (Part 2
18 (commencing with Section 22500) of Division 15 of the Streets
19 and Highways Code), notwithstanding Section 22501 of the Streets
20 and Highways Code.

21 (E) Any other statutory authorization.

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

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

25 (d) Issue revenue bonds for any of the purposes authorized by
26 this title pursuant to the Revenue Bond Law of 1941 (Chapter 6
27 (commencing with Section 54300) of Part 1 of Division 2 of Title
28 5).

29 ~~(e) Incur bond indebtedness, consistent with paragraph (2) of~~
30 ~~subdivision (b) of Section 1 of Article XIII A of the California~~
31 ~~Constitution, general obligation bonded indebtedness for the~~
32 ~~acquisition or improvement of real property or for funding or~~
33 ~~refunding of any outstanding indebtedness, subject to the following~~
34 requirements:

35 (1) The principal and interest of any ~~bond~~ *general obligation*
36 *bonded* indebtedness incurred pursuant to this subdivision shall
37 be paid and discharged prior to January 1, 2049.

38 (2) For purposes of incurring ~~bond~~ *general obligation bonded*
39 indebtedness pursuant to this subdivision, the authority shall
40 comply with the requirements of Article 11 (commencing with

1 Section 5790) of Chapter 4 of Division 5 of the Public Resources
 2 Code. For purposes of this subdivision, all references in Article
 3 11 (commencing with Section 5790) of Chapter 4 of Division 5
 4 of the Public Resources Code to a board of directors shall mean
 5 the board and all references to a district shall mean the authority.

6 *(3) Notwithstanding any other law, the total amount of*
 7 *outstanding bonded indebtedness the authority may incur pursuant*
 8 *to this subdivision and subdivision (d) shall not exceed one billion*
 9 *five hundred million dollars (\$1,500,000,000).*

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

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

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

16 (i) Engage counsel and other professional services.

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

18 (k) Enter into joint powers agreements pursuant to the Joint
 19 Exercise of Powers Act (Chapter 5 (commencing with Section
 20 6500) of Division 7 of Title 1).

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

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

27 ~~SEC. 4.~~

28 *SEC. 3.* Section 66704.05 of the Government Code is amended
 29 to read:

30 66704.05. (a) If the authority proposes a measure pursuant to
 31 subdivision (a) or (e) of Section 66704 that will generate revenues,
 32 the board of supervisors of the county or counties in which the
 33 measure is proposed shall call a special election on the measure.
 34 The special election shall be consolidated with the next regularly
 35 scheduled statewide election and the measure shall be submitted
 36 to the voters in the appropriate counties, consistent with the
 37 requirements of Articles XIII A, XIII C, and XIII D of the California
 38 Constitution, as applicable.

39 (b) (1) The authority is a district, as defined in Section 317 of
 40 the Elections Code. Except as otherwise provided in this section,

1 a measure proposed by the authority that requires voter approval
2 shall be submitted to the voters of the authority in accordance with
3 the provisions of the Elections Code applicable to districts,
4 including the provisions of Chapter 4 (commencing with Section
5 9300) of Division 9 of the Elections Code.

6 (2) Because the authority has no ~~state~~ revenues as of the
7 effective date of this paragraph, the appropriations limit for the
8 authority shall be originally established based on receipts from the
9 initial measure that would generate revenues for the authority
10 pursuant to subdivision (a), and that establishment of an
11 appropriations limit shall not be deemed a change in an
12 appropriations limit for purposes of Section 4 of Article XIII B of
13 the California Constitution.

14 (c) The authority shall file with the board of supervisors of each
15 county in which the measure shall appear on the ballot a resolution
16 of the authority requesting consolidation, and setting forth the
17 exact form of the ballot question, in accordance with Section 10403
18 of the Elections Code.

19 (d) The legal counsel for the authority shall prepare an impartial
20 analysis of the measure. The impartial analysis prepared by the
21 legal counsel for the authority shall be subject to review and
22 revision by the county counsel of the county that contains the
23 largest population, as determined by the most recent federal
24 decennial census, among those counties in which the measure will
25 be submitted to the voters.

26 (e) Each county included in the measure shall use the exact
27 ballot question, impartial analysis, and ballot language provided
28 by the authority. If two or more counties included in the measure
29 are required to prepare a translation of ballot materials into the
30 same language other than English, the county that contains the
31 largest population, as determined by the most recent federal
32 decennial census, among those counties that are required to prepare
33 a translation of ballot materials into the same language other than
34 English shall prepare the translation and that translation shall be
35 used by the other county or counties, as applicable.

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

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

3 (h) (1) Notwithstanding Section 10520 of the Elections Code,
 4 for the first election at which the authority proposes a measure
 5 pursuant to subdivision (a) or (e) of Section 66704 that would
 6 generate revenues, the authority shall reimburse each county in
 7 which that measure appears on the ballot only for the incremental
 8 costs incurred by the county elections official related to submitting
 9 the measure to the voters.

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

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

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

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

21 (i) The printing and mailing of ballot materials.

22 (ii) The canvass of the vote regarding the measure pursuant to
 23 Division 15 of the Elections Code.

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

25 ~~SEC. 5.~~

26 *SEC. 4.* Section 66706 of the Government Code is amended
 27 to read:

28 66706. This title shall remain in effect only until January 1,
 29 2049, and as of that date is repealed, unless a later enacted statute,
 30 that is enacted before January 1, 2049, deletes or extends that date.

31 ~~SEC. 6.~~

32 *SEC. 5.* The Legislature finds and declares that the San
 33 Francisco Bay Restoration Authority has not assumed any existing
 34 duties from another local or state government entity and has
 35 received no state or local government revenues not counted toward
 36 another entity’s appropriations limit. Therefore, the authority has
 37 no associated appropriations limit pursuant to Article XIII B of the
 38 California Constitution as of the date of enactment of this bill.

39 *SEC. 6.* *The Legislature finds and declares that the changes*
 40 *made by this act to subdivision (e) of Section 66704 of the*

1 *Government Code explicitly affirm the authority of the Francisco*
2 *Bay Restoration Authority to incur general obligation bonded*
3 *indebtedness, so as to implement the Legislature's intent when the*
4 *statute first became operative on January 1, 2009.*

5 SEC. 7. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 a local agency or school district has the authority to levy service
8 charges, fees, or assessments sufficient to pay for the program or
9 level of service mandated by this act, within the meaning of Section
10 17556 of the Government Code.

O