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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

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

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.

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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,

for Mac Taylor
Legislative Analyst

for Michael Cohen
Director of Finance