

Assembly Bill No. 2813

CHAPTER 155

An act to add Article 4.1 (commencing with Section 53738) to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, and to amend Section 13928 of the Health and Safety Code, relating to government finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 2024. Filed with Secretary of State July 18, 2024.]

LEGISLATIVE COUNSEL’S DIGEST

AB 2813, Aguiar-Curry. Government Investment Act.

(1) Existing law, known as the Proposition 218 Omnibus Implementation Act, defines various terms and prescribes procedures and parameters for local jurisdictions to comply with specified provisions of the California Constitution.

The Legislature adopted Assembly Constitutional Amendment 1 (ACA 1) and Assembly Constitutional Amendment 10 (ACA 10), amending ACA 1, at the 2023–24 Regular Session of the Legislature. If approved by the voters, ACA 1 would amend provisions of the California Constitution to create an additional exception to the 1% limit on the ad valorem tax rate on real property by authorizing a local jurisdiction to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing, if the proposition proposing that tax is approved by 55% of the voters in that local jurisdiction.

Pursuant to the existing law described above, ACA 1 is scheduled to appear on the ballot at the November 5, 2024, statewide general election.

This bill, for purposes of ACA 1, would define “affordable housing” to include rental housing, ownership housing, interim housing, and affordable housing programs such as downpayment assistance, first-time homebuyer programs, and owner-occupied affordable housing rehabilitation programs, that are affordable to households earning up to 150% of countywide median income. The bill would require a local government to ensure that any project that is funded with ACA 1 bonded indebtedness to have an estimated useful life of at least 15 years or 5 years if the funds are for specified public safety facilities, infrastructure, and equipment. The bill would define “public infrastructure” to exclude the construction, reconstruction, rehabilitation, or replacement of a sports stadium or arena where the majority of the use of the facility is for private ticketed activities. The bill would prohibit ACA 1 bonded indebtedness from being used for the acquisition or lease of any real property that has, at the time of acquisition or lease, been improved with one to 4 dwelling units, except as specified. The bill would also prohibit

any ACA 1 bonded indebtedness, when added to existing bonded indebtedness of a local government, from exceeding the applicable statutory limit on the maximum amount of bonded indebtedness that a local government is authorized to incur.

ACA 1, as amended by ACA 10, and if approved by the voters, would require a proposition approving ACA 1 bonded indebtedness to include specified accountability requirements, including a requirement that the local government conduct annual independent performance and financial audits, as specified, and a requirement that the local government appoint a citizens' oversight committee to ensure that revenues are expended only for the purposes described in the measure. ACA 1, if approved by the voters, would require a local government to submit the annual independent performance and financial audits to the California State Auditor for review. ACA 1, if approved by the voters, would authorize the Legislature to enact additional accountability measures, provided that the accountability measures are consistent with the purposes and intent of ACA 1.

This bill would require the California State Auditor to review, following specified practices, audits submitted based on the ACA 1 bonded indebtedness provisions.

The bill would establish various requirements regarding the appointment and function of a citizens' oversight committee. In this regard, the bill would require the citizens' oversight committee to consist of at least 7 members who serve for a minimum term of 2 years without compensation. The bill would prohibit an employee or official of the local government and any vendor, contractor, or consultant of the local government from being appointed to the citizens' oversight committee. The bill would state the purpose of a citizens' oversight committee is to inform the public concerning the expenditure of revenues derived from ACA 1 bonded indebtedness. The bill would require a citizens' oversight committee to actively review and report on the proper expenditure of taxpayers' money for the purposes described in ACA 1 and advise the public as to whether a local government is in compliance with the requirements of ACA 1. The bill would require the committee to issue regular reports on the results of its activities and would require the local government to provide the citizens' oversight committee with any necessary technical assistance and administrative assistance in furtherance of its purpose, as specified.

Because the bill would enact additional accountability measures for ACA 1 taxes, the bill may only be adopted by a $\frac{2}{3}$ vote of the Legislature.

ACA 1, if approved by the voters, would prohibit a local government from placing a proposition on the ballot pursuant to ACA 1 if the voters have previously approved an ACA 1 proposition until all funds from the previous proposition are committed to programs and projects, as described.

This bill would define "committed" for purposes of ACA 1 to mean all of the funds from ACA 1 bonded indebtedness are dedicated to specific projects or programs.

(2) Existing law, the Fire Protection District Law of 1987, requires a fire protection district board of directors to adopt a resolution making

determinations and calling an election on a proposition to incur indebtedness and to issue general obligation bonds whenever that district board determines that it is necessary to incur a general obligation bonded indebtedness for the acquisition or construction of any real property or other capital expense or for funding or refunding of any outstanding indebtedness. Existing law also authorizes the district board, if $\frac{2}{3}$ of voters voting upon the proposition favor incurring the indebtedness and issuing the bonds, to adopt resolutions to issue bonds for all or any part of the amount of the indebtedness.

This bill would create an exception to that provision to authorize the district board, if 55% of voters voting upon the proposition favor incurring the indebtedness and issuing bonds that would fund any or all of the activities described in ACA 1, to adopt resolutions to issue bonds for all or any part of the amount of the indebtedness.

(3) This bill would state that its provisions are severable.

(4) The bill would provide that these provisions would become operative only if Assembly Constitutional Amendment 1 of the 2023–24 Regular Session is approved by the voters.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Article 4.1 (commencing with Section 53738) is added to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 4.1. Local Government Investment Act

53738. For purposes of this article:

(a) “ACA 1 bonded indebtedness” means bonded indebtedness incurred by a local government pursuant to paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(b) “Audits” means the annual independent performance audit and the annual independent financial audit conducted by a local government pursuant to clauses (iv) and (v) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(c) “Citizens’ oversight committee” means a citizens’ oversight committee appointed to oversee proceeds from ACA 1 bonded indebtedness.

(d) “Local government” means any county, city, city and county, including a charter city or county, any special district, a transit district, a regional transportation commission, or an association of governments, except that “local government” does not include a school district, redevelopment agency, or successor agency to a dissolved redevelopment agency.

53738.1. For purposes of paragraph (4) of subdivision (b) of Section 1 of Article XIII A and subdivision (b) of Section 18 of Article XVI of the California Constitution, “affordable housing” includes, but is not limited

to, rental housing, ownership housing, interim housing, and affordable housing programs such as downpayment assistance, first-time homebuyer programs, and owner-occupied affordable housing rehabilitation programs, that are affordable to households earning up to 150 percent of countywide median income.

53738.2. (a) Notwithstanding Section 53738.1 or any other provision of law, ACA 1 bonded indebtedness shall not be used for the acquisition or lease of any real property that has, at the time of acquisition or lease, been improved with one to four dwelling units.

(b) Subdivision (a) shall not apply to any of the following:

(1) The acquisition or lease of real property for construction of facilities or infrastructure for the delivery of police, fire protection, or emergency medical services listed in subclause (I) of clause (iv) of subparagraph (E) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(2) The acquisition or lease of real property that received funds through downpayment assistance or first-time homebuyer programs funded through ACA 1 bonded indebtedness.

(3) The acquisition or lease of real property acquired or leased by an entity that qualifies for the partial welfare exemption as described in paragraph (1) of subdivision (g) of Section 214 of the Revenue and Taxation Code that is organized and operated for the specific and primary purpose of serving any or all of the following: survivors of domestic violence, refugees, or people with developmental disabilities. Those units housing survivors of domestic violence, refugees, or people with developmental disabilities shall be subject to a recorded deed restriction that restricts the use of the unit as follows:

(A) For 55 years for rented units, unless a local ordinance or the terms of a federal, state, or local grant, tax credit, or other project financing requires, as a condition of the development of residential units, that the development include a certain percentage of units that are affordable to, and occupied by, low-income, lower income, very low income, or extremely low income households for a term that exceeds 55 years for rental housing units.

(B) For 45 years for owner-occupied units.

(4) The acquisition or lease of real property by a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that receive a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties to be sold to low-income families who participate in a below-market interest rate loan program.

53738.3. For purposes of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, “public infrastructure” shall not include the construction, reconstruction, rehabilitation, or replacement of a sports stadium or arena where the majority of the use of the facility is for private ticketed activities.

53738.4. Notwithstanding any other provision of law, any ACA 1 bonded indebtedness, when added to existing bonded indebtedness of a local

government, shall not exceed the applicable statutory limit on the maximum amount of bonded indebtedness that a local government may incur.

53738.5. (a) Except as provided in subdivision (b), a local government shall ensure that any project that is funded with ACA 1 bonded indebtedness has an estimated useful life of at least 15 years.

(b) Notwithstanding subdivision (a), expenditures made pursuant to subclause (IV) of clause (iv) of subparagraph (E) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution shall have an estimated use of life of at least five years.

53738.6. The California State Auditor shall review audits submitted based on Section 1 of Article XIII A of the California Constitution pursuant to existing practices utilized for review of publicly available information as referenced in subdivision (b) of Section 8546.10.

53738.7. (a) A local government shall appoint a citizens' oversight committee within 90 days of certifying an election that approves ACA 1 bonded indebtedness.

(b) (1) The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of revenues derived from ACA 1 bonded indebtedness.

(2) The citizens' oversight committee shall actively review and report on the proper expenditure of taxpayers' money for the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness and the acquisition or lease of real property for public infrastructure, affordable housing, or permanent supportive housing for persons at risk of chronic homelessness.

(3) The citizens' oversight committee shall advise the public as to whether a local government is in compliance with the requirements of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(4) The citizens' oversight committee shall convene to provide oversight for, but not be limited to, all of the following:

(A) Ensuring that revenues derived from ACA 1 bonded indebtedness are expended only for the purposes described in paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(B) Ensuring that funds are not used for employee salaries or other operating expenses, as prohibited by subparagraph (A) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(C) Ensuring that the administrative costs of the local government executing the projects and programs do not exceed 5 percent of the proceeds derived from the ACA 1 bonded indebtedness, as prohibited by subparagraph (A) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(c) In furtherance of its purpose, the citizens' oversight committee may engage in any of the following activities:

(1) Receiving and reviewing copies of the annual, independent performance audit required by subparagraph (A) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(2) Receiving and reviewing copies of the annual, independent financial audit required by subparagraph (A) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(3) Inspecting public infrastructure, affordable housing, or permanent supportive housing to ensure that revenues derived from ACA 1 bonded indebtedness are expended in compliance with the requirements of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution.

(4) Receiving and reviewing copies of any local program or ordinance through which projects or programs will be funded with revenues derived from ACA 1 bonded indebtedness.

(5) Reviewing efforts by the local government to maximize revenues derived from ACA 1 bonded indebtedness by implementing cost-saving measures, including, but not limited to, all of the following:

(A) Mechanisms designed to reduce the costs of professional fees.

(B) Mechanisms designed to reduce the costs of site preparation.

(C) Mechanisms designed to reduce costs by incorporating efficiencies in public infrastructure, affordable housing, or permanent supportive housing design.

(D) Recommendations regarding the use of cost-effective and efficient reusable public infrastructure, affordable housing, or permanent supportive housing plans.

(d) All citizens' oversight committee proceedings shall be open to the public and notice to the public shall be provided in the same manner as the proceedings of the governing board of the local government. The citizens' oversight committee shall issue regular reports on the results of its activities. A report shall be issued at least once a year. Minutes of the proceedings of the citizens' oversight committee and all documents received and reports issued shall be a matter of public record and be made available on an internet website maintained by the governing board of the local government.

(e) (1) The governing board of the local government shall, without expending proceeds derived from the ACA 1 bonded indebtedness, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens' oversight committee. Nothing in this section shall be construed to require the local government to pay for outside consultants for the committee.

(2) The local government shall provide the citizens' oversight committee with responses to any and all findings, recommendations, and concerns addressed in the annual, independent financial and performance audits required by clauses (iv) and (v) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution within three months of receiving the audits.

(f) The citizens' oversight committee shall consist of at least seven members who shall serve for a minimum term of two years without compensation and for no more than three consecutive terms.

(g) (1) An employee or official of the local government shall not be appointed to the citizens' oversight committee.

(2) A vendor, contractor, or consultant of the local government shall not be appointed to the citizens' oversight committee.

(3) Members of the citizens' oversight committee shall abide by the prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1.

53738.8. For purposes of clause (ix) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, members of the legislative body of the local government and members of the citizens' oversight committee shall be subject to Section 1090.

53738.9. For purposes of subparagraph (B) of paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, "committed" means all of the funds from the ACA 1 bonded indebtedness are dedicated to specific projects or programs.

53738.10. The provisions of this article are severable. If any provision of this article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 2. Section 13928 of the Health and Safety Code is amended to read:

13928. (a) Except as provided in subdivision (b), if two-thirds of voters voting upon the proposition favor incurring the indebtedness and issuing the bonds, the district board may adopt resolutions to issue bonds for all or any part of the amount of the indebtedness.

(b) If 55 percent of voters voting upon the proposition favor incurring the indebtedness and issuing bonds that would fund any or all of the activities described in paragraph (4) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the district board may adopt resolutions to issue bonds for all or any part of the amount of the indebtedness.

SEC. 3. Sections 1 and 2 of this act shall become operative only if Assembly Constitutional Amendment 1 of the 2023–24 Regular Session is approved by the voters.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of Assembly Constitutional Amendment 1 (Resolution Chapter 173 of the Statutes of 2023) to be implemented concurrently, it is necessary for this act to take effect immediately.