

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION TWO

HOWARD JARVIS TAXPAYERS ASSOCIATION, et al.,

Plaintiffs and Appellants,

v.

THE BAY AREA TOLL AUTHORITY, et al.,

Defendants and Respondents.

RANDALL WHITNEY,

Plaintiff and Appellant,

v.

METROPOLITAN TRANSPORTATION COMMISSION,

Defendant and Respondent.

On Appeal of Judgments of the San Francisco County Superior Court,
Case Nos. CGC-18-567860 / CPF 18-516276;
The Honorable Ethan P. Schulman, phone: (415) 551-3723, Department 302

**REQUEST FOR JUDICIAL NOTICE OF CALIFORNIA STATE
LEGISLATURE; DECLARATION OF MICHAEL NARCISO**

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California State Legislature

REQUEST FOR JUDICIAL NOTICE

Pursuant to Evidence Code sections 452 and 459 and California Rules of Court 3.1113(l) and 3.1306(c), defendant and respondent California State Legislature hereby requests that the Court take judicial notice of the following:

1. The text of Senate Bill No. 1598 (Reg. Sess. 1991-92), attached as Exhibit A to the Declaration of Michael Narciso.

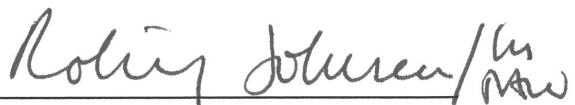
Exhibit A is a legislative enactment by the California State Legislature and is the proper subject of judicial notice under Evidence Code section 452(b). *See Assembly v. Public Utilities Com.*, 12 Cal. 4th 87, 97, n.6 (1995) (taking judicial notice of legislative enactments). Exhibit A is relevant to show that on September 27, 1992, the California Legislature enacted Senate Bill No. 1598, known as the Fresno Metropolitan Projects Act, which added section 7262.6 to the Revenue and Taxation Code (repealed in 2008).

Based upon the above authorities, defendant and respondent requests that the Court take judicial notice of Exhibit A, attached to the Declaration of Michael Narciso.

Dated: December 18, 2019

Respectfully submitted,

REMCHO, JOHANSEN & PURCELL, LLP

By: 
Robin B. Johansen

Attorneys for Defendant and Respondent
California State Legislature

DECLARATION OF MICHAEL NARCISO

I, Michael Narciso, declare under penalty of perjury as follows:

1. I am a paralegal at Remcho, Johansen & Purcell, LLP, attorneys for defendant and respondent California State Legislature. I submit this declaration in support of the Respondent's Brief of California Legislature.

2. Attached as **Exhibit A** is a true and correct copy of the text of Senate Bill No. 1598 (Reg. Sess. 1991-92) along with the Legislative Digest and Synopsis included in the Lexis database for that legislative enactment. This copy was obtained on December 18, 2019 from the Lexis database at <https://advance.lexis.com>.

I declare under penalty of perjury that the foregoing is true and correct. I have firsthand knowledge of the same, except as to those matters described on information and belief, and if called upon to do so, I could and would testify competently thereto. Executed this 18th day of December, 2019, in Oakland, California.


Michael Narciso

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My business address is 1901 Harrison Street, Suite 1550, Oakland, CA 94612.

On December 19, 2019, I served a true copy of the following document(s):

**Request for Judicial Notice of
California State Legislature;
Declaration of Michael Narciso**

on the following party(ies) in said action:

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- ☒ **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and
- ☐ depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☒ placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in Oakland, California, in a sealed envelope with postage fully prepaid.
- ☐ **BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- ☐ **BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.
- ☐ **BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- ☒ **BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on December 19, 2019, in Oakland, California.


Michael A. Narciso

(00398256)

EXHIBIT A

1992 Cal SB 1598

Enacted, September 27, 1992

Reporter

1992 Cal ALS 1067; 1992 Cal SB 1598; 1992 Cal Stats. ch. 1067

**DEERING'S CALIFORNIA ADVANCE LEGISLATIVE SERVICE > 1992 REGULAR SESSION > CHAPTER 1067
> (Senate Bill No. 1598)**

Notice

 Urgency legislation is effective immediately, Non-urgency legislation will become effective January 1, 1993

[A] Uppercase text within these symbols is added <A]

* * * indicates deleted text

Digest

SB 1598, Maddy. Fresno Metropolitan Projects Act. (1) Existing law establishes various local agencies to perform governmental functions. This bill would establish the Fresno Metropolitan Projects Authority and prescribe its membership, powers, and duties, including the authority, subject to the approval of the voters, to impose retail transactions and use taxes and to issue tax bonds. The proceeds of the tax collections would be used by the board of directors to assist scientific, cultural, and multicultural facilities and programs. The Fresno County Clerk would be required to conduct the election, thereby imposing a state-mandated local program. (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, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$ 1,000,000 statewide and other procedures for claims whose statewide costs exceed \$ 1,000,000. This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$ 1,000,000, shall be made from the State Mandates Claims Fund. (3) The bill would require the provisions of the bill to be submitted to the voters at a special election to be consolidated with the next municipal election, or upon a majority vote of the authority at any municipal or countywide election prior to December 31, 1994, and would take effect immediately as an act calling an election.

Synopsis

An act to add and repeal Title 7.91 (commencing with Section 68056) of the *Government Code*, and to add Section 7262.6 to the *Revenue and Taxation Code*, relating to the Fresno Metropolitan Projects Act, to take effect immediately, calling an election.

Text

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

SECTION 1. Title 7.91 (commencing with Section 68056) is added to the Government Code, to read:

TITLE 7.91

Fresno Metropolitan Projects

Act

§ 68056.

The Legislature hereby finds and declares:

(a) Projects to improve the general quality of life, including scientific, cultural, and multicultural facilities and programs, are essential in providing a rich source of knowledge and inspiration to all of the residents of the Fresno metropolitan area and of the state.

(b) The preservation and development of those facilities and programs are vital to the cultural and intellectual life of the Fresno metropolitan area and of the state.

(c) Those projects and facilities draw upon the culturally diverse population of the Fresno metropolitan area and enhance their contributions to community life.

(d) Those projects and facilities are a critical factor in the economic well-being of the Fresno metropolitan area and of the state.

(e) Those projects and facilities are needed to maintain economic development and to promote tourism in the Fresno metropolitan area and of the state.

(f) Creation of a Fresno Metropolitan Projects Authority will promote the health, safety, and welfare of the residents of the Fresno metropolitan area and of the state.

(g) It is unfeasible for the County of Fresno or the individual municipal entities to allocate moneys through their general funds. It is in the public interest to allow the voters of the Fresno metropolitan area to create an authority because it calls for a new, low cost, and equitable program of citizen investment in general community projects.

§ 68057.

This title shall be liberally construed in order to effectuate its purposes. No inadvertent error, irregularity, informality, or the inadvertent neglect or omission of any officer, in any procedure taken under this title, other than fraud, shall void or invalidate that proceeding or any levy imposed to finance community projects.

§ 68058.

Unless the context otherwise requires, the following definitions govern the construction of this title:

(a) "Annual operating revenue" means revenue and support from all sources except capital construction revenue, designated funds for capital needs, Fresno Metropolitan Projects Authority revenue, and in-kind revenue. Revenue from events, auxiliary programs and special programs shall be net of expenses.

(b) "Authority" means the Fresno Metropolitan Projects Authority.

(c) "Board" means the Board of Directors of the Fresno Metropolitan Projects Authority.

(d) "Cultural facility or program" means a nonprofit institutional organization which meets the requirements of Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, or program thereof having as its primary purpose the advancement and preservation of art, music, history, literature, theater, or dance. This does not include any agency of local government, the state, any educational institution, any cable communications system, or any newspaper or magazine.

(e) "Multicultural facility and program" means a nonprofit institutional organization which meets the requirements of Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, or program thereof having as its primary purpose advancement and preservation of the various ethnic populations of the area and the promotion of public education and understanding of those populations. This does not include any agency of local government, the state, any educational institution, any cable communications system, or any newspaper or magazine.

1992 Cal SB 1598

(f) "Paid attendance" means the total paid attendance at all programs as verified by annual audit reports.

(g) "Proceeds" means the revenues from the retail transactions and use taxes imposed pursuant to this title and remaining after payment of operating and administrative expenses, including charges by the State Board of Equalization for collection and distribution, not to exceed 3.5 percent of revenues.

(h) "Scientific facility and program" means a nonprofit institutional organization which meets the requirements of Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, or program thereof having as its primary purpose the advancement and preservation of physical sciences, natural or natural history. This does not include any agency of local government, the state, any educational institution, any cable communications system, or any newspaper or magazine.

(i) "Public Broadcast Entity" means an on-the-air radio or television station operating under a noncommercial educational license granted by the Federal Communications Commission and that is not owned, operated, or controlled by any religious or political organization.

§ 68059.

The Fresno Metropolitan Projects Authority is hereby established.

(b) The authority shall be governed by a 13-member board of directors comprised of:

- (1) One representative of the Board of Supervisors of Fresno County.
 - (2) One representative of the Fresno City Council.
 - (3) One representative of the Eleventh District of the Parent Teachers' Association.
 - (4) One representative of an ad hoc committee of retired judges from Fresno County's local and state benches.
 - (5) One representative of the Fresno City and County Chamber of Commerce.
 - (6) One representative of the Older Americans Association of Fresno County.
 - (7) One representative of an ad hoc committee of representatives of the Taxpayers Association of Fresno County and the San Joaquin Taxpayers Association.
 - (8) One representative of the Citizens for Community Enrichment.
 - (9) One representative of the Fresno County Farm Bureau.
 - (10) One representative of the Fresno-Madera Central Labor Council.
 - (11) One representative of the League of Mexican-American Women.
 - (12) One representative of the West Fresno Ministerial Alliance.
 - (13) One representative of the California Retired Teachers Association, Fresno County Division.
- (c) Vacancies in any of the board positions shall be filled by the appointing entity or organization.
- (d) Board members shall serve for a term of four years.
- (e) All members of the board shall reside within the boundaries of the authority.
- (f) All members of the board are limited to serving two consecutive terms.
- (g) The number of members of the board may be increased to 15 by an affirmative vote of the majority of the members of the board.
- (h) All members of the board shall file statements of economic interests pursuant to Chapter 9.5 (commencing with Section 89500) of Title 9.

§ 68059.1.

The boundaries of the authority shall be the area within the adopted sphere of influence of the City of Fresno, as identified in Resolution Number AD-89-5 of the Fresno County Local Agency Formation Commission, as revised May 2, 1990.

§ 68059.2.

If the voters do not approve the imposition of the retail transactions and use tax at the election conducted pursuant to Section 68059.7, this title shall be repealed as of the date that the county certifies the election results to the Secretary of State.

§ 68059.3.

The initial meeting of the board shall convene within 30 days after this title becomes effective. The Chairperson of the Fresno County Board of Supervisors shall convene the initial meeting.

§ 68059.4.

The board at its initial meeting shall call an election pursuant to Section 68059.7 and consider and adopt other election procedures for the conduct of that election.

§ 68059.5.

(a) The board of directors shall appoint an advisory board that includes representatives from the various ethnic, racial, and cultural segments of the community as well as representatives from the arts, agriculture, business and industry, clergy, education, medicine, law, science, and recreation.

(b) The composition, terms and operating procedures for the advisory board shall be as prescribed by the board.

(c) The advisory board may make recommendations to the board as to funding allocations for facilities and programs.

§ 68059.6.

(a) The board at its first meeting, and thereafter annually in January, shall elect a chairperson who shall preside at all meetings, and a vice chairperson who shall preside in his or her absence. In the event of their absence or inability to act, the members present, by an order entered into the minutes, shall select one of their members to act as chairperson pro tempore, who, while so acting, shall have the authority of the chairperson.

(b) The board shall adopt rules for its proceedings consistent with the laws of the state.

(c) All official acts of the authority shall require the affirmative vote of the majority of the directors.

(d) All meetings of the authority, including, but not limited to, the meetings of the advisory board of the authority, shall be conducted pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The authority shall do the following:

(1) Adopt an annual budget.

(2) Adopt an administrative code, which prescribes the powers and duties of the authority officers, the method of appointment of authority, employees, and methods, procedures, and systems of operations and management of the authority.

(3) Cause a postaudit of the financial transactions and records of the authority to be made at least annually by a certified public accountant.

(4) Do any and all of the following things necessary to carry out the purpose of this title including:

(A) Hiring an independent staff of its own or contract with any public agency to implement this title.

(B) Fix the compensation of its employees. The authority shall not expend more than 1.5 percent of the funds generated pursuant to this title in any year for salary and benefits of its staff.

(C) Publish notice of the time and place of a public hearing on the adoption of the annual budget pursuant to Section 6061 not later than the 15th day prior to the day of the hearing. The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

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

(E) All claims for money or damages against the authority shall be governed by Division 3.6 (commencing with Section 810) of Title 1, except as provided therein, or by other statutes or regulations expressly applicable thereto.

(F) Enter into contracts upon any terms and conditions that the authority finds in its best interest.

§ 68059.7.

(a) The authority, subject to the approval of a majority vote by the voters, may impose a retail transactions and use tax at a maximum rate of one-tenth of 1 percent under this title.

(b) Notwithstanding any other provision of law, the authority at the next municipal election, or upon a majority vote of the authority, at any municipal or countywide election prior to December 31, 1994, shall submit to the voters within its geographical boundaries the question of whether the authority shall be authorized to levy and collect transactions and use taxes for the purpose stated in this title. The Fresno County Clerk shall be charged with the duty to conduct that election pursuant to the procedures adopted by the board.

(c) The tax ordinance shall specify the period, not to exceed 20 years, but subject to termination within 10 years upon a majority vote of the board, during which the tax is to be imposed.

(d) The authority shall reimburse the county for the county's costs in conducting the election through the proceeds of the retail transactions and use tax. If the voters do not approve the imposition of a retail transactions and use tax, the county's actual incremental costs in conducting the election shall be paid by private contributions.

§ 68059.8.

Proceeds of taxes levied pursuant to this title shall be used by the board to assist scientific, cultural, and multicultural facilities and for programs within the authority and shall be distributed annually by the board as follows:

(a) Fifty percent to the Fresno Zoological Society, the Fresno Metropolitan Museum of Art, History, and Science, the Fresno Philharmonic Orchestra, and the Fresno Art Museum as follows:

(1) Each of the above institutions will receive an annual core grant in the flat dollar amount of two hundred thousand dollars (\$ 200,000), and that amount shall remain constant over the life of this title.

(2) Any funds remaining after distribution of the core grants shall be divided annually amongst these four institutions on a percentage basis proportionate to their respective annual operating revenues.

(A) The first year of authority operation that figure will be derived by averaging annual operating revenue for the prior five years.

(B) Each year thereafter it will be derived by averaging annual operating revenue for the prior three years.

(3) Each institution may apply those funds to operations so long as the amount applied to operations does not exceed 35 percent of the institution's total operating revenue for the current year.

(A) Any funds received over this amount shall be used for capital improvements or special projects that expand the institution's programs.

(B) Each institution shall submit an annual report of operating income on the form furnished by the authority. That report shall be audited and certified by an independent accountant.

(b) Twenty-five percent shall be distributed to scientific, cultural, and multicultural facilities and programs within the authority which are not receiving funds under subdivision (a) and which meet the following criteria:

(1) Any facility or program receiving funds under this section shall be a nonprofit organization whose primary purpose is to provide for the general enlightenment and entertainment of the public through the production, presentation, exhibition, advancement, or preservation of art, music, theater, dance, history, literature, physical sciences, natural sciences, or natural history.

(2) The facility or program shall have its principal office within the authority, shall conduct the majority of its activities within the State of California, and shall principally benefit the residents of the authority.

(3) The facility or program shall have been in existence for at least two years prior to the distribution.

(4) The 25 percent shall be allocated annually by the board considering the annual operating revenue, paid attendance, regional impact, accessibility, and related qualities of the selected facilities or programs as determined by the board. At its discretion, the board may authorize multiyear grants pursuant to this section.

(c) Five percent may be distributed to local public broadcast entities serving the area of the authority for the production of programs dedicated to local subjects.

(d) Five percent may be distributed to facilities or programs for purposes of conducting multicultural projects or events for the enrichment of the residents of the authority.

(e) Eleven and one-half percent shall be distributed for capital improvement projects or projects that are deemed by the board to enrich the quality of life, or that protect significant natural resources of the authority.

(f) Any moneys not distributed pursuant to this section shall be placed by the board in an interest bearing account with a federally insured bank or savings and loan association located in the State of California. Those moneys shall

remain in that account until the board, in its discretion, determines to distribute the moneys in accordance with any of the criteria Set forth above.

(g) None of the proceeds shall be utilized to replace revenues lost by reason of the restrictions of Article XIII A of the California Constitution, or to finance projects formerly funded by property tax revenues collected by the City of Fresno or the County of Fresno.

(h) "Pay as you go" financing is the preferred method of financing facilities and programs under this title. However, the authority may use bond financing as an alternative method if the scope of planned expenditures makes "pay as you go" financing unfeasible.

(i) The authority shall pay all legal costs related to any challenge of the constitutionality of the retail transactions and use tax from the proceeds of the tax.

§ 68059.9.

(a) The authority may issue limited tax bonds pursuant to this title payable from revenues generated from the transactions and use tax.

(b) Limited tax bonds shall be issued pursuant to a resolution adopted at any time by a majority vote of the board of the authority. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

(c) The maximum bonded indebtedness that may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the authority. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.

(d) The proceeds of the bonds shall be available only for capital projects and shall not be utilized to fund any other ongoing operating costs.

§ 68059.10.

(a) The resolution authorizing the issuance of bonds shall state all of the following:

(1) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to, or connected with, the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant, and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated cost of accomplishing those purposes.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not be beyond the date of termination of the imposition of the retail transactions and use tax.

(5) The maximum rate of interest to be paid, which shall not exceed the maximum allowable by law.

(6) The denomination or denominations of the bonds, which shall not be less than five thousand dollars (\$ 5,000).

(7) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when all of, or any part of, the principal becomes due and payable.

(b) The resolution may also contain any other matters authorized by this title or any other law.

(c) The resolution may also provide for the call and redemption of the bonds prior to maturity at the times and prices and upon other terms as specified. However, no bond is subject to call or redemption prior to maturity, unless it contains a recital to that effect or unless a statement to that effect is printed.

§ 68059.11.

1992 Cal SB 1598

(a) The bonds shall bear interest at a rate or rates not exceeding the maximum allowable by law, payable at intervals determined by the authority.

(b) The principal of, and interest on, the bonds shall be payable in lawful money of the United States at the office of the treasurer of the authority, or at other places as may be designated, or at both the office and other places at the option of the holders of the bonds.

(c) The bonds, or each series thereof, shall be dated and numbered consecutively and shall be signed by the chairperson or vice chairperson of the authority and the official seal, if any, of the authority shall be attached.

(d) If any officer whose signature appears on the bonds or coupons ceases to be that officer before the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

(e) The bonds may be sold as the authority determines by resolution, and the bonds may be sold at a price below par, whether by negotiated or public sale.

(f) Delivery of any bonds may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

(g) All accrued interest and premiums received on the sale of the bonds shall be placed in the fund to be used for the payment of the principal of, and interest on, the bonds, and the remainder of the proceeds of the bonds shall be placed in the treasury of the authority and applied to secure the bonds or for the purposes for which the debt was incurred. However, when the purposes have been accomplished, any money remaining shall be either: (1) transferred to the fund to be used for the payment of principal of, and interest on, the bonds or (2) placed in a fund to be used for the purchase of the outstanding bonds in the open market at prices and in the manner, either at public or private sale or otherwise, as determined by the authority. Bonds so purchased shall be canceled immediately.

§ 68059.12.

(a) The authority may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the authority upon the terms, at the times, and in the manner which it determines.

(b) Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and, redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(1) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(2) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

(c) The provisions of this title for the issuance and sale of bonds apply to the issuance and sale of refunding bonds.

§ 68059.13.

(a) The authority may borrow money in anticipation of the sale of bonds which have been authorized pursuant to this chapter, but which have not been sold or delivered, and may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time. However, the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

(b) The bond anticipation notes, and the interest thereon, may be paid from any money of the authority available therefor, including the revenues from the tax. If not previously otherwise paid, the bond anticipation notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next sale of the bonds of the authority in anticipation of which the notes were issued.

(c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of the bonds which the authority has been authorized to issue, less the amount of any bonds of the authorized issue previously sold, and also less the amount of other bond anticipation notes therefor issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds.

(d) The bond anticipation notes and the resolutions authorizing them may contain any provisions, conditions, or limitations which a resolution of the authority may contain.

§ 68059.14.

Any bonds issued under this title are legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds; and whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts, or other districts within the state, that money or funds may be invested in the bonds issued under this title, and whenever bonds of cities, counties, school districts, or other districts within the state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money, the bonds issued under this title may be so used. The provisions of this title are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

§ 68059.15.

Any action or proceeding in which the validity of the adoption of the retail transactions and use tax ordinance provided for in this title or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure within six months from the date of the election at which the ordinance is approved. Otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance and the retail transactions and use tax provided for therein, shall be held to be valid and in every respect legal and incontestible.

SECTION 2. Section 7262.6 is added to the Revenue and Taxation Code, to read:

§ 7262.6.

In addition to the tax levied pursuant to Part 1.5 (commencing with Section 7200), the Fresno Metropolitan Projects Authority may impose a transactions and use tax by adoption of an ordinance in accordance with this part if each of the following conditions are met:

(a) The ordinance imposing the tax is submitted to and approved by the voters of the adopted sphere of influence of the City of Fresno, as identified in Resolution Number AD-89-5 of the Fresno County Local Agency Formation Commission, as revised May 2, 1990, in accordance with Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(b) The tax is imposed at a rate of one-tenth of 1 percent and for a period not to exceed 20 years.

(c) The revenues collected from the tax may be used only for funding purposes as described in Title 7.91 (commencing with Section 68056) of the Government Code.

(d) The State Board of Equalization charges the authority an amount for its services in administering the transactions and use tax in accordance with Section 7273, with allowable adjustments, if necessary, for the board's administration of the tax due to unique circumstances of the authority relating to its tax rate and its boundaries.

SECTION 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SECTION 5. Sections 1 and 2 of this act shall be submitted to the voters at a special election to be consolidated

with the next municipal election occurring after the effective date of this act, or upon a majority vote of the authority, at any municipal or countywide election prior to December 31, 1994, in accordance with provisions of the Government Code and the Elections Code governing submission of measures to the voters at a municipal election. Only one form of ballot and ballot pamphlet shall be used, and the two elections shall be conducted and treated as one.

SECTION 6. This act calls an election within the meaning of Article IV of the Constitution and shall go into immediate effect.

History

[Approved by Governor September 27, 1992.]

DEERING'S CALIFORNIA ADVANCE LEGISLATIVE SERVICE

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