SENATE COMMITTEE ON EDUCATION
Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No:	AB 2738		
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Version:	April 13, 2016	**Hearing Date:**	June 8, 2016
Urgency:	No	**Fiscal:**	No
Consultant:	Kathleen Chavira		

Subject: School bonds: local school bonds: investment

SUMMARY

This bill prohibits a school or community college district from withdrawing proceeds from the sale of bonds for investment outside the county treasury.

BACKGROUND

Existing law authorizes school districts and community college districts to issue general obligation (GO) bonds upon approval by voters and establishes a process and guidelines for such issuances under the Education Code. Existing law also authorizes any city, county, city and county, school district, community college district, or special district to issue GO bonds, secured by the levy of ad valorem taxes, and establishes a process for such issuances under the Government Code.
(Education Code § 15100, et seq. and Government Code § 53506, et seq.)

Existing law requires a county to levy and collect taxes, pay bonds, and hold bond proceeds and tax funds for bonds issued and sold pursuant to the Education Code.
(EC § 15140(b))

Existing law requires the proceeds of the sale of bonds to be deposited in the county treasury and to be credited to the building fund of the school district or community college district. Existing law requires these proceeds be drawn out as other school moneys are drawn out and prohibits the withdrawn bond proceeds from being applied to any purposes other than those for which the bonds were issued. (EC § 15146(g))

Existing law specifies the types of securities that are eligible for the investment of surplus state funds and contains specific provisions and requirements regarding how and where public money may be invested. (Government Code § 16340, § 16429.1, § 53601, § 53601.6, § 53601.8, § 53635, § 53635.2, § 53635.8, § 53638, and § 53684)

ANALYSIS

This bill:

1) Prohibits a school or community college district from withdrawing proceeds from the sale of bonds for purposes of investment outside the county treasury.

2) Makes several technical and clarifying amendments.

STAFF COMMENTS

1) ***Source of the bill.*** According to the author, county treasurers are tasked with managing county resources because of their extensive knowledge and expertise in issuing bonds and investing large sums of taxpayer dollars. This bill, sponsored by the California Association of County Treasurers and Tax Collectors, responds to a conflict in San Mateo between the County and a local community college district regarding the withdrawal of funds for the purpose of investment outside the county investment pool.

   In November 2014, voters approved $338 million in facilities bonds for the San Mateo Community College District (SMCCD). In June 2015, the SMCCD Board declared $109 million in bond proceeds surplus for the purpose of authorizing withdrawal from, and investment outside of, the county investment pool. Reportedly, the intent was to allow the district to generate greater earnings than that realized through the county treasurer.

   The author is concerned that allowing school districts to invest bond dollars creates greater risk and potentially compromises funds necessary for school maintenance and upgrades, as well as voter support of future school bonds. In addition, the author is concerned that funds intended for classroom construction could be diverted to pay investment fees to private parties at greater cost than would be incurred by the use of a public agency.

2) ***Does current law need clarification?*** Current law (EC § 41015) authorizes districts that have any surplus moneys not required for the immediate necessities of the district to invest all or part of the funds in any investments authorized under specified Government Code provisions. However, statute also requires that proceeds from the sale of bond funds be deposited in the county treasury and prohibits the withdrawal of these funds for purposes other than those for which the bonds were issued. This bill is prompted by a disagreement in the interpretation and application of current law.

   The sponsors of the bill report that withdrawal of funds for outside investment has only been proposed twice so far (in two northern California counties), but are concerned about the potential incentive for private financial industry providers to encourage districts to expand this practice. School and community college representatives report that districts in other parts of the state have withdrawn funds for this purpose with no conflicts with the county treasury.

   Staff notes that, while the range of risk associated with an investment portfolio would depend upon the choices made by the investing entity, all local agencies are bound by the same state and federal requirements regarding the investment of public funds.

3) **Underlying policy questions?** While the impetus of this bill emanates from a district's desire to pursue a more aggressive investment strategy than that of the county treasurer, districts also cite examples of counties whose investment strategy may be riskier than an elected school or community college board would

prefer. Both county treasurers and districts are authorized to invest public funds, and depending upon the district/county, it is likely that each would have varying levels of expertise available to them for this purpose. The provisions of this bill are specific to the investment of proceeds from the sale of voter authorized bonds outside the county treasury. The committee may wish to consider:

a) Should proceeds from the sale of bonds be treated differently than other funds that a school district might receive and invest? Is the sale of bonds for purposes of investment by a school district an appropriate use of bond funds?

b) How many school districts have the expertise to invest bond proceeds independent of a county treasurer? Are the existing bond accountability and audit processes sufficient to ensure oversight of district investment practices?

c) Are there examples of county treasuries that have made poor investment decisions and jeopardized district funds? How widespread are these examples?

d) Do country treasuries offer adequate mechanisms for districts to oversee investment policy and ensure that districts' investment needs are being met?

SUPPORT

California Association of County Treasurers and Tax Collectors
Howard Jarvis Taxpayers Association
San Mateo County Board of Supervisors

OPPOSITION

California Association of School Business Officials
Coalition for Adequate School Housing
Community College Facility Coalition
San Mateo County Community College District

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