

## Assembly Bill No. 878

### CHAPTER 389

An act to amend Sections 6055 and 6077.6 of, and to add Section 6084.2 to, the Harbors and Navigation Code, and to add Section 69.5 to the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970), relating to harbor districts.

[Approved by Governor September 16, 2003. Filed with Secretary of State September 17, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 878, Pavley. Harbor districts.

(1) Existing law contains various provisions relating to the creation of a harbor commission for each harbor district and the election, terms, and powers of harbor commissioners.

This bill would make changes to commissioners' titles, and authority over certain land and funds.

(2) Existing law authorizes a harbor district to order by resolution that all or any of the funds under its control and not necessary for current operating expenses be invested in obligations, bonds, or securities of the United States of America or of any agency or instrumentality thereof.

This bill would instead authorize those funds to be invested as specified.

(3) Existing law authorizes the board of a harbor district to borrow up to \$1,000,000 by issuance of a promissory note for the purposes of acquiring land for, and constructing or operating, a work, project, or facility authorized under specified law. Existing law also authorizes a board to execute a conditional sales contract to purchase personal property with a value up to \$1,000,000. Existing law prohibits the borrowing term from exceeding 5 years. This provision does not apply to money borrowed from an agency or department of the United States government or the State of California.

Existing law establishes the Humboldt Bay Harbor, Recreation, and Conservation District within Humboldt County. Existing law authorizes the district to incur a general obligation bonded indebtedness and a revenue bonded indebtedness for the acquisition, construction, completion, or repair of improvements, works, property, or facilities for the district, as specified.

This bill would authorize a district to borrow money and incur indebtedness through limited obligation notes for any purpose, after adoption, by  $\frac{4}{5}$  vote of the board, of a resolution. The bill would set the

maximum interest rate and maturity dates on the notes and would require that the outstanding amount at any one time not exceed \$10,000,000. The bill also would authorize the Humboldt Bay Harbor, Recreation, and Conservation District to borrow money and incur indebtedness through this same type of limited obligation note.

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

SECTION 1. Section 6055 of the Harbors and Navigation Code is amended to read:

6055. The commissioners elected at the first election shall, within 10 days from the date of the canvass of the returns of the election, enter upon the duties of office. Before entering upon the duties of his or her office, each commissioner shall take and subscribe the official oath before the secretary or an officer authorized by law to administer oaths and shall file it with the county elections official of the county in which the district is situated.

They shall elect one of their number as president or chairperson and one of their number as secretary. The president or chairperson and secretary shall serve at the pleasure of the board.

SEC. 2. Section 6077.6 of the Harbors and Navigation Code is amended to read:

6077.6. A harbor district may by resolution order that all or any of the funds under its control and not necessary for current operating expenses be invested in accordance with Section 53601 of the Government Code.

SEC. 3. Section 6084.2 is added to the Harbors and Navigation Code, to read:

6084.2. (a) A district may issue limited obligation notes after the adoption, by a four-fifths vote of all the commissioners of the board, of a resolution reciting each of the following:

- (1) That the resolution is being adopted pursuant to this subdivision.
  - (2) The purposes of incurring the indebtedness.
  - (3) The estimated amount of the indebtedness.
  - (4) The maximum amount of notes to be issued, and the source of revenue or revenues to be used to secure the limited obligation notes.
  - (5) The maturity date of the limited obligation notes.
  - (6) The form of the limited obligation notes.
  - (7) The manner of execution of the limited obligation notes.
- (b) The resolution may also provide for one or more of the following matters:

- (1) Insurance for the limited obligation notes.

(2) Procedures in the event of default, terms upon which the limited obligation notes may be declared due before maturity, and the terms upon which that declaration may be waived.

(3) The rights, liabilities, powers, and duties arising upon the district's breach of an agreement with regard to the limited obligation notes.

(4) The terms upon which the holders of the limited obligation notes may enforce agreements authorized by this section.

(5) A procedure for amending or abrogating the terms of the resolution with the consent of the holders of a specified percentage of the limited obligation notes. If the resolution contains this procedure, the resolution shall specifically state the effect of amendment upon the rights of the holders of all of the limited obligation notes.

(6) The manner in which the holders of the limited obligation notes may take action.

(7) Other actions necessary or desirable to secure the limited obligation notes or tending to make the notes more marketable.

(c) The limited obligation notes shall bear interest at a rate not exceeding the rate permitted under Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

(d) The limited obligation notes may not mature later than 10 years after the date of the issuance of the notes, and the total amount of the limited obligation notes outstanding at any one time for the district may not exceed the sum of ten million dollars (\$10,000,000).

(e) The agreement between the district and the purchasers of the limited obligation notes shall state that the notes are limited obligation notes payable solely from specified revenue of the district. The pledged revenue shall be sufficient to pay the following amounts annually, as they become due and payable:

(1) The interest and principal on the notes.

(2) Payments required for compliance with the resolution authorizing issuance of the notes or agreements with the purchasers of the notes.

(3) Payments to meet any other obligations of the district that are charges, liens, or encumbrances on the pledged revenue.

(f) The limited obligation notes are special obligations of the district, and shall be a charge against, and secured by a lien upon, and payable, as to the principal thereof and interest thereon, from the pledged revenue. If the revenue described in the authorizing resolution is insufficient for the payment of interest and principal on the notes, the district may make payments from any other funds or revenues that may be applied to their payment. The revenue and any interest earned on the revenue constitute

a trust fund for the security and payment of the interest on and principal of the notes.

(g) So long as any limited obligation notes or interest thereon are unpaid following their maturity, the pledged revenue and interest thereon may not be used for any other new purpose.

(h) If the interest and principal on the limited obligation notes and all charges to protect them are paid when due, the district may expend the pledged revenue for other purposes.

(i) Limited obligation notes of the same issue shall be equally secured.

(j) The general fund of the district is not liable for the payment of the principal or the interest on the limited obligation notes.

(k) The holders of the limited obligation notes may not compel the exercise of the taxing power by the district, other than the revenue pledged, or the forfeiture of the district's property.

(l) Every agreement shall recite in substance that the principal of, and interest on, the limited obligation notes are payable solely from the revenue pledged to the payment of the principal and interest and that the district is not obligated to pay the principal or interest except from the pledged revenue.

**SEC. 4.** Section 69.5 is added to the Humboldt Bay Harbor, Recreation, and Conservation District Act (Chapter 1283 of the Statutes of 1970), to read:

69.5. Notwithstanding any other provision of this act, Section 6084.2 of the Harbors and Navigation Code applies to this act.