

AMENDED IN ASSEMBLY MAY 2, 2017

AMENDED IN ASSEMBLY APRIL 6, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 668

Introduced by Assembly Member Gonzalez Fletcher

February 14, 2017

An act to amend Sections 19253 and 19256 of, and to add Chapter 5 (commencing with Section 19400) to Division 19 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 668, as amended, Gonzalez Fletcher. Voting Modernization Bond Act of 2018.

Existing law, the Voting Modernization Bond Act of 2002, authorizes the Voting Modernization Finance Committee to issue and sell bonds in the amount of \$200,000,000, as specified. Existing law authorizes a county to apply to the Voting Modernization Board for money from the proceeds of the sale of bonds (1) to pay for or purchase new voting systems that are certified or conditionally approved by the Secretary of State, (2) to research and develop new voting systems, or (3) to manufacture the minimum number of voting system units reasonably necessary to test and seek certification or conditional approval of the voting system, or test and demonstrate the capabilities of a voting system in a pilot program.

This bill would enact the Voting Modernization Bond Act of 2018 which, if approved, would authorize the issuance and sale of bonds in the amount of \$450,000,000, as specified, ~~for purposes of assisting counties in the purchase of specified voting equipment and technology.~~

similar purposes. This bill would authorize the Voting Modernization Finance Committee and the Voting Modernization Board to administer the Voting Modernization Bond Act of 2018.

This bill would provide for submission of the act to the voters at the June 5, 2018, statewide direct primary election.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 19253 of the Elections Code is amended
2 to read:

3 19253. (a) The Voting Modernization Finance Committee is
4 hereby established for the purpose of authorizing the issuance and
5 sale, pursuant to the State General Obligation Bond Law, of the
6 bonds authorized by this article and Chapter 5.

7 (b) The committee consists of the Controller, the Director of
8 Finance, and the Treasurer, or their designated representatives, all
9 of whom shall serve without compensation, and a majority of
10 whom shall constitute a quorum. The Treasurer shall serve as
11 chairperson of the committee. A majority of the committee may
12 act for the committee.

13 (c) For purposes of this article, the Voting Modernization
14 Finance Committee is “the committee” as that term is used in the
15 State General Obligation Bond Law.

16 SEC. 2. Section 19256 of the Elections Code is amended to
17 read:

18 19256. The Voting Modernization Board is hereby established
19 and designated the “board” for purposes of the State General
20 Obligation Bond Law, and for purposes of administering the Voting
21 Modernization Fund and the Voting Modernization Fund of 2018.
22 The board consists of five members, three selected by the Governor
23 and two selected by the Secretary of State. The board shall have
24 the authority to reject any application for fund money it deems
25 inappropriate, excessive, or that does not comply with the intent
26 of this article or Chapter 5. A county whose application is rejected
27 shall be allowed to submit an amended application.

28 SEC. 3. Chapter 5 (commencing with Section 19400) is added
29 to Division 19 of the Elections Code, to read:

CHAPTER 5. VOTING MODERNIZATION BOND ACT OF 2018

19400. This chapter shall be known and may be cited as the Voting Modernization Bond Act of 2018.

19401. The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this chapter, and the provisions of that law are included in this chapter as though set out in full.

19402. For purposes of this chapter, the following definitions apply:

(a) “Ballot on demand system” means a ballot manufacturing system, as defined in Section 303.4, that is subject to Sections 13004 and 13004.5.

(b) “Board” means the Voting Modernization Board, established pursuant to Section 19256.

(c) “Bond” means a state general obligation bond issued pursuant to this chapter adopting the provisions of the State General Obligation Bond Law.

(d) “Bond act” means this chapter authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.

(e) “Committee” means the Voting Modernization Finance Committee, established pursuant to Section 19253.

(f) “Electronic poll book” means an electronic list of registered voters that may be transported to the polling location or vote center pursuant to Section 2550.

(g) “Fund” means the Voting Modernization Fund of 2018, established pursuant to Section 19403.

(h) “Remote accessible vote by mail system” means a system, as defined in Section 303.3, that is certified pursuant to Chapter 3.5 (commencing with Section 19280) of Division 19.

(i) “Vote by mail ballot drop box” means a secure receptacle established by a county or city and county elections official whereby a voted vote by mail ballot may be returned to the elections official from whom it was obtained pursuant to Section 3025.

(j) “Voting system” means any voting machine, voting device, or vote tabulating device that does not use prescored punch card ballots.

19403. (a) The committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than four hundred fifty million dollars (\$450,000,000), exclusive of refunding bonds, in the manner provided herein for the purpose of creating a fund to assist counties in the purchase of ~~items~~ *paying for an expense* listed in subdivision (d).

(b) The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Voting Modernization Fund of 2018, which is hereby established.

(c) A county is eligible to apply to the board for fund money if it meets both of the following requirements:

(1) After January 1, 2017, the county has ~~purchased an item~~ *agreed to pay for an expense* listed in subdivision (d) for which it continues to make payments on the date that this chapter becomes effective.

(2) The county matches fund moneys at one of the following ratios:

(A) If the county conducts an election pursuant to Section 4005 or 4007, one dollar (\$1) of county moneys for every three dollars (\$3) of fund moneys.

(B) If the county does not conduct an election pursuant to Section 4005 or 4007, one dollar (\$1) of county moneys for every two dollars (\$2) of fund moneys.

~~(d) Fund moneys shall only be used~~ *(1) A county may use fund moneys to purchase or lease* the following:

~~(1)~~

~~(A)~~ Voting systems certified *or conditionally approved* by the Secretary of State that do not use prescored punch card ballots.

~~(2)~~

~~(B)~~ Electronic poll ~~books~~. *books certified by the Secretary of State.*

~~(3)~~

~~(C)~~ Ballot on demand ~~systems~~. *systems certified by the Secretary of State.*

~~(4)~~

1 (D) Vote by mail ballot drop-boxes: boxes that comply with any
2 relevant regulations promulgated by the Secretary of State pursuant
3 to subdivision (b) of Section 3025.

4 ~~(5)~~

5 (E) Remote accessible vote by mail-systems: systems certified
6 or conditionally approved by the Secretary of State.

7 ~~(6)~~

8 (F) Technology to facilitate electronic connection between
9 polling places, vote centers, and the office of the county elections
10 official or the Secretary of State's office.

11 (G) Vote by mail ballot sorting and processing equipment.

12 (2) A county may use fund moneys to contract and pay for the
13 following:

14 (A) Research and development of a new voting system that has
15 not been certified or conditionally approved by the Secretary of
16 State. A voting system developed pursuant to this subparagraph
17 shall use only nonproprietary software and firmware with disclosed
18 source code, except that it may use unmodified commercial
19 off-the-shelf software and firmware, as defined in paragraph (1)
20 of subdivision (a) of Section 19209.

21 (B) Manufacture of the minimum number of voting system units
22 reasonably necessary for either of the following purposes:

23 (i) Testing and seeking certification or conditional approval for
24 the voting system pursuant to Sections 19210 to 19214, inclusive.

25 (ii) Testing and demonstrating the capabilities of the voting
26 system in a pilot program pursuant to paragraph (2) of subdivision
27 (b) and subdivision (c) of Section 19209.

28 (e) Any voting system purchased or leased using bond funds
29 that does not require a voter to directly mark on the ballot must
30 produce, at the time the voter votes his or her ballot or at the time
31 the polls are closed, a paper version or representation of the voted
32 ballot or of all the ballots cast on a unit of the voting system. The
33 paper version shall not be provided to the voter but shall be retained
34 by elections officials for use during the 1 percent manual-recount
35 or other tally described in Section 15360, or any recount, audit,
36 or contest.

37 19404. The Legislature may amend subdivisions (c) and (d)
38 of Section 19403 and Section 19256 by a statute, passed in each
39 house of the Legislature by rollcall vote entered in the respective
40 journals, by not less than two-thirds of the membership in each

1 house concurring, if the statute is consistent with, and furthers the
2 purposes of, this chapter.

3 19405. (a) All bonds authorized by this chapter, when duly
4 sold and delivered as provided herein, constitute valid and legally
5 binding general obligations of the State of California, and the full
6 faith and credit of the state is hereby pledged for the punctual
7 payment of both principal and interest thereof. The bonds issued
8 pursuant to this chapter shall be repaid within 10 years from the
9 date they are issued.

10 (b) There shall be collected annually, in the same manner and
11 at the same time as other state revenue is collected, a sum of
12 money, in addition to the ordinary revenues of the state, sufficient
13 to pay the principal of, and interest on, the bonds as provided
14 herein. All officers required by law to perform any duty in regard
15 to the collection of state revenues shall collect this additional sum.

16 (c) On the dates on which funds are remitted pursuant to Section
17 16676 of the Government Code for the payment of the then
18 maturing principal of, and interest on, the bonds in each fiscal
19 year, there shall be returned to the General Fund all of the money
20 in the fund, not in excess of the principal of, and interest on, any
21 bonds then due and payable. If the money so returned on the
22 remittance dates is less than the principal and interest then due and
23 payable, the balance remaining unpaid shall be returned to the
24 General Fund out of the fund as soon as it shall become available,
25 together with interest thereon from the dates of maturity until
26 returned, at the same rate of interest as borne by the bonds,
27 compounded semiannually. This subdivision does not grant any
28 lien on the fund or the moneys therein to holders of any bonds
29 issued under this chapter. However, this subdivision does not apply
30 in the case of any debt service that is payable from the proceeds
31 of any refunding bonds. For purposes of this subdivision, “debt
32 service” means the principal, whether due at maturity, by
33 redemption, or acceleration, premium, if any, or interest payable
34 on any date to any series of bonds.

35 19406. Notwithstanding Section 13340 of the Government
36 Code, there is hereby continuously appropriated from the General
37 Fund, for purposes of this chapter, a sum of money that will equal
38 the sum annually necessary to pay the principal of, and the interest
39 on, the bonds issued and sold as provided in this chapter, as that
40 principal and interest become due and payable.

1 19407. Upon request of the board, supported by a statement
2 of its plans and projects approved by the Governor, the committee
3 shall determine whether to issue any bonds authorized under this
4 chapter in order to carry out the board's plans and projects and, if
5 so, the amount of bonds to be issued and sold. Successive issues
6 of bonds may be authorized and sold to carry out these plans and
7 projects progressively, and it is not necessary that all of the bonds
8 be issued or sold at any one time.

9 19408. (a) The committee may authorize the Treasurer to sell
10 all or any part of the bonds authorized by this chapter at the time
11 or times established by the Treasurer.

12 (b) Whenever the committee deems it necessary for an effective
13 sale of the bonds, the committee may authorize the Treasurer to
14 sell any issue of bonds at less than their par value, notwithstanding
15 Section 16754 of the Government Code. However, the discount
16 on the bonds shall not exceed 3 percent of the par value thereof.

17 19409. Out of the first money realized from the sale of bonds
18 as provided by this chapter, there shall be redeposited in the
19 General Obligation Bond Expense Revolving Fund, established
20 by Section 16724.5 of the Government Code, the amount of all
21 expenditures made for purposes specified in that section, and this
22 money may be used for the same purpose and repaid in the same
23 manner whenever additional bond sales are made.

24 19410. Any bonds issued and sold pursuant to this chapter may
25 be refunded in accordance with Article 6 (commencing with
26 Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of
27 the Government Code. The approval of the voters for the issuance
28 of bonds under this chapter includes approval for the issuance of
29 bonds issued to refund bonds originally issued or any previously
30 issued refunding bonds.

31 19411. Notwithstanding any provision of the bond act, if the
32 Treasurer sells bonds under this chapter for which bond counsel
33 has issued an opinion to the effect that the interest on the bonds is
34 excludable from gross income for purposes of federal income tax,
35 subject to any conditions that may be designated, the Treasurer
36 may establish separate accounts for the investment of bond
37 proceeds and for the earnings on those proceeds, and may use those
38 proceeds or earnings to pay any rebate, penalty, or other payment
39 required by federal law or take any other action with respect to the
40 investment and use of bond proceeds required or permitted under

1 federal law necessary to maintain the tax-exempt status of the
2 bonds or to obtain any other advantage under federal law on behalf
3 of the funds of this state.

4 19412. The Legislature hereby finds and declares that,
5 inasmuch as the proceeds from the sale of bonds authorized by
6 this chapter are not “proceeds of taxes” as that term is used in
7 Article XIII B of the California Constitution, the disbursement of
8 these proceeds is not subject to the limitations imposed by Article
9 XIII B.

10 SEC. 4. Section 3 of this act shall take effect upon the approval
11 by the people of the Voting Modernization Bond Act of 2018,
12 submitted to the voters pursuant to Section 5 of this act.

13 SEC. 5. Notwithstanding Section 9040 of the Elections Code,
14 a ballot measure that sets forth the Voting Modernization Bond
15 Act of 2018, as set forth in Section 3 of this act, shall be submitted
16 to the voters at the June 5, 2018, statewide direct primary election.