

City of Sacramento
State Legislature

8

B I L L R E F E R R A L

DATE: JAN 23 1990 COMMITTEE ACTION: _____

TO: Thomas P. Ervery, Treasurer DATE: _____

FROM: KENNETH EMANUELS, LEGISLATIVE ADVOCATE

*2/20/90 spoke w/ Ken -
status - not heard yet -
respond by 2/23/90*

REPLY NO LATER THAN: FEB 6 1990

A.B. _____, As Amended _____ * Author _____

S.B. 1749, As Amended 1-8-90 * Author Robbins 445-3121

*Date of introduction or latest amendment

*Call & ask for sponsor
& ask for name*

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact Ken Emanuels at 444-6789, FAX 444-0303, (1400 K Street, Suite 306, Sacramento, CA 95814.) This questionnaire should be returned to the City Attorney's Office for presentation to the Council Committee on Law and Legislation. PLEASE LEAVE THE BILL ATTACHED TO THIS FORM.

NO RECOMMENDATION. If you think no Committee action on this bill should be taken, either because the bill is not of sufficient importance to the City or for any other reason, please mark here, do not fill out the rest of the form, and return this form to the City Attorney's Office. _____.

PLEASE TYPE YOUR RESPONSE

1. Briefly describe the provisions of the bill (attach additional sheets if necessary).

See attached.

2. This measure should be: (Please circle desired position)

Supported Opposed Supported if Amended
Placed on Watch List Other (explain)

3. Please explain your reasons for the above determination, including how this measure effects your Department and the fiscal impact of this measure on the City. Please make your comments in a format that can be used in a letter to state officials. (Continue on next page or attach additional sheets if necessary.)

SEE ATTACHED

(Continue answer to Question No. 3 here)

4. Specify the City's legislative policy guideline(s) applicable to this measure (if any).

No comment.

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose?

A payment delayed due to negligence on the part of the paying agent should be assessed a prescribed penalty, which would be less costly to administer than the method of payment suggested in SB 1749.

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known. League of California Cities position:

No comment.

7. Does this bill involve a State-mandated local program? If so, does the bill contain a State-mandated waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

No.

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento? 10

FORM COMPLETED BY:

Betty Renz

DATE: 2-22-90

Attachment to Bill Referral (S.B. 1749)

1. This bill would require the City of Sacramento to calculate and pay bondholders any interest received due to late payment of bonds at maturity or bond coupons on due dates. The measure would allow the Court to excuse the fiscal agent from liability if equitable to do so.

The bill raises the following additional questions that require clarification.

- a. What if the pay date falls on a holiday, Saturday, or Sunday? More specifically, what if the pay date of July 2 falls on a Sunday? Would the law require us to mail payments or to have funds wired to our fiscal agents by the previous Friday, or could we send payments on Monday, July 3?
 - b. Does the sentence stated in Section 6570.3 - subdivision (a) mean that payments should be postmarked or received by the bondholder on the date of maturity?
 - c. How does this proposed law affect the payment of bearer bonds and coupons? At this time the City pays on bearer bonds and coupons as they are received. Some bondholders submit their bonds and coupons prior to the maturity date. The City attempts to process those payments as quickly as possible so those payments will be received by bondholders by the July or January 2 pay date. Often, the City issues checks so the bondholders receive their payments a day or so early rather than delay a payment. Bonds and coupons that are received after the official due date are processed within a 72 hour time period which is within SEC (Securities and Exchange Commission) guidelines.
3. Passage of this bill could create a costly administrative nightmare for entities issuing bonds.
 - a. Additional costs for bond administration will be added to bond issues because fiscal agents are going to charge a premium fee for basic registration fees. This cost would be passed on to the property owners, thus creating an additional burden to them.
 - b. The Finance Department of the City of Sacramento acts as paying agent on some small issues and has always issued its registered bondholder payments in a manner that would allow the bondholders to receive payments on the due date or prior to the due date if it were to fall on a holiday or weekend.
 - c. Any entity could suffer from the effects of diminished bondholder confidence if the contracted fiscal agent was negligent in making payments in a timely manner.

Introduced by Senator Robbins

January 8, 1990

An act to add Sections 6570.3, 16680, 29931, 43639, 54512.1, and 61670.3 to the Government Code, relating to bonds.

LEGISLATIVE COUNSEL'S DIGEST

SB 1749, as introduced, Robbins. Bonds: late payment liability.

Existing law requires bonds issued by the state or by cities, counties, and other political subdivisions of the state to be paid at maturity, as specified.

~~This bill would expressly require payments to bondholders to be made on the respective dates of maturity on the bonds and on the respective due dates of all bond coupons with respect to bonds issued by the state, by cities, counties, community service districts, and other specified political subdivisions of the state. The bill would also provide that if the issuer or the fiscal agent of the issuer with the responsibility to make these payments does not make the payments as required, the issuer or the fiscal agent is liable to the bondholder for any profit made by the issuer or fiscal agent through the failure to make the required payments. However, the bill would provide that if the fiscal agent has acted reasonably and in good faith under the circumstances as known to the agent, the court, in its discretion, may excuse the agent in whole or in part from the imposition of this liability, as specified.~~

Vote: majority. 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 6570.3 is added to the
2 Government Code, to read:

3 6570.3. (a) Payments to bondholders shall be made
4 on the respective dates of maturity on all bonds and on
5 the respective due dates of all bond coupons.

6 (b) The issuer or the fiscal agent of the issuer that is
7 required to make these payments is liable to the
8 bondholder for any profit made by the issuer or fiscal
9 agent through the failure to make the payments as
10 required by subdivision (a).

11 (c) If the fiscal agent has acted reasonably and in good
12 faith under the circumstances as known to the agent, the
13 court, in its discretion, may excuse the agent in whole or
14 in part from liability under subdivision (b) if it would be
15 equitable to do so.

16 SEC. 2. Section 16680 is added to the Government
17 Code, to read:

18 16680. (a) Payments to bondholders shall be made on
19 the respective dates of maturity on all bonds and on the
20 respective due dates of all bond coupons.

21 (b) The issuer or the fiscal agent that is required to
22 make these payments is liable to the bondholder for any
23 profit made by the issuer or fiscal agent through the
24 failure to make the payments as required by subdivision
25 (a).

26 (c) If the fiscal agent has acted reasonably and in good
27 faith under the circumstances as known to the agent, the
28 court, in its discretion, may excuse the agent in whole or
29 in part from liability under subdivision (b) if it would be
30 equitable to do so.

31 SEC. 3. Section 29931 is added to the Government
32 Code, to read:

33 29931. (a) Payments to bondholders shall be made on
34 the respective dates of maturity on all bonds and on the
35 respective due dates of all bond coupons.

36 (b) The issuer or the fiscal agent of the issuer that is
37 required to make these payments is liable to the
38 bondholder for any profit made by the issuer or fiscal

1 agent through the failure to make the payments as
2 required by subdivision (a).

3 (c) If the fiscal agent has acted reasonably and in good
4 faith under the circumstances as known to the agent, the
5 court, in its discretion, may excuse the agent in whole or
6 in part from liability under subdivision (b) if it would be
7 equitable to do so.

8 SEC. 4. Section 43639 is added to the Government
9 Code, to read:

10 43639. (a) Payments to bondholders shall be made on
11 the respective dates of maturity on all bonds and on the
12 respective due dates of all bond coupons.

13 (b) The issuer or the fiscal agent of the issuer that is
14 required to make these payments is liable to the
15 bondholder for any profit made by the issuer or fiscal
16 agent through the failure to make the payments as
17 required by subdivision (a).

18 (c) If the fiscal agent has acted reasonably and in good
19 faith under the circumstances as known to the agent, the
20 court, in its discretion, may excuse the agent in whole or
21 in part from liability under subdivision (b) if it would be
22 equitable to do so.

23 SEC. 5. Section 54512.1 is added to the Government
24 Code, to read:

25 54512.1. (a) Payments to bondholders shall be made
26 on the respective dates of maturity on all bonds and on
27 the respective due dates of all bond coupons.

28 (b) The issuer or the fiscal agent of the issuer that is
29 required to make these payments is liable to the
30 bondholder for any profit made by the issuer or fiscal
31 agent through the failure to make the payments as
32 required by subdivision (a).

33 (c) If the fiscal agent has acted reasonably and in good
34 faith under the circumstances as known to the agent, the
35 court, in its discretion, may excuse the agent in whole or
36 in part from liability under subdivision (b) if it would be
37 equitable to do so.

38 SEC. 6. Section 61670.3 is added to the Government
39 Code, to read:

40 61670.3. (a) Payments to bondholders shall be made

1 on the respective dates of maturity on all bonds and on
2 the respective due dates of all bond coupons.

3 (b) The issuer or the fiscal agent of the issuer that is
4 required to make these payments is liable to the
5 bondholder for any profit made by the issuer or fiscal
6 agent through the failure to make the payments as
7 required by subdivision (a).

8 (c) If the fiscal agent has acted reasonably and in good
9 faith under the circumstances as known to the agent, the
10 court, in its discretion, may excuse the agent in whole or
11 in part from liability under subdivision (b) if it would be
12 equitable to do so.

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