

TITLE 4 DIVISION 9.6 CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

The Legislature created the California Debt and Investment Advisory Commission (the “Commission”) [Government Code sections 8855-8859] to, among other responsibilities, “Collect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance, and serve as a statistical clearinghouse for all state and local debt issues” [Government Code section 8855(h)(3)]. After making the Commission the state’s focal point for the collection of municipal debt related data, the Legislature has adopted numerous statutes in the Government, Education, and Water Codes that require the submission of specific municipal debt related data to the Commission or direct compliance with the debt information submission requirements established in Government Code section 8855. However, the Legislature left many key aspects of the submittal and collection of debt information undefined and in need of operational clarity.

“Debt” is Not Defined

While Government Code section 8855 directs the Commission to carry-out its data collection responsibilities with respect to *all* debt, the statute does not provide a definition of “debt”. The interpretation as to whether a particular financial transaction qualifies as debt creation has been left to state and local issuers. The lack of statutory interpretation has led to uneven reporting of debt authorization and issuance among state and local issuers – some report all debt while others report only debt types meeting their own criteria. Seeking to address the unevenness of reporting, the Legislature has adopted statutes that removed some of the rationale for not reporting instances of debt creation.

The adoption of SB 144, Committee on Local Government (Chapter 343, Statutes of 2007) was aimed at requiring disclosure by issuers of issuance documents related to the sale of debt that was privately placed and did not have the official statement that is required of publically sold bonds. Through its passage, SB 144 made clearer the Legislature’s intent to collect information on not only bond issuance, but other forms of debt issuance. This was done by requiring issuers to submit to the Commission issuance documentation, if applicable, that is not necessarily associated with bond issuance including installment sales agreements, loan agreements, promissory notes, and other disclosure documents [Government Code sections 8855(j)(1), (3), and (4)].

The passage of AB 2274, Gordon (Chapter 181, Statutes of 2014) provided a clearer insight into the Legislature’s intentions. AB 2274 made technical changes to Government Code sections 8855(i) and (j), removing language specifically referring to the sale methods or transactional features associated with the issuance of bonds or debt instruments issued in a manner similar to bonds. The Legislature mitigated the rationale used by some issuers to conclude that the requirement to provide information on proposed or issued debt applied only to state and local bonds. While the Legislature conveyed its intention through AB 2274 to interpret *debt* in a very broad sense, no specific definition has been provided that clearly establishes the type of financial transaction that triggers the requirement to submit authorization and issuance information to the Commission.

Authorization and Issuance Information is Not Specified

The Legislature enacted Government Codes sections 8855(i) and (j) to provide the means by which the Commission is to collect debt authorization and issuance information. Government Code section 8855(i) requires that state or local government issuers submit a report of proposed debt issuance to the Commission no later than 30 days prior to the sale of the debt. Government Code section 8855(j) requires the same issuers to submit a report of final sale to the Commission no later than 21 days after

the sale of debt. In order to create adequate flexibility in the information collection process to accommodate evolving debt structures and their changing characteristics, the Legislature did not specify the information to be collected on each proposed and sold issue, but rather gave the Commission the discretion to collect the information on each report that it “considers appropriate”. This Legislative intent was evident with the passage of AB 2274, Gordon (Chapter 181, Statutes of 2014) when several specific data elements including the proposed sale date, the name of the issuer, the type of debt issue, and the estimated principal amount of the debt were deleted from Government Code section 8855(i) leaving the Commission to collect information it “considers appropriate”. Maintenance of a comprehensive and useful database of information requires clarity and specificity with regard to the debt authorization and issuance information that must be submitted to the Commission.

Key Operational Terms are Not Defined

Government Code sections 8855(i) and (j) include criteria for timely submission of debt authorization and issuance information to the Commission benchmarked to the “sale” of the issue. However, the date of sale can be interpreted differently for different debt types and among different issuers. In addition, compliance with the timely submission of debt information to the Commission under Government Code sections 6599.1, 53359.5, 53583(c)(2)(B), and 54418, and Water Code section 20560.2 is benchmarked to the date of “sale”, yet a definition is not included.

The unit of debt referenced in Government Code sections 8855(i) and (j) that is reportable is an “issue” of debt, but issue is not defined in the statute. The lack of clarity as to what constitutes an issue leads to inconsistency in the aggregation (or disaggregation) of debt information reported to the Commission across issuers and types of debt. Further, the fee established by the Legislature in Government Code section 8856 is applied to each issue. Without a clear definition of issue, there cannot be assurance that the fee is consistently and equitably charged.

Method of Information Submission is Not Specified

The Legislature gave the Commission discretion in establishing the method by which issuers submit debt information to the Commission under Government Code sections 8855(i) and (j). No specific method is described. Government Code sections 5922(b), 6548.5, and 6588.7(e)(2); Education Code section 15146(e); and Water Code section 20560.2 all require the submission of debt information pursuant to Government Code section 8855, and therefore the method of submission for compliance under these sections has not been specified. Government Code sections 53359.5(a), (b) and (c) provide that required debt information be submitted to the Commission by mail or method approved by the Commission. This alternative method to mail has not been specified. Lastly, Government Code sections 53509.5, 53583(c)(2)(B), and 54418; and Education Code section 15146(d)(2) all require specific debt related information be submitted to the Commission, but provide no method of submittal.

Certain Debt Structures Do Not Allow Strict Compliance with Requirements for Timely Submission

The decision by state and local agencies to issue Debt through a commercial paper program or line of credit is typically made far enough in advance to allow for compliance with the timely submission requirements of Government Code section 8855(i). However, commercial paper programs and lines of credit allow agencies multiple issuances or draws up to a not-to-exceed amount under the agreement with the lender. These debt structures are designed to provide quick access to funds to meet shorter term cash flow requirements and thus, the decision to issue subsequent to the initial draw or issuance is often made only days before the actual draw or issuance. Strict compliance with the timely submission requirements of section 8855(i) on subsequent issues under these debt structures is not practical.

Permissive Authority to Charge Issuance Fees is Not Operational

Under Government Code section 8856, “the Commission may charge the lead underwriter, the purchaser, or the lender a fee of one-fortieth of one percent of the principal amount of the issue, not to exceed \$5,000 for any one issue.” If this fee schedule were applied to every issue of debt reported to the Commission at the statutorily prescribed rate, it is expected that the Commission’s annual revenues would substantially exceed its annual appropriation from the Legislature. While permissive authority to charge the fee exists in Government Code section 8856 and must be used to align fee revenues with budget appropriation, statute provides no direction to the Commission beyond the prescribed rate and not-to-exceed amount.

Statutory Requirements for Mello- and Marks-Roos Annual Reporting Require Clarification

Through the adoption of Government Code sections 6599.1 and 53359.5 the Legislature established that legislative bodies that have acted to issue bonds under the Mello-Roos Community Facilities Act of 1982 and Marks-Roos Local Bond Pooling Act of 1985 shall annually submit specific information about the status of those bonds to the Commission. While the statutes are relatively specific in terms of the information that shall be submitted, the meaning of key terms, definition of the reporting period, and the basis (annual or cumulative) of the data specified are not entirely clear. In addition, the types and condition of the indebtedness that is subject to the annual reporting under Government Code section 6599.1 require clarity to allow the Commission to fully implement the statute.

Report Elements for Non-Public Sale of Refunding and Revenue Bonds are Not Specified

The Legislature has required, pursuant to Government Code sections 53583(c)(2)(B) and 54418, a local agency to report to the Commission the reason for a decision to use a non-public sale method for the issuance of refunding bonds or revenue bonds (regardless of the use of proceeds). Statute does not stipulate specific information in the report that will allow the Commission to establish orderly processes and procedures for collecting and maintaining the data submitted under these sections.

The Legislature gave the Commission the responsibility to collect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance, and serve as a statistical clearinghouse for all state and local debt issues. In fulfilling these responsibilities the Legislature gave the Commission wide discretion to collect information it considers appropriate by methods that it approves to be suitable, and to charge a specific fee as necessary to carry-out all of its statutory obligations. Since 1982, the Commission has been challenged to maintain the reliability and utility of its database of debt authorization and issuance information by undefined operative terminology used in its statute, debt structures that do not precisely conform to statutory reporting requirements, and a variety of inefficient submittal methods. Over the years, the burdens of these challenges have been borne, in large part, by the state and local government issuers and their agents that are seeking statutory compliance. This rulemaking intends to provide the Commission and its state and local constituents the necessary clarity and reliability that will allow complete and efficient compliance with statutory obligations that must be met cooperatively.

BENEFITS

The regulations will dramatically enhance the clarity of the statutory requirements of state and local agencies to submit information to the Commission upon the authorization and issuance of debt. Well-defined requirements and procedures will make the submittal process less burdensome on issuers, increase the efficiency of the Commission’s data collection and reporting operations, help to insure long-lasting data integrity and consistency and ultimately, allow the Commission to attain the level of debt information openness and transparency intended by the Legislature. Specifically, the Commission plans to achieve the following benefits through this rulemaking.

- Remove the remaining ambiguity as to which state and local financial transactions constitute the creation of *debt* and thus, must be reported to the Commission.
- Give state and local issuers specificity and clarity as to the information that shall be submitted to the Commission upon the authorization and issuance of debt, and on the annual status of Marks- and Mello-Roos bonds.
- Provide state and local issuers a firm understanding of when and how debt information reporting requirements shall be applied, given the circumstances of their debt transaction, by defining operative terms as they appear in Government Code section 8855 and other sections of Government and Water Code.
- Establish an efficient method for submitting debt information to the Commission that increases information timeliness, validity, and consistency, and conserves the human resources of the Commission and the state and local agencies dedicated to the submittal, collection, and maintenance of debt information.
- Clarify the reporting requirements for several specific debt structures that because of their issuance characteristics do not strictly conform to requirements for timely submittal established in statute.
- Implement a debt issuance fee schedule that is consistent with Government Code section 8856, and equitably employs the permissive elements of the section to achieve a balance between the Commission’s annual revenues and its annual budget appropriation.
- Institutionalize a structured and transparent process to utilize the Commission’s discretion to modify or enhance the information collected on debt authorization and issuance in a manner that balances regulatory certainty with the need of the public and policy-makers to track evolving public debt characteristics.

ANALYSIS OF REGULATORY PROVISIONS

Article 1. Definitions. Section 6000. Definitions.

Subsections (a), (f), (i), (k), (p) through (w), (cc), (ii) through (kk), (mm) through (oo), (ss) through (uu).

Purpose: Clearly define precedent and operative terms that are fundamental to the Commission’s ability to implement the specific code sections adopted by the Legislature. Definition of these terms enhances compliance with the same code sections by state and local agencies.

Subsections (a), (f), (p), (v), (w), (cc), (mm), (nn).

Necessity: The eight terms including, “authority”, “Commission”, “issuance fee”, “local obligation”, “local obligor”, “obligor”, “Report of Proposed Debt Issuance”, and “Report of Final Sale” are functional and precedent to other sections in the Chapter, and used to provide a proper name to something broadly described or specifically referenced in statute. The definitions are based on a direct statutory reference or are a common and logical construct of statute and public finance.

Subsections (i), (k), (q) through (u), (ii) through (kk), (oo), (ss) through (uu).

Necessity:

(i) “Creditor” – The term is precedent to a number of other terms used in the Chapter including those in greatest need of operational clarity. “Creditor” is an elemental term used in accounting and finance and is most applicable in the context of these regulations to create a fundamental construct to which all lender types, regardless of debt type or transaction structure, can be

associated or connected. The definition describes the basic obligations of a creditor as a party to a debt contract. It is also meant to apply to parties that are legally assigned, partially or fully, the obligations of an initial creditor and lessors in a capital lease structure. Assignments and capital leases are commonly used tools used in public finance to structure debt. Beyond a structuring tool, it is very common that a capital lease is the ultimate form of public indebtedness.

(k) “Debt” – The term is fundamental to the interpretation and implementation of Government Code section 8855 and precedent to numerous sections and subsections within this Chapter. The definition is intended to describe the fundamental characteristics that constitute debt and, for the sake of clarity and specificity, itemize the instruments, without limitation, that serve as evidence of debt. The fundamental characteristics that form the definition are:

- Debt involves a legal contract (or contracts) that specifies the terms of the transaction and the current and future obligations of both the creditors and borrowers (or, “issuer” in the context of this rulemaking).
- There is a transfer between the creditors and issuers of assets (monies) or rights in exchange for a subsequent stream of payments.
- The stream of payments is not cancelable and includes an interest component the form and payment of which is variable among debt types and structures.
- There is approximate equality between the present value of the stream of payments and the value of the assets or rights transferred.

The listed forms or evidences of indebtedness carry the fundamental characteristics of debt and are commonly used by public agencies.

Bonds is a common term broadly used by the Legislature and the public to represent many forms of public debt. Government Code section 5902(a) defines “bonds” as it is used in Chapter 11: Public Financing to mean “bonds, notes, warrants, bond anticipation notes, commercial paper, or other evidences of indebtedness, or lease, installment purchase, or other agreements or certificates of participation therein.” Government Code section 5921(a) defines “bonds” as it is used in Chapter 12: Public Finance Contracts to mean “bonds, notes, bond anticipation notes, commercial paper, or other evidences of indebtedness, or reimbursement warrants or refunding warrants, or lease, installment purchase, or other agreements or certificates of participation therein.” The forms of indebtedness listed in this subsection are consistent with Government Code section 5902(a) and 5921(a).

Applying the “not limited to” qualifier to the debt types is to avoid overly semantical conflicts in the anticipation of the creation of a debt type that varies from those listed in only its name or a structural aspect. The additional criteria for leases are to distinguish between capital and operational leases and are based on the standards for capital leases established by the Government Accounting Standards Board (GASB) Statement No. 62. While the Commission understands that GASB is examining a position that would erase the distinction between capital and operational leases, except for short-term operational leases, it does not deem the public or Legislative interest to be served by extending the definition of debt, for the purposes of this rulemaking, to include operational leases.

(q) “Issue” - The term is fundamental to the interpretation and implementation of Government Code sections 8855 and 8856, other referenced sections of statute, and precedent to numerous sections and subsections within this Chapter. The definition of the term establishes the conditions for a distinct debt financing, a necessary determination that establishes the basis for the statutory requirements to report an issue of debt and to pay an issuance fee based on the principal amount of the issue. Public debt financing often involves a complicated combination of

structures and lenders. In this definition of “issue” the Commission is focusing on the fundamental elements that make one financing distinct from another. The definition focuses at the debt contract level keying on a single issuer, a single creditor, a single debt contract, and, essentially, a same-day sale. The definition accounts for the sale of debt in multiple series, accommodates a sale that may not occur on a single day but is intended to occur at the same time, and acknowledges that lender syndicates are frequent creditors.

(r) “Issuer” – The term is fundamental to the interpretation and implementation of Government Code section 8855, other referenced sections of statute, and precedent to numerous sections and subsections within this Chapter. This definition is focused on the party to the debt contract that has the legal authority to enter into the debt contract as the counterparty to the creditor. The definition recognizes that conduit debt issuances involve an assignment of the rights and obligations under the debt contract to third-party obligors, but is specific in its focus on the party with the legal authority to initiate the debt contract as structured, assignments aside. The Legislature intends that the Commission collect information on the ways public agencies are using the authority granted to them under state or federal law to create debt.

(s) “Lead Underwriter” - The term is fundamental to the interpretation and implementation of Government Code section 8856. The statute allows the Commission to charge a fee to the lead underwriter in a debt issuance and therefore a definition is warranted. The Commission believes that the Legislature intended that the Commission charge a fee to the underwriter of a debt issue in a structure where an underwriter is used. The addition of the modifier, “lead”, indicates the Legislature’s intent to adapt statute to debt underwritten by a syndicate of underwriters. Charging the fee to the lead underwriter, responsible for managing the affairs of the syndicate, makes the most practical sense. As a means to accommodate equitable allocation of the fee, the definition is adapted to circumstances where the role of lead underwriter is shared between multiple underwriters.

(t) “Lender” - The term is fundamental to the interpretation and implementation of Government Code section 8856 and is precedent to numerous sections and subsections within this Chapter. The statute allows the Commission to charge a fee to the lender, among other creditors, in a debt issuance and therefore a definition is warranted. The Legislature added the term “lender” to section 8856 with AB 2274, Gordon (Chapter 181, Statutes of 2014). The intent was to insert a more generally used term for the creditor in a debt issuance that does not involve securities, but a direct, creditor to issuer lending structure. The definition simply links to the general definition of creditor proposed in this rulemaking. Consistent with the definition of “debt” proposed in this rulemaking, the term “lender” is proposed to apply to a lessor in a lease structure. As explained above, capital leases and securitized leases are classified as debt and the Legislature is clear in Government Code section 8856 that the creditor, not the issuer, is the party to which the fee may be charged. The definition of “lender” identifies the party to which the fee may be charged when the debt type includes a lease.

(u) “Local Government” – The term is fundamental to the interpretation and implementation of Government Code sections 8855(i) and (j) and is precedent to numerous sections and subsections within this Chapter. The definition is inclusive of all units and forms of local government and entirely consistent with statute adopted by the Legislature in the context of public finance (e.g. Government Code sections 5921(c) and 5902(c)).

(ii) “Private Sale” – The term is fundamental to the interpretation and implementation of Government Code sections 53583(c)(2)(B) and 54118 and other sections and subsections within

this Chapter. The Legislative intent in the two sections cited above is to draw a distinction between a sale of bonds conducted through competitive bid process versus direct negotiations with the bank or underwriter. The legislative intent was not to draw a distinction between bonds sold to the public through a competitive or negotiated underwriting agreement and those purchase directly by a bank (the latter is defined in this rulemaking as a Private Placement). The proposed definition simply makes a “private sale” equivalent to a “negotiated sale” (Section 6000(z)) regardless of whether the bonds are offered to the public or not.

(jj) “Public Sale” - The term is fundamental to the interpretation and implementation of Government Code sections 53583(c)(2)(B) and 54118 and other sections and subsections within this Chapter. The Legislative intent in the two sections cited above is to draw a distinction between a sale of bonds conducted through competitive bid process versus direct negotiations with the bank or underwriter. The proposed definition simply makes a “public sale” equivalent to a “competitive sale” (Section 6000(g)).

(kk) “Purchaser” - The term is fundamental to the interpretation and implementation of Government Code section 8856 and is precedent to numerous sections and subsections within this Chapter. The statute allows the Commission to charge a fee to the purchaser, among other creditors, in a debt issuance and therefore a definition is warranted. The definition simply links to the general definition of “creditor” proposed in this rulemaking.

(oo) “Sale” - The term is fundamental to the interpretation and implementation of Government Code sections 8855(i) and (j), 6599.1, 53359.5, 53583(c)(2)(B), 54418, and Water Code section 20560.2, other referenced sections of statute, and precedent to numerous sections and subsections within this Chapter. Particularly in the cited code sections, the Legislature established requirements for timely submittal of debt authorization and issuance information to the Commission based upon the occurrence of a “sale”, yet, there are variety of milestones in a debt issuance that could be considered a sale. Through the adoption of Government Code section 8855(i), Legislature intended to create a means to an early warning (30 days) of when an entity of state or local government becomes obligated to issue debt under specific terms and conditions. The point of obligation to the terms and conditions of a particular debt issuance is recognized to be at the occurrence of formal mutual acceptance of the debt contract between the issuer and the creditor(s). “Sale” has been defined as the formal mutual acceptance of the debt contract, a common element of all debt issuance regardless of debt type or Issuer.

(ss) “Short-term Maturity” – The term is fundamental to the implementation of Government Code section 8856 and precedent to Section 6030 of this Chapter. The Commission intends categorize debt that is issued and repaid within a fiscal year or shortly thereafter as a means to apply the permissive authority in Government Code section 8856 and establish exceptions to the issuance fee. The Commission would like to provide an exception to the fee for short-term cash flow financing that is most often operational funding or refinanced with longer term project financing. It is not uncommon for the maturity of cash flow financing of some issuers to extend beyond the full fiscal year – 15 month maturities pursuant to Government Code section 53854. Given the statutory construct and the fact that semi-annual debt service payments are standard in municipal finance, the Commission has proposed the definition based on a maturity of 18 months or less.

(tt) “State Government” - The term is fundamental to the interpretation and implementation of Government Code sections 8855(i) and (j) and is precedent to numerous sections and subsections within this Chapter. The definition is inclusive of all units and forms of state

government and entirely consistent with statute adopted by the Legislature in the context of public finance (e.g. Government Code sections 5921(c) and 5902(c)).

(uu) “Syndicate” – The term is precedent to the definition of “creditor” and “lead underwriter”. The term “creditor” is precedent to numerous sections and subsections within this Chapter and “lead underwriter” is fundamental to the implementation of Government Code 8856. The definition proposed by the Commission is based upon the common definition used in municipal finance adapted to generally apply to all debt regardless of type and be functional within the context of this rulemaking.

Article 1. Definitions. Section 6000. Definitions.

Subsections (b) through (e), (g), (h), (j), (l) through (o), (x) through (bb),(dd) through (hh), (ll), (pp) through (rr), (vv) through (zz).

Purpose: Clearly define the terms used to describe and explain the specific information that the Commission considers to be appropriate for submittal by state and local issuers to the Commission per Article 2 and Article 3.

Necessity: All of these terms describe the data elements that the Commission deems to be appropriate for submittal to the Commission pursuant to Government Code sections 8855 (i) and (j) on either the Report of Proposed Debt Issuance or the Report of Final Sale. The definitions are provided to make the statutory requirements specific and clear. The terms and their definitions are being included in this rulemaking because of the Commission’s companion proposal under Sections 6011 and 6021 to have the Report of Proposed Debt Issuance and the Report of Final Sale completed and submitted online. Upon adoption of this proposed rulemaking, hardcopy forms and instructions will become digital. These definitions, among others proposed in this rule making will become the basis for a display of online submittal instructions.

The definitions proposed by the Commission are based upon common definitions used in municipal finance and were developed after review and consideration of the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access, Glossary of Municipal Securities Terms (online), Third Edition, August 2013. The data elements that have been deemed appropriate for collection for a variety of debt types have a definition that has been adapted to apply to all debt. Key operational terms defined in this Section (e.g. “creditor”, “debt”, “issuer”, “sale”) were utilized in these definitions for clarity and consistency.

Article 2. Report of Proposed Debt Issuance. Section 6010. Reporting Requirements.

Purpose: The Legislature has given the Commission discretion with respect to the information it requires to be submitted on the Report of Proposed Debt Issuance pursuant to Government Code section 8855(i). This Section specifies the information that the Commission considers appropriate for submittal on the Report of Proposed Debt Issuance. It describes the specific data elements included in the report based upon the defined terms in Section 6000. In cases where submittal of information is conditional, the conditions for submittal are described in detail. This Section provides the necessary clarity to enable issuers to comply with Government Code section 8855(i) and other referenced statutes.

Subsections (a) through (c), (k) through (n).

Necessity: The Commission considers these data elements to be appropriate for collection on the Report of Proposed Debt Issuance because they provide identification of the issuer, including those involved tax and revenue anticipation note pools, the issue, and the project to be financed. This information provides a means for orderly storage, retrieval, and display of all the debt information collected by the Commission. These subsections also require basic contact information from the issuer to enable communication, subsequent to report submittal, between Commission staff and the issuer's official and filing contact. The official acknowledgment by Commission staff of receipt of the report is also facilitated.

Subsections (d), (e), (g), (t), (u).

Necessity: The Legislature intends for issuers to provide notice of debt authorization to the Commission as a means to provide an alert to the public and policy makers of an impending debt issuance. These five data elements, including the proposed sale date, principal amount, amount of principal used for refinancing, source of repayment, and purpose for which the proceeds of the debt issuance shall be used are the data elements most fundamental to fulfilling the purpose of public notice. They are also data elements that are known by issuers at the point of authorization to a degree of accuracy sufficient to meet the Legislature's objective for public disclosure prior to the issuance.

Subsections (f), (i), (j), (p), (s).

Necessity: The Legislature has a large role in governing the financial affairs of state and local government entities, including the issuance of debt, through the adoption of various statutes. The data elements in these Subsections are necessary because they provide the means to inform public policy makers of the impact of their legislative actions and the adherence to statutory requirements. These data elements also help to characterize the effects of tax exemption at both the state and federal level. The public policy implications are informed by these data elements as follows.

(f) A validation action is an indication that the issuer is seeking affirmation that it has the necessary legal authority to issue the debt as proposed. The fact that the issuer is seeking validation may be indicative of a policy issue regarding a particular type of debt or method of issuance.

(i) Voters provide issuers with specific authority to issue general obligation debt for specific amounts and purposes. The agreement between issuers and voters is analogous to a legal contract within which the Legislature has mandated specific statutory requirements. These data elements allow the disclosure of the most elementary aspects of these debt structures: how much has been issued versus the amount authorized by voters.

(j) The Legislature has established authority to issue debt in a variety of forms and for various purposes under specific circumstances and conditions. Collecting the statutory authority under which the debt is issued gives the Commission the means to inform policy makers of trends in authority utilization and the effectiveness of statute in meeting the Legislature's policy objectives.

(p) The state and federal government provide billions of dollars to create various tax subsidies to support the issuance of municipal Debt. Collection of these data elements supports an understanding by policy makers of how these subsidies are being used, including the volume, where, and by whom.

(s) The Legislature has adopted various statutes establishing requirements and conditions for the issuance of specific types of debt. This data element is companion to that which is required under Section 6010 (i) and (j). Collection of the debt type provides a point of validation to the cited issuance authority and the contextual basis for understanding numerous other data elements collected under this Article 2 and Article 3. This data point is necessary to understand if the Legislature's policy objectives are being met. Also, the collection of this data element provides issuers the ability to efficiently comply with Government Code section 6588.7(e)(2), to the extent it is applicable to the issuance proposed.

Subsection (h).

Necessity: This data element is needed to provide issuers the ability to efficiently comply with Government Code section 5922(b).

Subsections (o), (q), (r).

Necessity: The Legislature has communicated its interest in monitoring the involvement of private firms in the issuance of public debt through the adoption of Government Code sections 6548.5, 53509.5(b), 53583(c)(2)(B), and 54418, and Education Code section 15146(d)(2). Consistent with the Legislature's demonstrated intent, the Commission has deemed it appropriate and necessary to collect the following data elements from issuers.

(o) The data element requires submittal of the names of the firms fulfilling the roles, as defined in Section 6000, which are most frequently involved in the debt issuance process at the debt authorization stage. Collection of these names provides the means to inform policy makers and the public of the specific firms involved and their frequency of participation in municipal debt issuance in California. This information becomes the basis for issuers to report, under Section 6020 and in compliance with the above noted statutes, the amount of issuance costs paid to each of these parties for their issuance related services.

(q) The proposed issuance method provides critical context for the other information collected regarding the involvement of private parties in the debt issuance and the basis for understanding the public policy implications of using a competitive method versus a negotiated method for issuing debt.

(r) In general, disclosure of information regarding the private placement of municipal debt is limited due mainly to the federal government's constrained regulatory authority over these types of issues. In light of this, the Legislature adopted SB 144, Committee on Local Government (Chapter 343, Statutes of 2007) to require enhanced disclosure to the Commission of the documentation supporting the private placement of debt. This data element provides the basis for the Commission to know the nature of the disclosure required.

Article 2. Report of Proposed Debt Issuance. Section 6011. Method of Submission to the Commission.

Purpose: Government Code section 8855(i) gives the Commission discretion in establishing the method for the submittal of the Report of Proposed Debt Issuance. This Section establishes the Commission approved method.

Necessity: The Commission staff processed nearly 2,900 Reports of Proposed Debt Issuance in 2015, an increase of over 34 percent from 2014. In addition, Commission staff processed an additional 6,600 other issuer submitted reports. In order to keep pace with the report volume without adding staff, on-line submittal is necessary. The overall efficiency of the process of submitting the information is enhanced if the information is entered one time, by the issuer, to the Commission's online submittal system, rather than once by issuers and once again by Commission staff. The online submittal method also eliminates the errors that are inevitable with the re-entry of data from mailed or e-mailed forms. This prescribed method of submittal is necessary because accommodating multiple methods for submitting information to the Commission through a performance standard in the face of growing report volume will degrade process efficiency and the Commission's ability to comply with its statutory obligations.

Article 2. Report of Proposed Debt Issuance. Section 6012. Commercial Paper Notes and Lines of Credit.

Purpose: State and local governments issue billions of dollars in debt in the form of commercial paper or through lines of credit. These structures are defined in a controlling contract between issuers and creditors under which separate issues for distinct amounts with potentially distinct terms occur over the term of the contract. This section provides issuers the clarity necessary to comply with reporting requirements under Government Code section 8855(i) when they issue this particular type of debt.

Necessity: Issues of debt under a contract for commercial paper or a line of credit occur multiple times after the initial "sale", as defined in Section 6000. These contracts establish a maximum amount that can be issued, but does not typically obligate the issuer to issue the maximum amount. Furthermore, the debt is not issued on the same day, but on multiple days over the contract term as issuers need funds. This Section is necessary to clarify that issuers shall not submit information to the Commission on the Report of Proposed Debt Issuance for the entire contractually authorized amount, but for each issue under the contract. Collecting information on the entire authorization under the contract instead of each issue would overstate the amount of debt issuance by agencies that utilize this debt type and potentially taint the issue-centric information in the Commission's database.

Since all Issues of Debt under a contract for commercial paper or a line of credit subsequent to the initial issue will occur after the initial "sale", as defined in Section 6000, achievement of the timeliness requirements of Government Code section 8855(i) and accuracy in the submitted information is impractical. Furthermore, after the initial sale, subsequent issues of debt will often occur within a few days or less of a decision to do so. As a result of the characteristics of these particular debt types, the Commission proposes to use the date of "settlement", as defined in Section 6000, as the basis for establishing timeliness of submittal pursuant to Government Code section 8855(i) for issues after the first issue. In addition, it proposes that the Report of Proposed Debt Issuance shall be submitted immediately upon the issuer's decision to issue, subsequent to the first issue, if that decision occurs less than 30 days prior to settlement.

Also, since the remarketing of commercial paper is not a new issue of debt, but rather reselling previously issued debt, the Commission seeks to clarify that submittal of a Report of Proposed Debt Issuance is not required upon remarketing or reselling.

The Commission asserts that the Legislature did not adopt Government Code section 8855(i) with the intent to disallow the use of these debt types by state and local agencies or limit the reporting of such Issues. In fact, the Legislature anticipated the use of commercial paper specifically with the adoption of Government Code sections 5902(a) and 5921(a). This section is proposed to implement the Legislature's statutory intent in a manner that does not impose undue hardship on issuers, create disincentive to report these types of debt to the Commission, or create arbitrary limitations on issuer's access to these important debt structures.

Article 2. Report of Proposed Debt Issuance. Section 6013. Pooled Financings.

Purpose: Government Code section 8855(i) makes no distinction between debt issued by an authority and debt issued by a local obligor. This Section provides clarity to issuers operating as authorities and local obligors in a pooled financing structure that a Report of Proposed Debt Issuance must be submitted to the Commission for each component debt issue included in the structure.

Necessity: Through adoption of Government Code section 6599.1, the Legislature intends for the Commission to collect information on the financing activity of local agencies under the Marks-Roos Local Bond Pooling Act of 1985. The information sought under this statute relates to not only the authority issuer, but also the local obligor. In addition, the Legislature makes no distinction between the debt issued by an authority and that issued by a local obligor under Government Code section 8855(i) or bonds issued by an authority and bonds issued by a local obligor under Government Code section 6599.1(a). All of the issues in a pooled structure are debt and therefore reportable to the Commission. This Section is needed to implement the statute as intended by the Legislature and to provide necessary clarity to issuers.

Article 3. Report of Final Sale. Section 6020. Reporting Requirements.

Purpose: The Legislature has given the Commission discretion with respect to the information it requires to be submitted on the Report of Final Sale pursuant to Government Code section 8855(j). This Section specifies the information that the Commission considers appropriate for submittal on the Report of Final Sale. It describes the specific data elements included in the report based upon the defined terms in Section 6000. In cases where submittal of information is conditional, the conditions for submittal are described in detail. This Section provides the necessary clarity to enable Issuers to comply with Government Code section 8855(j) and the other referenced statutes.

Preamble to Subsections, Subsection (a).

Necessity: Government Code section 8855(h)(3) directs the Commission to provide comprehensive information on all state and local debt authorization and issuance and act as a clearinghouse to the public and policy makers for this information. Implied in this directive is the assumption that the data within the Commission's database be as accurate and reflective of the authorization and issuance as is reasonably possible. The Commission proposes to have all information submitted on the Report of Final Sale to be reported as of the settlement date because on that date preliminary or estimated information, generally, becomes final and the most accurate. As an additional information quality control measure, Subsection (a) requires

issuers to verify and correct any information submitted to the Commission on the Report of Proposed Debt Issuance that has subsequently changed.

Subsections (b), (c), (d), (e).

Necessity: The Commission deems, original issue discount, original issue premium, and net original issue premium as appropriate to collect because, when combined with the principal amount of the debt under Section 6010(e), they provide a complete account of the amount borrowed. In addition, the amount of premium used for refinancing is complimentary to the data reported under Section 6010(g) and provides a complete account of the how much refinancing was conducted under the issuance versus the incurrence by the agency of new debt obligation. These data elements, when combined with those noted above, are fundamental to public disclosure and the understanding of state and local debt.

Subsection (f).

Necessity: This information is needed for administrative expediency and to facilitate efficiency in issuance fee invoicing, payment, and collection.

Subsections (g), (h).

Necessity: Issues of debt are commonly identified by issuers, creditors, and the broader municipal market by a variety of dates including the sale date, dated date, and settlement date. The Commission proposes to collect the “settlement date” and “dated date”, as defined in Section 6000, to complement its collection of the date of sale proposed in Section 6010(d). This will provide the greatest opportunity to cross-reference the dates used by outside parties to identify a particular issue. The two data elements also provide insight into Debt structures by knowing when funding occurs (settlement date) and when interest begins to accrue (dated date). Lastly, the proposed basis for timely submission of the Report of Proposed Debt Issuance for commercial paper and lines of credit under Section 6012 is the settlement date.

Subsections (i), (o), (q), (u) through (gg)

Necessity: The Legislature has communicated its interest in monitoring the involvement of private firms in the issuance of public debt through the adoption of Government Code sections 6548.5, 53509.5(b), 53583(c)(2)(B), and 54418, and Education Code section 15146(d)(2). Consistent with the Legislature’s demonstrated intent, the Commission has deemed it appropriate and necessary to collect the following data elements from issuers.

(i) To the extent issuers use the services of a co-bond counsel, trustee/paying agent, or placement agent, collection of these names provides the means to inform policy makers and the public of the specific firms involved and their frequency of participation in municipal debt issuance in California. This information becomes the means to identify the private parties that relate to the information reported under this Section, Subsections (y), (ee), and (ff). Identification of the city/state location of the financing team participants reported in this Section and Section 6010(o) provides further identification of specific service providers among often very large financial services companies. The additional firm identification information assists Commission staff with detecting errors and maintaining consistency in the database.

(o) Issuers incur substantial cost to obtain credit enhancement with the intent of lowering their overall cost of debt. Information regarding the structure of credit enhancements, offered in the context of various other elements of the Debt structure, can inform Issuers and public policy makers on the effectiveness of this debt structuring strategy.

(q) This subsection provides Issuers an efficient means to comply with Government Code sections 53583(c)(2)(B) and 54418 provided the Report of Final Sale is submitted to the Commission within two weeks of sale.

(u) through (gg) These Subsections are necessary to collect the itemized costs of issuance from issuers pursuant to Government Code sections 6548.5, 53509.5(b) and Education Code section 15146(d)(2). Consistent with the Legislature's adoption of Government Code section 8855(h)(3) to have the Commission provide comprehensive information on all state and local Debt issuance, the Commission deems it appropriate to collect itemized costs of issuance for the Debt types not covered by Government Code sections 6548.5, 53509.5(b) and Education Code section 15146(d)(2) in an identical and comparable manner. The costs proposed for collection correspond to the service providers identified in Sections 6010(o) and 6020(i), (o), and (p). In the case of Section 6020(u), the costs paid to the Underwriter are further delineated to the standard components of such costs to understand the amounts paid for management of the syndicate versus the amounts paid for the resale of the debt instruments to other buyers. The latter is a reflection of the fairness of the transaction.

Subsections (j), (k), (l), (m), (r), (s).

Necessity: The Legislature has adopted numerous statutes establishing requirements and conditions on how various types of Debt can be structured, including maximum interest rates, maximum maturity lengths, call features, debt service, and interest accrual methods. Government Code section 8855(h)(3) requiring the Commission to collect comprehensive information on all state and local Debt issuance is the means by which the Legislature can monitor the effect and compliance with its statutory intent. These data elements are fundamental to the ability of the Commission to provide comprehensive insight into the specific structural elements of concern to the Legislature and the issuer's repayment obligations over the term of the debt. In addition, Subsection (l) is necessary for the implementation of Section 6030.

Subsection (n), (p).

Necessity: The credit rating and a senior-subordinate structure provide context for understanding the risks assigned to the issue by the municipal market. The risks assigned to the issue relate directly to the short and long term costs the issuer will incur from issuing the debt. These data elements are necessary to provide comprehensive debt issuance information per the Legislature's intent. In addition, because the ratings for the same and similar issues may vary between different rating firms, public policy is informed by collecting the identity of the rating agency.

Subsection (t).

Necessity: This subsection provides issuers an efficient means to comply with Government Code section 6588.7(e)(2).

Article 3. Report of Final Sale. Section 6021. Method of Submission to the Commission.

Purpose: Government Code section 8855(j) gives the Commission discretion in establishing the method for the submittal of the Report of Final Sale. This Section establishes the Commission approved method.

Necessity: The Commission staff processed nearly 2,900 Reports of Final Sale in 2015, an increase of over 43 percent from 2014. In addition, Commission staff processed an additional 6,600 other issuer submitted reports. In order to keep pace with the report volume without adding staff, on-line submittal is necessary. The overall efficiency of the process of submitting the information is enhanced if the information is entered one time, by the Issuer, to the Commission's online submittal system, rather than once by Issuers and once again by Commission staff. The online submittal method also eliminates the errors that are inevitable with the re-entry of data from mailed or e-mailed forms. This prescribed method of submittal is necessary because accommodating multiple methods for submitting information to the Commission through a performance standard in the face of growing report volume will degrade process efficiency and the Commission's ability to comply with its statutory obligations.

Article 3. Report of Final Sale. Section 6022. Commercial Paper Notes and Lines of Credit.

Purpose: State and local governments issue billions of dollars in debt in the form of commercial paper or through lines of credit. These structures are defined in a controlling contract between issuers and creditors under which separate issues for distinct amounts with potentially distinct terms occur over the term of the contract. This Section provides issuers the clarity necessary to comply with reporting requirements under Government Code section 8855(j) when they issue this particular type of debt.

Necessity: Issues of debt under a contract for commercial paper or a line of credit occur multiple times after the initial "sale", as defined in Section 6000. These contracts establish a maximum amount that can be issued, but does not typically obligate the issuer to issue the maximum amount. Furthermore, the debt is not issued on the same day, but on multiple days over the contract term as issuers need funds. This Section is necessary to clarify that issuers shall not submit information to the Commission on the Report of Final Sale for the entire contractually authorized amount, but for each separate issue under the contract. In this manner, this Section is complimentary to Section 6012 and supports the accuracy of debt issued in the Commission's database.

Since Issues of debt under a contract for commercial paper or a line of credit, including the first issue, are very likely to occur in excess of 21 days after the "sale", as defined in Section 6000, achievement of the timeliness requirements of Government Code section 8855(j) and accuracy in the submitted information is impractical. As a result of the characteristics of these particular Debt types, the Commission proposes to use the date of "settlement", as defined in Section 6000, as the basis for establishing timeliness of submittal pursuant to Government Code section 8855(j).

Also, since the remarketing of commercial paper is not a new issue of debt, but rather reselling previously issued debt, the Commission seeks to clarify that submittal of a Report of Final Sale is not required upon remarketing or reselling.

The Commission asserts that the Legislature did not adopt Government Code section 8855(j) with the intent to disallow the use of these debt types by state and local agencies or limit the reporting of such Issues. In fact, the Legislature anticipated the use of commercial paper

specifically with the adoption of Government Code Sections 5902(a) and 5921(a). This section is proposed to implement the Legislature's statutory intent in a manner that does not impose undue hardship on issuers, create disincentive to report these types of debt to the Commission, or create arbitrary limitations on issuer's access to these important debt structures.

Article 3. Report of Final Sale. Section 6023. Pooled Financings.

Purpose: Government Code section 8855(j) makes no distinction between debt issued by an authority and debt issued by a local obligor. This Section is complementary to Section 6013 and provides clarity to issuers operating as authorities and local obligors in a pooled financing structure that a Report of Final Sale must be submitted to the Commission for each component debt issue included in the structure.

Necessity: Through adoption of Government Code section 6599.1, the Legislature intends for the Commission to collect information on the financing activity of local agencies under the Marks-Roos Local Bond Pooling Act of 1985. The information sought under this statute relates to not only the authority issuer, but also the local obligor. In addition, the Legislature makes no distinction between the debt issued by an authority and that issued by a local obligor under Government Code section 8855(j). All of the issues in a pooled structure are debt and therefore reportable to the Commission. This Section is needed to implement the statute as intended by the Legislature and to provide necessary clarity to issuers.

Article 4. Issuance Fees. Section 6030. Issuance Fee Exception.

Purpose: The Legislature adopted Government Code section 8856 to establish the Commission's capacity to generate the revenue required to carry out the purposes of Government Code, Title 2, Division 1, Chapter 11.5. It did not intend for the Commission to achieve budget surplus at the expense of issuers or financial institutions, but expected the fee revenue to roughly correspond to the Commission's annually appropriated budget authority. Therefore, the Legislature gave the Commission permissive authority to charge the issuance fee and strike a balance between annual revenues and annual appropriation. This Section is proposed by the Commission to employ its permissive authority and establish exceptions to the issuance fee for issues meeting certain criteria.

Necessity: Based upon the principal amounts reported to the Commission for issues over the last ten years, the issuance fee, applied at the rate adopted in Government Code section 8856, would generate revenue to the Commission nearly 27 percent higher than the current annual budget appropriation (see Economic Impact Assessment). The Commission proposes to roughly balance projected revenues with its annual budget appropriation by employing exceptions to the issuance fee for issues meeting following specific criteria.

(a) Issues with a "short-term maturity" as defined in Section 6000. The Commission proposes to use this exception criterion to eliminate nearly 22 percent of the 27 percent surplus. Short-term debt is often used to finance short-term operational cash flow gaps caused by unplanned delays in state and federal transfers. Additionally, short-term debt is frequently used for interim project financing and is refinanced by long term debt upon which the full issuance fee is charged. Due to the frequent unplanned nature of these financings and the risk of "double-charging" a refinanced short-term issue, the Commission proposes this criteria for an exception to the issuance fee.

(b) Issues where the purchaser or lender is an agency of the State of California or Federal government. The Commission proposes to use this exception criterion to eliminate less than 1

percent of the surplus. The Commission has found that the Legislature does not grant state agencies that act as lenders the budget authority to pay the issuance fee. In addition, when a federal agency act as a lender or purchaser the issuance fee is not collectible.

(c) Issues by a local obligor that are purchased with proceeds of a debt issue by an authority. The Commission proposes to use this exception criterion to eliminate nearly 5 percent of the surplus. The overriding objective of the Legislature in the adoption of the Marks-Roos Bond Pooling Act of 1985 was to provide local agencies with a financing mechanism that would allow them to pool their individual Debt needs into a larger issue and achieve scale economies with respect to the costs to issue the Debt. The pooling structure uses the proceeds of a debt issue by an authority to purchase the debt issues of the local agencies within the pool. The two-tiered nature of these issuances is a structural formality, but does not represent two separate financings. Charging an issuance fee to the authority, as a lender or purchaser of the local obligations, and also the underwriter, purchaser, or lender to the authority is effectively “double-charging” and runs counter to the Legislature’s objective in the adopting the Bond Pooling Act.

Article 5. Reporting for Mello-Roos Bonds. Section 6040. Definitions.

Purpose: The Commission seeks to clearly define precedent and operative terms that are fundamental to its ability to implement Government Code section 53359.5 as adopted by the Legislature. Toward this end, the Section proposes a prevailing definition to the extent the same term is defined in Section 6000 of this Chapter.

Necessity: The definitions proposed form the terms in this section are required to implement and operationalize Government Code section 53359.5 in a manner that provides clarity to the obligated agencies and ensures consistency of the information collected by the Commission. The definitions are based on a direct statutory reference or a common and logical construct of the statutory context and public finance practices.

Article 5. Reporting for Mello-Roos Bonds. Section 6041. Mello-Roos Yearly Fiscal Status Report Requirements.

Purpose: This Section is intended to enable the Commission to implement Government Code section 53359.5(b) by providing clarity and specificity, when it has not been provided in statute, to those required to report information to the Commission on the Mello-Roos Yearly Fiscal Status Report.

Necessity: Based upon the definitions proposed in Section 6040, this Section provides the basis for knowing which bonds require an annual report and the time periods for which information shall be reported. The proposed construction of this Section is based on statutory context and the nature and form of the information specified under the statute. In addition, the Commission describes the contact information under Subsection (d) that is necessary to allow Commission staff to obtain clarification or correction of submitted information.

Article 5. Reporting for Mello-Roos Bonds. Section 6042. Mello-Roos Draw on Reserve/Default Report Requirements.

Purpose: The Legislature intends that a notification of specific events be sent to the Commission pursuant to its adoption of Government Code section 53359.5(c). This Section implements the statute

by specifically describing what information constitutes notification, defined in Section 6040 as the Mello-Roos Draw on Reserve/Default Report.

Necessity: The form of notification specified in this Section is based upon the information needed to discern if a reportable event has occurred, pursuant to Government Code section 53359.5(c), and to allow Commission staff to associate the information submitted to a specific bond issue within its issuance database. In addition, the Commission proposes to require the contact information under Subsection (h) that is necessary to allow Commission staff to obtain clarification or correction of submitted information.

Article 5. Reporting for Mello-Roos Bonds. Section 6043. Method of Submission to the Commission.

Purpose: Government Code sections 53359.5(b) and 53359.5(c) give the Commission discretion in establishing the method for the submittal of the required information, defined in Section 6040 as the Mello-Roos Yearly Fiscal Status Report and Mello-Roos Draw on Reserve/Default Report. This Section establishes the Commission approved method.

Necessity: The Commission staff processed nearly 1,500 Mello-Roos Yearly Fiscal Status Reports and Draw on Reserve/Default Reports in 2015. In addition, Commission staff processed an additional 8,000 other issuer submitted reports. In order to keep pace with the report volume without adding staff, on-line submittal is necessary. The overall efficiency of the process of submitting the information is enhanced if the information is entered one time, by the submitter, to the Commission's online submittal system, rather than once by submitters and once again by Commission staff. The online submittal method also eliminates the errors that are inevitable with the re-entry of data from mailed or e-mailed forms. This prescribed method of submittal is necessary because accommodating multiple methods for submitting information to the Commission through a performance standard in the face of growing report volume will degrade process efficiency and the Commission's ability to comply with its statutory obligations.

Article 6. Reporting for Marks-Roos Bonds. Section 6050. Definitions.

Purpose: The Commission seeks to clearly define precedent and operative terms that are fundamental to its ability to implement Government Code section 6599.1 as adopted by the Legislature. Toward this end, the Section proposes a prevailing definition to the extent the same term is defined in Section 6000 of this Chapter.

Necessity: The definitions proposed for the terms in this section are required to implement and operationalize Government Code section 6599.1 in a manner that provides clarity to the obligated agencies and ensures consistency of the information collected by the Commission. The definitions are based on a direct statutory reference or a common and logical construct of the statutory context and public finance practices.

Article 6. Reporting for Marks-Roos Bonds. Section 6051. Marks-Roos Yearly Fiscal Status Report Requirements.

Purpose: This Section is intended to enable the Commission to implement Government Code section 6599.1(b) by providing clarity and specificity, when it has not been provided in statute, to those required to report information to the Commission on the Marks-Roos Yearly Fiscal Status Report.

Necessity: Based upon the definitions proposed in Section 6050, this Section provides the basis for knowing which bonds require an annual report and the time periods for which information shall be reported. The proposed construction of this Section is based on statutory context and the nature and form of the information specified under the statute. In addition, the Commission describes the contact information under Subsection (j) that is necessary to allow Commission staff to obtain clarification or correction of submitted information in furtherance of statutory implementation.

Article 6. Reporting for Marks-Roos Bonds. Section 6052. Marks-Roos Draw on Reserve/Default Report Requirements.

Purpose: The Legislature intends that a notification of specific events be sent to the Commission pursuant to its adoption of Government Code section 6599.1(c). This Section implements the statute by specifically describing what information constitutes notification, defined in Section 6050 as the Marks-Roos Draw on Reserve/Default Report.

Necessity: The form of notification specified in this Section is based upon the information needed to discern if a reportable event has occurred, pursuant to Government Code section 6599.1(c), and to allow Commission staff to associate the information submitted to a specific bond issue within its issuance database. In addition, the Commission proposes to require the contact information under Subsection (h) that is necessary to allow Commission staff to obtain clarification or correction of submitted information in furtherance of statutory implementation.

Article 6. Reporting for Marks-Roos Bonds. Section 6053. Method of Submission to the Commission.

Purpose: Government Code sections 8855(i), 8855(j), 53359.5(b), and 53359.5(c) give the Commission discretion in establishing the method for the submittal of the statutorily required information and the Commission has proposed an online method of submittal in Sections 6011, 6021, and 6043. While the Commission is not afforded the same explicit discretion under Government Code sections 6599.1(b) and 6599.1(c) regarding the method of submittal for information, defined under Section 6050 as the Marks-Roos Yearly Fiscal Status Report and Marks-Roos Draw on Reserve/Default Report, the Commission proposes to establish the same online method as it is proposing for the other required reports in furtherance of statutory implementation.

Necessity: The Commission staff processed nearly 2,300 Marks-Roos Yearly Fiscal Status Reports and Draw on Reserve/Default Reports in 2015. In addition, Commission staff processed an additional 7,200 other issuer submitted reports. In order to keep pace with the report volume without adding staff, on-line submittal is necessary. The overall efficiency of the process of submitting the information is enhanced if the information is entered one time, by the submitter, to the Commission's online submittal system, rather than once by submitters and once again by Commission staff. The online submittal method also eliminates the errors that are inevitable with the re-entry of data from mailed or e-mailed forms.

The online method of information submittal is purposely proposed to be permissive so as to not conflict with statute which calls for submittal by mail, but establishes equivalence to submittal by mail to avoid double-reporting and encourage the efficiencies of online submittal.

Article 7. Reporting Statements Regarding Non-Public Sales of Debt. Section 6060. Reporting Statements Regarding Non-Public Sales of Refunding Bonds. Section 6061. Reporting Statements Regarding Non-Public Sales of Revenue Bonds.

Purpose: These Sections are intended to enable the Commission to implement Government Code sections 53583(c)(2)(B) and 54418 by providing clarity and specificity as to what constitutes a written statement.

Necessity: The form of the written statement specified in these Sections is based upon the information needed to meet the requirements of Government Code sections 53583(c)(2)(B) and 54418 and allow Commission staff to associate the information submitted to a specific debt issue within its issuance database. In addition, the Commission proposes to require the contact information under each Subsection (e) that is necessary to allow Commission staff to obtain clarification or correction of submitted information in furtherance of statutory implementation.

Article 7. Reporting Statements Regarding Non-Public Sales of Debt. Section 6062. Method of Submission to the Commission.

Purpose: Government Code sections 53583(c)(2)(B) and 54418 do not specify the method to be used to send written notification to the Commission. This Section establishes the Commission proposed method.

Necessity: The Commission staff processed over 9,500 issuer submitted reports in 2015. In order to keep pace with the report volume without adding staff, on-line submittal is necessary. The overall efficiency of the process of submitting the information is enhanced if the information is entered one time, by the submitter, to the Commission's online submittal system, rather than once by submitters and once again by Commission staff. The online submittal method also eliminates the errors that are inevitable with the re-entry of data from mailed or e-mailed forms. This prescribed method of submittal is necessary because accommodating multiple methods for submitting information to the Commission through a performance standard in the face of growing report volume will degrade process efficiency and the Commission's ability to comply with its statutory obligations.

DOCUMENTS RELIED UPON

The Commission relied upon Government Accounting Standards Board (GASB) Statement No. 62, December 2010, Paragraph 213, in the development of the lease characteristics that shall be considered "debt", as defined in Section 6000.

The Commission also relied upon the Glossary of Municipal Securities Terms (online), Electronic Municipal Market Access, Municipal Securities Rulemaking Board, Third Edition, August 2013 in the development of the definitions for many of the terms in Section 6000.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT

Sections 6000 – 6023 and Sections 6040 – 6062

The Commission has proposed these regulations to provide the necessary clarity to efficiently implement the referenced statutory requirements imposed on public agencies. Due to anticipated efficiency enhancements, the Commission expects the regulations, including those with prescriptive standards (Sections 6011, 6021, 6043, 6053, and 6062), will create a positive net economic benefit to the public agencies obligated to submit debt information to the Commission. However, the benefits will be distributed across thousands of public agencies and therefore cannot be considered to materially impact the creation or elimination of jobs within the California.

As the regulations proposed under these sections apply to public agencies, the direct creation, expansion, or elimination of business within California is not expected. To the extent the public agencies allocate the net benefits they achieve from the regulations to increased spending in the private sector, the spending will be widely distributed and not materially affect the creation, expansion, or elimination of business within California.

The Commission concludes that while the regulations will help to insure long-lasting integrity and consistency of the debt data submitted by public agencies and allow the Commission to provide highly transparent debt information to Californians, the regulations do not present health or welfare, worker safety, or environmental impacts.

Section 6030

Under Government Code section 8856, the Legislature has authorized the Commission to charge a fee to the lead underwriter, purchaser or lender engaged in an issuance of public debt. Based on past issuances reported to the Commission, a private-sector lead underwriter, purchaser, or lender is engaged in greater than 90 percent of the issues. The lenders or purchasers in the remaining 10 percent of the issues are authorities of local government or agencies of the state or federal government. The Commission is proposing regulations under Section 6030 that will establish exceptions for issues meeting specific criteria from being charged an issuance fee per Government Code section 8856. Therefore, an economic impact, albeit positive, will come to the benefit of private businesses and to a lesser extent, entities of federal, state, and local government.

The Legislature adopted Government Code section 8856 to establish the Commission's capacity to generate the revenue required to carry out the purposes of Government Code Title 2, Division 1, Chapter 11.5, but established permissive authority to charge the issuance fee within the Section to create a mechanism to balance annual revenues with annually appropriated budget authority. It did not intend for the Commission to achieve continuous budget surplus at the expense of underwriters, purchasers or lenders. The Commission conducted analysis of the issuance activity over the last ten years to determine that the exceptions proposed under Section 6030 would provide the intended balance.

For the purpose of assessing the economic impact of the proposed Section 6030, the Commission staff applied the fee set out in Government Code section 8856 against the volume of debt issuance over the last five-year and last ten-year periods. The total revenue was separated into four revenue subtotals; three derived from the issues subject to the proposed exceptions and one for the revenue derived from issues without a fee exception (see analysis below). In comparison with the Commission's net 2016-2017 budget authority, revenue that would be derived from issues without a fee exception under Section 6030 over the last five years is 98 percent of the Commission's net authority. Over the last ten years, un-expected fee revenue exceeds net authority by 13 percent, but it is important to note that three of the

highest volume years over the last ten were outside the most recent five year timeframe. (Standard deviation of un-expected revenue is nearly \$754,000 over ten years versus \$539,000 over the last five year period). The Commission considers the debt issuance activity of the last five years to be more indicative of what is expected in the next five years.

The analysis indicates and the Commission concludes that the positive economic impact to fee payers, including “authorities”, as defined in Section 6000, and state and federal agency lenders resulting from the fee exceptions proposed in Section 6030 would be in a range of approximately \$870,000 to \$930,000, annually. The positive economic impact to private business would be in a range of approximately \$710,000 to \$770,000, annually.

Analysis of Issuance Fee Exceptions

2016-17 Budget Appropriation	\$3,504,000
Reimbursement Authority	<u>(180,000)</u>
Net 2016-17 Budget Authority	\$3,324,000

<u>Revenue Sources</u>	Avg. 5-year Revenue	% of Net Auth.	Avg. 10-year Revenue	% of Net Auth.	5-year Ratio Applied to Auth.	% of Net Auth.
Un-Excepted	\$3,268,945	98%	\$3,743,167	113%	\$3,324,000	100%
Short-term Exception	708,204	21%	767,532	23%	720,131	22%
State-Federal Exception	10,491	0%	5,940	0%	10,667	0%
Local Obligor Exception (a)	<u>149,659</u>	<u>5%</u>	<u>158,861</u>	<u>5%</u>	<u>152,180</u>	<u>5%</u>
Total - No Exceptions	\$4,137,299	124%	\$4,675,501	141%	\$4,206,978	127%
Exception Impact Total	\$868,353		\$932,334		\$882,978	

(a) Purchasers and lenders for these issues are “authorities”, as defined in Section 6000, not private businesses.

The positive economic impact of the fee exceptions proposed under Section 6030 will be distributed among dozens of different firms engaged as underwriters, purchasers, or lenders in California public debt issuance transactions and numerous entities of federal, state, and local government acting as purchasers or lenders. While the positive impact is real, the Commission concludes that it is not large enough to materially impact the creation or elimination of jobs within California, or the creation, expansion, or elimination of business within California. In addition, the positive economic benefits of the regulations proposed in Section 6030 are not of the magnitude or character to have an effect on health or welfare of Californians, worker safety, or the state’s environment.

FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The regulations proposed under Sections 6000 – 6023 and Sections 6040 – 6062 apply to public agencies and as such will have no direct adverse economic effect on businesses, including small businesses.

The regulations proposed under Section 6030 will directly affect businesses engaged as underwriters, purchasers, or lenders in California public debt issuance transactions. However, the Commission concludes that the economic impact of Section 6030 is positive, not adverse. Further, the positive impact of the proposed regulations (as discussed in the Economic Impact Analysis above) is not

significant and is distributed among a large number of inter- and intra-state businesses engaged in public debt issuance. Due to these facts, the Commission concludes that the proposed regulations in Section 6030 will not materially advantage an out-of-state business to the detriment of a California business or affect the ability of California business to compete with out-of-state firms.

REASONABLE ALTERNATIVES TO THE REGULATIONS AS PROPOSED

Sections 6000, 6010, 6012, 6013, 6020, 6022, 6023, 6030, 6040, 6041, 6042, 6050, 6051, 6052, 6060, 6061.

With respect to the above noted Sections, the Commission has determined that no reasonable alternatives, compliant with the authorizing statute, will be more effective, less burdensome and equally effective, or more cost effective and equally effective at implementing the referenced statute. As the above noted sections create no adverse impact on small business, the Commission has offered no alternatives to provide relief to small business.

Sections 6011, 6021, 6043, 6053, and 6062.

The above noted Sections establish prescriptive standards by requiring the reports or information referenced in each Section to be submitted to the Commission through the Commission's online submittal system. In doing so, the Commission mandates the use of a computer and access to the internet to submit the required information. The Commission has determined while reasonable, the alternative not chosen *will not be* more effective, less burdensome and equally effective, or more cost effective and equally effective at implementing the referenced statute. As well, the alternative not chosen would not lessen impact on small business.

Analysis of the Chosen Alternative:

The Commission staff processed over 9,500 issuer submitted reports in 2015. In order to keep pace with the report volume without adding staff, on-line submittal is necessary. The overall efficiency of the process of submitting the information is enhanced if the information is entered one time, by the submitter, to the Commission's online submittal system, rather than once by submitters and once again by Commission staff. The online submittal method also eliminates the errors that are inevitable with the re-entry of data from mailed or e-mailed forms. This prescribed method of submittal is necessary because accommodating multiple methods for submitting information to the Commission through a performance standard in the face of growing report volume will degrade process efficiency and the Commission's ability to comply with its statutory obligations. Online submittal presents an undetermined costs savings to the submitters of the information through the time-savings and the avoidance of postage or delivery charges.

Analysis of Alternative *Not* Selected:

Alternative methods to submit the required reports or information to the Commission include hand-delivery, prepaid postage or equivalent parcel delivery, facsimile, or e-mail. These methods of submittal are much less efficient and costly to process because they all require the double entry of data into the Commission database – once by the submitter into a form and once by Commission staff. Double-entry can lead to inadvertent errors when information is entered in the database by Commission staff and degradation of data quality. Hand-delivery and prepaid postage or equivalent parcel delivery create additional costs for the submitters. Lastly, through AB 2274, Gordon (Chapter 181, Statutes of 2014) the Legislature gave full discretion to the Commission regarding method of submittal for the reports covered by Sections 6011 and 6021 and eliminated mail or postage prepaid as submittal methods. This conveyed the Legislature intent to reduce the inefficiencies of hard-copy submittal options for a more technologically advanced submittal method.