



PROPOSITION

41

VOTING MODERNIZATION BOND ACT OF 2002.
(SHELLEY-HERTZBERG ACT).





PROPOSITION 41

This law proposed by Assembly Bill 56 of the 2001–2002 Regular Session (Chapter 902, Statutes of 2001) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

This proposed law adds sections to the Elections Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Article 3 (commencing with Section 19230) is added to Chapter 3 of Division 19 of the Elections Code, to read:

Article 3. *Voting Modernization Bond Act of 2002 (Shelley-Hertzberg Act)*

19230. *This article shall be known and may be cited as the Voting Modernization Bond Act of 2002 (Shelley-Hertzberg Act).*

19231. *The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full.*

19232. *As used in this article, the following words have the following meanings:*

(a) *"Board" means the Voting Modernization Board, established pursuant to Section 19235.*

(b) *"Bond" means a state general obligation bond issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.*

(c) *"Bond act" means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.*

(d) *"Committee" means the Voting Modernization Finance Committee, established pursuant to Section 19233.*

(e) *"Fund" means the Voting Modernization Fund, created pursuant to subdivision (b) of Section 19234.*

(f) *"Voting system" means any voting machine, voting device, or vote-tabulating device that does not utilize prescored punch card ballots.*

19233. (a) *The Voting Modernization Finance Committee is hereby established for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this article.*

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

(c) *For purposes of this article, the Voting Modernization Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law.*

19234. (a) *The committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than two hundred million dollars (\$200,000,000), exclusive of refunding bonds, in the manner provided herein for the purpose of creating a fund to assist counties in the purchase of updated voting systems.*

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

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

(1) *The county has purchased a new voting system after January 1, 1999, and is continuing to make payments on that system on the date that this article becomes effective.*

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(2) The county matches fund moneys at a ratio of one dollar (\$1) of county moneys for every three dollars (\$3) of fund moneys.

(3) The county has not previously requested fund money for the purchase of a new voting system. Applications for expansion of an existing system or components related to a previously approved application shall be accepted.

(d) Fund moneys shall only be used to purchase systems certified by the Secretary of State, pursuant to Division 19 (commencing with Section 19001), and in no event shall fund moneys be used to purchase a voting system that utilizes prescored punch card ballots.

(e) Any voting system purchased using bond funds that does not require a voter to directly mark on the ballot must produce, at the time the voter votes his or her ballot or at the time the polls are closed, a paper version or representation of the voted ballot or of all the ballots cast on a unit of the voting system. The paper version shall not be provided to the voter but shall be retained by elections officials for use during the 1 percent manual recount or other recount or contest.

19234.5. The Legislature may amend subdivisions (c) and (d) of Section 19234 and Section 19235 by a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this article.

19235. The Voting Modernization Board is hereby established and designated the "board" for purposes of the State General Obligation Bond Law, and for purposes of administering the Voting Modernization Fund. The board consists of five members, three selected by the Governor, and two selected by the Secretary of State. The board shall have the authority to reject any application for fund money it deems inappropriate, excessive, or that does not comply with the intent of this article. A county whose application is rejected shall be allowed to submit an amended application.

19236. (a) All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof. The bonds issued pursuant to this article shall be repaid within 10 years from the date they are issued.

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

(c) On the dates on which funds are remitted pursuant to Section 16676 of the Government Code for the payment of the then maturing principal of, and interest on, the bonds in each fiscal year, there shall be returned to the General Fund all of the money in the fund, not in excess of the principal of, and interest on, any bonds then due and payable. If the money so returned on the remittance dates is less than the principal and interest then due and payable, the balance remaining unpaid shall be returned to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the dates of maturity until returned, at the same rate of interest as borne by the bonds, compounded semiannually. This subdivision does not grant any lien on the fund or the moneys therein to holders of any bonds issued under this article. However, this subdivision shall not apply in the case of any debt service that is payable from the proceeds of any refunding bonds. For the purposes of this subdivision, "debt

service" means the principal (whether due at maturity, by redemption, or acceleration), premium, if any, or interest payable on any date to any series of bonds.

19237. Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:

(a) That sum annually necessary to pay the principal of, and the interest on, the bonds issued and sold as provided herein, as that principal and interest become due and payable.

(b) That sum necessary to carry out Section 19238, appropriated without regard to fiscal years.

19238. For the purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold pursuant to this article. Any sums withdrawn shall be deposited in the fund. All moneys made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this article.

19239. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this article. The amount of the request shall not exceed the amount of unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this article. The board shall execute whatever documents are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this article.

19240. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all of the bonds be issued or sold at any one time.

19241. (a) The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times established by the Treasurer.

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

19242. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

19243. Any bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 2 of Title 2 of the Government Code. The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued refunding bonds.



TEXT OF PROPOSED LAWS

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19244. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer may establish separate accounts for the investment of bond proceeds and for the earnings on those proceeds, and may use those proceeds or earnings to pay any rebate, penalty, or other payment required by federal law or take any other action with respect to the investment and use of bond proceeds required or permitted under

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

19245. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by Article XIII B.