



REVIEW OF REPORTING OBLIGATIONS UNDER AB 2300

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Chapter 723, Statutes of 2001 (AB 2300, Florez) requires certain joint powers authorities issuing debt under the Marks-Roos Local Bond Pooling Act of 1985 to file copies of any public hearing notice and a resolution of intent to issue debt with the California Debt and Investment Advisory Commission (CDIAC) and the State Attorney General's Office.

AB 2300 also exempts certain types of bonds from the requirement to file these hearing notices and resolutions of intent. Specifically, under various subsections of Government Code Section 6586.5, those exempt from filing copies of a hearing notice with CDIAC and the Attorney General's Office are bonds issued:

- 1) Pursuant to the California Community Development Law, Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code;
 - 2) To finance transportation facilities and vehicles;
 - 3) To finance a facility that is located within the boundaries of an authority, provided that the authority that issues those bonds consists of any of the following:
 - A) Local agencies with overlapping boundaries;
 - B) A county and a local agency or local agencies located entirely within that county;
 - C) A city and a local agency or local agencies located entirely within that city;
 - 4) To finance a facility for which an authority has received an allocation from the California Debt Limit Allocation Committee; and
 - 5) Of an authority that consists of no less than 100 local agencies and the agreement that established that authority requires the governing body of the local agency that is a member of the authority in whose jurisdiction the facility will be located to approve the facility and the issuance of the bonds.
- 2) To finance, consistent with the provisions of this chapter, facilities for the generation or transmission of electrical energy for public or private uses and all rights, properties, and improvements necessary therefore, including fuel and water facilities and resources;
 - 3) To finance facilities for the production, storage, transmission, or treatment of water, recycled water, or wastewater;
 - 4) To finance public school facilities; and
 - 5) To finance public highways located within the jurisdiction of an authority that is authorized to exercise the powers specified in Chapter 5 (commencing with Section 31100) of Division 17 of the Streets and Highways Code, provided that the authority conducts the noticed public hearing and makes the finding of significant public benefit in accordance with this section.

To determine the compliance of those authorities required to file copies of a public hearing notice and a resolution of intent under AB 2300, CDIAC compared a list of those that had filed with those authorities that issued Marks-Roos bonds between January 2004 through December 2004. During that period, CDIAC received 129 *Reports of Final Sale*¹ for Marks-Roos bonds, a decrease of 13.4 percent from 2003, in which there were 149 *Reports of Final Sale*. Of these 129 issues, 124 were exempt under the terms of AB 2300. Of the remaining five issues that did not qualify for an exemption, three complied with the requirements to file a public hearing notice and a resolution of intent with CDIAC and the Attorney General's Office. These three issues were from the same issuer, and were issued as Series A, B, and C public enterprise revenue bonds in the approximate amounts of \$1.2 million, \$350,000, and \$2.3 million, respectively. The bonds will be used to finance construction of certain harbor projects.

Furthermore, AB 2300 exempts from these same reporting obligations bonds issued under Article 1 of the Marks-Roos Act as well as those issued for the following purposes:

- 1) To finance the undergrounding of utility and communication lines;

The other two issues that appear not to be exempt from filing were a refunding revenue bond in the amount of \$31.9 million and a certificate of participation/lease in the amount of \$45.0 million. The revenue bond was used to purchase open space and the certificate of participation/lease was used to purchase mortgages.

¹ It should be noted that the 129 *Reports of Final Sale* received by CDIAC may not reflect all Marks-Roos bonds issued during the period. Some issuers may not have reported their bonds to CDIAC, although they are required by law to do so 30 days prior to the sale and within 45 days following the sale.

Table 1 and Table 2 summarize the results of CDIAC's review of bonds issued under the Marks-Roos Act for January 1, 2004 through December 31, 2004. Table 1 summarizes the issuer compliance with their obligations to file a public hearing notice with CDIAC; Table 2 summarizes issuer compliance with an obligation to file a notice of intent to issue bonds with CDIAC.

**TABLE 2
COPY OF RESOLUTION EXCEPTIONS
TO FILING UNDER AB 2300**

Government Code Section 6586.5 Exceptions	Code Subsections	Number of Marks-Roos Filings	Percent of Total Exempt Marks-Roos Filings*
Community Redevelopment Law	b(1)	29	23.4%
Transportation Facilities & Vehicles	b(2)	3	2.4
Local Agencies with Overlapping Boundaries	b(3)(A)	1	0.8
County & Local Agency(ies) Located within the County	b(3)(B)	7	5.6
City & Local Agency(ies) Located within the City	b(3)(C)	47	37.9
Allocation from the California Debt Limit Allocation Committee	b(4)	0	0.0
Authority Consisting of No Less Than 100 Local Agencies	b(5)	7	5.6
Utility and Communication Lines Undergrounding	c(1)	0	0.0
Generation or Transmission of Electrical Energy	c(2)	1	0.8
Water/Recycled Water/Wastewater Production, Storage, Transmission, or Treatment Facilities	c(3)	19	15.3
Public School Facilities	c(4)	10	8.1
Public Highways	c(5)	<u>0</u>	<u>0.0</u>
Total		124	100.0%

* Percentages do not add to total due to rounding.

**TABLE 2
COPY OF RESOLUTION EXCEPTIONS
TO FILING UNDER AB 2300**

Government Code Section 6586.5 Exceptions	Code Subsections	Number of Marks-Roos Filings	Percent of Total Exempt Marks-Roos Filings*
Exempt from Filing as Specified in Subdivision (c) of Section 6586.5	b(1)	30	24.2%
Community Redevelopment Law	b(2)	29	23.4
Transportation Facilities & Vehicles	b(3)	3	2.4
Local Agencies with Overlapping Boundaries	b(4)(A)	1	0.8
County & Local Agency(ies) Located within the County	b(4)(B)	7	5.6
City & Local Agency(ies) Located within the City	b(4)(C)	47	37.9
Allocation from the California Debt Limit Allocation Committee	b(5)	0	0.0
Authority Consisting of No Less Than 250 Local Agencies	b(6)	<u>7</u>	<u>5.6</u>
Total		124	100.0%

* Percentages do not add to total due to rounding.

CDIAC encourages issuers to continue to submit Reports of Proposed Debt Issuance and Reports of Final Sale of Marks-Roos bonds and, when appropriate, to submit public hearing notices and copies of resolutions of intent to issue debt in accordance with AB 2300. Issuers can obtain the Report of Proposed Debt Issuance and the Report of Final Sale forms by accessing CDIAC's website at www.treasurer.ca.gov/cdiac or by calling CDIAC at (916) 653-3269.

CDIAC will continue to track the compliance with this statute and will report on its analysis in future issues of *DEBT LINE*.

This Offprint was previously published in DEBT LINE, a monthly publication of the California Debt and Investment Advisory Commission (CDIAC). CDIAC was created in 1981 to provide information, education, and technical assistance on public debt and investment to state and local public officials and public finance officers. DEBT LINE serves as a vehicle to reach CDIAC's constituents, providing news and information pertaining to the California municipal finance market. In addition to topical articles, DEBT LINE contains a listing of the proposed and final sales of public debt provided to CDIAC pursuant to Section 8855(g) of the California Government Code. Questions concerning the Commission should be directed to CDIAC at (916) 653-3269 or, by e-mail, at cdiac@treasurer.ca.gov. For a full listing of CDIAC publications, please visit our website at <http://www.treasurer.ca.gov/cdiac>.

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