

17199.4. (a) Notwithstanding any other law, any participating party, in connection with securing financing or refinancing of projects, or working capital pursuant to this chapter, may, in accordance with this section, elect to provide for funding, in whole or in part, one or more of the following:

(1) Payments on authority bonds.

(2) Payments under credit enhancement or liquidity support agreements in connection with authority bonds.

(3) Amounts pledged or assigned under one or more pledges or assignments to pay authority bonds or obligations under these credit enhancement or liquidity support agreements.

(4) Payments to fund reserves available to pay any of the payments described in paragraphs (1), (2), and (3), exclusively until paid.

(5) Fees and charges contemplated by the instruments of the authority, trustees, tender agents, remarketing agents, credit enhancement and liquidity support providers, and service providers.

(6) Any other costs necessary or incidental to any financing or refinancing conducted under this chapter.

(b) The payments made pursuant to subdivision (a) may be in connection with a financing or refinancing benefiting the participating party itself, one or more other participating parties, or any combination thereof.

(c) To participate under this section, the participating party shall do all of the following:

(1) Elect to participate by an action of its governing board taken in compliance with the rules of that board.

(2) Provide written notice to the Controller, no later than the date of the issuance of the bonds or 60 days before the next payment, whichever is later, of all of the following:

(A) Its election to participate.

(B) A schedule of the payments subject to that election.

(C) The payee or payees of those payments, or the trustee or agent on their behalf to receive those payments.

(D) (i) Payment delivery instructions, which may be by wire transfer or other method approved by the Controller.

(ii) If the method of payment delivery is wire transfer, the participating party shall complete and submit the appropriate authorization form as prescribed by the Controller.

(d) The participating party may amend, supplement, or restate the notice required pursuant to paragraph (2) of subdivision (c) for any reason, including, but not necessarily limited to, providing for

new or increased payments. The participating party shall certify in the notice and in any amendment, supplement, or restatement of the notice that each and every payment reflected in the schedule is a payment described in subdivision (a) and the amounts scheduled do not exceed the actual or reasonably estimated payment obligations to be funded pursuant to this section. The participating party shall also represent in the notice that it is not submitting the notice for the purpose of accelerating a participating party's receipt of its apportionments. Nothing in this section prohibits transfer by the recipient of an apportionment under this section to the participating party submitting the notice of the excess apportionment above the amount needed to fund actual payments where the excess resulted from erroneous estimation of scheduled payments or otherwise.

(e) Upon receipt of the notice required by paragraph (2) of subdivision (c), the Controller shall make an apportionment to the indicated recipient on the date, or during the period, shown in the schedule in accordance with the following:

(1) If the participating party requests transfers in full as scheduled, in the amount of the scheduled transfer or such lesser amount as is available from the sources indicated in subdivision (f).

(2) If the participating party does not request transfers in full as scheduled, in the amount of the anticipated deficiency for the purpose of making the required payment indicated in a written request of the participating party to the Controller and in the amount of the actual shortfall in payment indicated in a written request of the recipient or the participating party to the Controller or whatever lesser amount is available from the sources indicated in subdivision (f).

(3) To the extent funds available for an apportionment are insufficient to pay the amount set forth in a schedule in any period, the Controller shall, if and as requested in the notice, reschedule the payment of all or a portion of the deficiency to a subsequent period.

(4) In making apportionments under this section, the Controller may rely conclusively and without liability on any notice or request delivered under this section, including any notice of request delivered before enactment of the act that adds this paragraph. The Controller may make, but is not obligated to make, apportionments not reflected on a notice or on an amended, supplemented, or restated notice delivered under this section that the Controller receives less than 20 days before when the apportionment would otherwise be required.

(f) The Controller shall make an apportionment under this section only from moneys designated for apportionment to the participating party delivering the notice, and only from one or both of the following:

(1) Any funding apportioned for purposes of revenue limits or the local control funding formula pursuant to Section 42238.02, as implemented by Section 42238.03, to a school district or county office of education without regard to the specific funding source of the apportionment.

(2) Any funding apportioned for purposes of the charter school block grant or the local control funding formula pursuant to Section 42238.02, as implemented by Section 42238.03, to a charter school without regard to the specific funding source of the apportionment.

(g) (1) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party, and shall be included in the computation of allocation, limit, entitlement, or apportionment for the participating party.

(2) The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned by the Controller pursuant to this section.

(h) (1) The authority may require participation under this section under the terms of any financing or refinancing under this chapter to provide for one or more of the payments described in paragraphs (1), (2), (3), and (4) of subdivision (a). The authority may impose limits on new participation under this section. The authority may require participating parties to apply to the authority for participation. If the authority limits participation under this section, the authority shall consider each of the following priorities in making participation available:

(A) First priority shall be given to participating parties that apply for funding for instructional classroom space under this chapter.

(B) Second priority shall be given to participating parties that apply for funding of modernization of instructional classroom space under this chapter.

(C) Third priority shall be given to participating parties that apply for funding under this chapter for any other eligible costs, as defined in Section 17173.

(2) The authority shall prioritize applications at appropriate intervals.

(3) A school district electing to participate under this section that has applied for revenue bond moneys for purposes of joint venture school facilities construction projects, pursuant to Article 5 (commencing with Section 17060) of Chapter 12, shall not be subject to the priorities set forth in paragraph (1).

(i) This section shall not be construed to make the State of California liable for any payments within the meaning of Section 1 of Article XVI of the California Constitution.

(j) A school district that has a qualified or negative certification pursuant to Section 42131, or a county office of education that has a qualified or negative certification pursuant to Section 1240, may not participate under this section.

(k) This section does not obligate the State of California to make available the sources of apportionment under subdivision (f) in any amount or at any time or, except as provided in this section, to fund any payment described in this section. The addition of this subdivision is intended solely to clarify existing law.

(Amended by Stats. 2015, Ch. 303, Sec. 64. Effective January 1, 2016.)