

1-26-2018

ELIMINATES CERTAIN LIABILITY FOR
LEAD-PAINT MANUFACTURERS.
AUTHORIZES BONDS TO FUND
STRUCTURAL AND ENVIRONMENTAL
REMEDICATION PROJECTS. INITIATIVE
STATUTE.

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ELIMINATES CERTAIN LIABILITY FOR LEAD-PAINT MANUFACTURERS. AUTHORIZES BONDS TO FUND STRUCTURAL AND ENVIRONMENTAL REMEDIATION PROJECTS. INITIATIVE STATUTE. California Initiative 1845 (2018).

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The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

ELIMINATES CERTAIN LIABILITY FOR LEAD-PAINT MANUFACTURERS.

AUTHORIZES BONDS TO FUND STRUCTURAL AND ENVIRONMENTAL

REMEDICATION PROJECTS. INITIATIVE STATUTE. Declares that lead paint in homes

is not a public nuisance. Eliminates liability of lead-paint manufacturers—in cases pending on or after November 1, 2017—for claims that lead paint in homes causes a public nuisance.

Authorizes \$2 billion in state general obligation bonds to fund grants for certain structural and environmental remediation projects as follows: \$1.5 billion for certain residential units; \$400 million for schools; and \$100 million for senior housing facilities. Appropriates money from the

General Fund to repay bonds. Summary of estimate by Legislative Analyst and Director of

Finance of fiscal impact on state and local government: **State General Fund costs of \$3.9**

billion to pay off principal (\$2 billion) and interest (\$1.9 billion) on bonds over a period of

35 years. Annual payments would average \$110 million, with payments lower in the initial

and final few years and somewhat higher in the intervening years. Reduction of several

hundred million dollars or more in funding for local programs to clean up lead-based paint

in homes. (17-0049.)

December 22, 2017**RECEIVED****DEC 22 2017****VIA PERSONAL DELIVERY**

Hon. Xavier Becerra
Attorney General of California
1300 I Street, 17th Floor, P.O. Box 944255
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ashley Johansson, Initiative Coordinator

Re: Request for Title and Summary for the "Healthy Homes and Schools Act," (A.G. No. 17-0049) - Amended Language

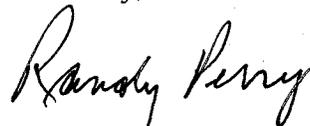
Dear Ms. Johansson:

Pursuant to Section 9002(b) of the California Elections Code, please find attached hereto amendments to the above-captioned initiative measure. I hereby request that a title and summary be prepared for the initiative measure using the amended language. My address as a registered voter, the required proponent affidavits pursuant to Sections 9001 and 9608 of the California Elections Code, and a check for \$2,000.00 were included with the original submission.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Gross & Leoni, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Kurt Oneto (telephone: 916/446-6752).

Thank you for your assistance.

Sincerely,



Randy Perry, Proponent

Enclosure: Proposed Initiative Statute

Section 1. Title.

This Act shall be known and may be cited as the Healthy Homes and Schools Act of 2018.

Section 2. Findings and Declarations.

The People of the State of California find and declare as follows:

(a) California is experiencing an extreme housing shortage with 2.2 million extremely low income and very low income renter households competing for only 664,000 affordable rental homes. This leaves more than 1.54 million of California's lowest income households without access to affordable housing.

(b) The California Department of Housing & Community Development has found that an essential component of any response to California's housing crisis must be to rehabilitate existing homes that are either uninhabitable or pose potential health risks to their residents due to structural or environmental hazards.

(c) The United States Department of Housing and Urban Development has concluded that "[e]vidence shows that poor-quality housing negatively affects children's physical and emotional health."

(d) The federal interagency Healthy Homes Work Group (HHWG) found that poor housing conditions are associated with a wide range of health issues in children, the poor, minorities, individuals with behavioral health issues, and people with chronic medical conditions.

(e) The United States Environmental Protection Agency (EPA) has stated that many school buildings are old, in poor condition, and may contain environmental conditions that create increased health risks for children and staff. The EPA concluded that reducing exposures to environmental hazards can improve children's health as well as performance and achievements later in life.

(f) Despite California's existing regulatory framework which has prevented any public nuisance, trial attorneys have pursued public nuisance actions which could subject responsible homeowners to potential civil liability and criminal penalties for a public nuisance, even if they properly maintain their home.

(g) As a matter of policy, structural and environmental hazards should be remediated in compliance with federal and state government rules and regulations, and homeowners should be protected from liability when they comply with California law.

(h) To fairly and uniformly address the issue of structural and environmental hazards in our homes and schools, it is essential to provide funding to all regions of the state of California while ensuring that those funds are used in a cost-effective manner by addressing those conditions currently recognized by the State of California to be hazardous.

Section 3. Statement of Purpose.

The purpose of the Healthy Homes and Schools Bond Act of 2018 is to provide funding for the remediation of structural and environmental hazards occurring in homes and schools that, if ignored, could impact schools and cost the State of California thousands of available housing units for low and middle income families as well as additional health care for affected children, adults, and seniors.

Section 4. Part 15 (commencing with Section 53900 is added to Division 31 of the Health and Safety Code, to read:

PART 15. Healthy Homes and Schools Bond Act of 2018

Chapter 1. General Provisions

53900. This part shall be known and may be cited as the Healthy Homes and Schools Bond Act of 2018.

53901. As used in this part, the following terms have the following meanings:

(a) "Board" means the Department of Housing and Community Development for programs administered by the department.

(b) "Committee" means the Housing Finance Committee created pursuant to Section 53524 and continued in existence pursuant to Section 53548 and 53925.

(c) "Fund" means the Healthy Homes and Schools Bond Act Trust Fund of 2018 created pursuant to Section 53905.

Chapter 2. Healthy Homes and Schools Bond Act Trust Fund of 2018 and Program

53905. The Healthy Homes and Schools Bond Act Trust Fund of 2018 is hereby created within the State Treasury. The People of the State of California intend for the proceeds of bonds (exclusive of refunding bonds issued pursuant to Section 53955) deposited in the fund to be used to fund the healthy home and school programs described in this chapter. The proceeds of bonds issued and sold pursuant to this part for the purposes specified in this chapter shall be allocated in the following manner:

(a) One billion five hundred million dollars (\$1,500,000,000) to be deposited in the Healthy Home Remediation Account, which is hereby created in the fund. Moneys in the account shall be available, upon appropriation by the Legislature, for competitive grants to assist homeowners in the remediation of structural and environmental hazards, which includes, but is not limited to mold, asbestos, radon, water, pests, ventilation and lead hazards as defined by Section 17920.10 of the California Health & Safety Code. At least one billion two hundred million dollars (\$1,200,000,000) of the amount deposited into the account shall be used for the remediation of environmental hazards in properties with one to four residential dwelling units.

(b) Four hundred million dollars (\$400,000,000) to be deposited in the Healthy School Remediation Account, which is hereby created in the fund. Moneys in the account shall be available, upon appropriation by the Legislature, for competitive grants to allow schools to remediate structural and environmental hazards that affect the health and safety of students, including the remediation of structural and environmental hazards which includes, but is not limited to mold, asbestos, radon, water, pests, ventilation and lead hazards as defined by Section 17920.10 of the California Health & Safety Code.

(c) One hundred million dollars (\$100,000,000) to be deposited in the Healthy Seniors Remediation Account, which is hereby created in the fund. Moneys in the account shall be available, upon appropriation by the Legislature, for competitive grants to allow facilities that provide assisted living and senior housing to remediate structural and environmental hazards that affect the health and safety of residents, including the remediation of structural and environmental hazards which includes, but is not limited to mold, asbestos, radon, water, pests, ventilation and lead hazards as defined by Section 17920.10 of the California Health & Safety Code.

(d) Upon appropriation of funds by the Legislature for the purpose of implementing subdivisions (a), (b), and (c), the Department of Housing and Community Development shall establish and administer a competitive grant program, consistent with the following priorities:

1. Properties that pose the greatest risk to health and safety.
2. Properties where cost-effective remediation would have the greatest benefit to health and safety.
3. Residential properties with young children or residents who are particularly susceptible to the environmental hazard.
4. Property owners who demonstrate financial need and have not already utilized other public funds to remediate environmental hazards.
5. Other factors as deemed appropriate.

(e) Consistent with section 53910 and to ensure that the funds in this Act are used in the most cost-effective manner that benefits the greatest number of residents, funds allocated pursuant to this section for the remediation of hazards related to lead-based paint shall only be used for the remediation of lead-based paint that has been determined to be a lead hazard pursuant to Section 17920.10 of the California Health & Safety Code, as it existed on November 1, 2017.

53910. (a) Notwithstanding any other law, lead-based paint on or in private or public residential properties, whether considered individually, collectively, or in the aggregate, is not a public nuisance.

(b) Nothing in this Act shall be construed to interfere with the ability of federal, state or local governments to require a property owner to remediate a lead hazard pursuant to existing law.

(c) This section clarifies existing California law and shall apply to all cases pending on, pending on appeal on, or filed after, November 1, 2017, and to any injunctions, judgments, or other remedies issued in those cases.

53912. Nothing herein shall be construed to impair, diminish, or otherwise alter or modify the obligations imposed on paint companies and other contributors pursuant to the Childhood Lead Poisoning Prevention Act of 1991 in Health and Safety Code section 105275, et seq. or pursuant to the Architectural Paint Recovery Program in Public Resource Code section 48700, et seq.

Chapter 3. Fiscal Provisions

53915. Bonds in the total amount of two billion dollars (\$2,000,000,000), exclusive of refunding bonds issued pursuant to Section 53955, or so much thereof as is necessary as determined by the committee, are hereby authorized to be issued and sold for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. All bonds herein authorized which have been duly issued, sold, and delivered as provided herein shall constitute valid and binding general obligations of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal of and interest on those bonds when due.

53920. The bonds authorized by this part shall be prepared, executed, issued, sold, paid, and redeemed as provided in 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 subdivisions (a) and (b) of Section 16727 of the Government Code, and all of the provisions of that law as amended from time to time apply to the bonds and to this part, except as provided in Section 53960, and are hereby incorporated in this part as though set forth in full in this part.

53925. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this part, the committee is continued in existence. For the purposes of this part, the Housing Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law.

(b) The Department of Housing and Community Development may adopt guidelines establishing requirements for administration of its financing programs. The guidelines shall not constitute rules, regulations, orders, or standards of general application and are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) For the purposes of the State General Obligation Bond Law, the Department of Housing and Community Development is designated the "board" for programs administered by the department.

53930. Upon request of the board stating that funds are needed for purposes of this part, the committee shall determine whether or not it is necessary or desirable to issue bonds, and, if

so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and are not required to be sold at any one time. Bonds may bear interest subject to federal income tax.

53935. 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, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collections of state revenues to do or perform each and every act which is necessary to collect that additional sum.

53940. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this part, an amount that will equal the total of both of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this part, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out Section 53950, appropriated without regard to fiscal years.

53945. 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 purposes of this part. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold, excluding any refunding bonds authorized pursuant to Section 53955, for purposes of this part, less any amount loaned pursuant to this section and not yet repaid and any amount withdrawn from the General Fund pursuant to Section 53950 and not yet returned to the General Fund. The board shall execute any documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated in accordance with this part.

53950. For purposes of carrying out this part, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of any amount or amounts not to exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold, excluding any refunding bonds authorized pursuant to Section 53955, for purposes of this part, less any amount loaned pursuant to Section 53945 and not yet repaid and any amount withdrawn from the General Fund pursuant to this section and not yet returned to the General Fund. Any amounts withdrawn shall be deposited in the fund to be allocated in accordance with this part. Any moneys made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from moneys received from the sale of bonds which would otherwise be deposited in that fund.

53955. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. Approval by the electors of this act shall constitute approval of any refunding bonds issued to refund bonds issued pursuant to this part, including any prior issued refunding bonds. Any bond refunded

with the proceeds of a refunding bond as authorized by this section may be legally defeased to the extent permitted by law in the manner and to the extent set forth in the resolution, as amended from time to time, authorizing that refunded bond.

53960. Notwithstanding any provisions in the State General Obligation Bond Law, the maturity date of any bonds authorized by this part shall not be later than 35 years from the date of each such bond. The maturity of each series shall be calculated from the date of issuance of each bond.

53965. The People of the State of California hereby find and declare that, inasmuch as the proceeds from the sale of bonds authorized by this part 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 that article.

53970. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this part that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, the Treasurer may maintain a separate account for investment earnings, may order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of tax-exempt bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

53975. All moneys derived from premiums and accrued interest on bonds sold pursuant to this part shall be transferred to the General Fund as a credit to expenditures for bond interest; provided, however, that amounts derived from premiums may be reserved and used to pay the costs of bond issuance prior to transfer to the General Fund.

Section 4. Auditing and Administrative Cost Cap Provisions

53980. (a) Moneys from the Healthy Homes and Schools Bond Act Trust Fund of 2018 shall be used to reimburse state and local agencies for expenses incurred in implementing this Act, provided, however, that not more than 5 percent annually of the funds remaining in the Healthy Homes and Schools Bond Act Trust Fund of 2018, including amounts allocated pursuant to subdivision (b), are used for such administrative costs.

(b) Moneys from the Healthy Homes and Schools Bond Act Trust Fund of 2018 shall be used to reimburse the independent nonpartisan California State Auditor up to \$400,000 annually for actual costs incurred to conduct each of the audits required by Section 53981 for the purpose of ensuring that the proceeds of bonds are used to fund healthy home and school programs as described in this part.

53981. To provide full public accountability concerning the uses to which funds from the Healthy Homes and Schools Bond Act of 2018 are put, and to ensure full compliance with the Healthy Homes and Schools Act of 2018:

(a) The nonpartisan California State Auditor shall conduct at least biennially an independent financial audit of the state and local agencies receiving funds pursuant to the Healthy Homes

and Schools Bond Act of 2018. An audit conducted pursuant to this section shall include, but not be limited to, a review of the administrative costs expended by the state agencies that administer the fund.

(b) Based on the independent audit, the nonpartisan California State Auditor shall prepare a report detailing its review and include any recommendations for improvements. The report shall be made available to the public.

(c) Each state agency and department receiving funds pursuant to this act shall, on an annual basis, publish on its respective Internet Web site an accounting of how much money was received from the Healthy Homes and Schools Bond Act Trust Fund of 2018 and how that money was spent. The annual accounting shall also be posted on any social media outlets the state agency or department deems appropriate.

Section 5. Liberal Construction.

This Act shall be liberally construed in order to effectuate its purposes.

Section 6. Conflicting Measures.

(a) Except as provided in subdivision (c), in the event that this initiative measure and other initiative measure or measures relating to public nuisances shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(b) If this initiative measure is approved by the voters but superseded in whole or in part by any other conflicting initiative measure approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

(c) This initiative measure shall be deemed not to be in conflict with the Veterans and Affordable Housing Bond Act of 2018 as submitted by the Secretary of State to the voters pursuant to SB 3 (Beall, Chapter 365, Statutes of 2017). In the event that both that the Veterans and Affordable Housing Bond Act of 2018 and this initiative measure are approved by the voters, the provisions of both measures shall be given full force and effect.

Section 7. Amendments.

The Legislature may amend this Act by a statute passed in each house of the Legislature by rollcall vote entered into the journal, four-fifths of the membership concurring and signed by the Governor, provided that the statute is consistent with, and furthers the purpose of, this Act.

Any bill seeking to amend this Act must remain in print in its final form for at least 12 days prior to its passage in each house of the Legislature.

Section 8. Severability.

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

Section 9. Legal Defense.

If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of state or federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.



January 11, 2018

RECEIVED

JAN 11 2018

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative that would authorize \$2 billion in general obligation bonds to provide funding for remediation in homes, schools, and senior facilities (A.G. File No. 17-0049, Amendment No. 1).

Background

Many Homes Contain Hazards. Many homes and other buildings in California contain hazards—such as lead, mold, and asbestos—that have been linked with various health problems. For example, exposure of children to lead-based paint is associated with developmental delays and behavioral issues. These hazards occur primarily in buildings constructed before 1978, which comprise about 60 percent of homes in the state.

Litigation About Lead-Based Paint in Homes. In 2000, several cities (Oakland, San Diego, and San Francisco) and counties (Alameda, Los Angeles, Monterey, San Mateo, Santa Clara, Solano, and Ventura) filed a law suit against manufacturers of lead-based paint, arguing that their promotion of lead-based paint despite its known health effects had contributed to a “public nuisance” that presented a danger to the health of Californians. In 2014, the court ruled in favor of the cities and counties. The court ordered the creation of a program funded by the paint manufacturers to discover and clean up lead-based paint in homes in the localities party to the law suit. In 2017, an appellate court largely upheld the ruling in favor of the cities and counties. Under the appellate court ruling, funding from paint manufacturers for local lead abatement programs likely will total several hundred million dollars.

Proposal

Bond Funds for Remediation of Hazards. The measure authorizes the state to sell \$2 billion in general obligation bonds to fund the remediation of environmental and structural hazards—such as mold, asbestos, radon, water, pests, ventilation, and lead hazards—in homes, schools, and senior facilities. Of this total, \$1.5 billion would be given as grants to owners of housing, with \$1.2 billion set aside for single family and small multifamily homes. In addition, \$400 million would be given to schools and \$100 million to senior housing and assisted living facilities.

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Lead-Based Paint Not a Public Nuisance. The measure also declares that lead-based paint in or on housing is not a public nuisance, seemingly reversing the recent court rulings discussed above.

Fiscal Effect

Increased Debt Service Costs. The cost to the state of issuing these bonds would depend on the timing of the bond sales, the interest rates in effect at the time they are sold, and the time period over which they are repaid. The state would likely issue these bonds over a period of about five years and make principal and interest payments from the state's General Fund over a period of about 35 years. If the bonds were sold at an average interest rate of 5 percent, the cost would be \$3.9 billion to pay off both principal (\$2 billion) and interest (\$1.9 billion). Under these assumptions, the average payment would be about \$110 million per year. Annual debt service payments would ramp up in the initial few years, peak at \$130 million per year, and ramp down in the final few years. (These estimates are not adjusted for inflation.)

Reduced Funding for Lead Abatement Programs. The measure appears to reverse recent court rulings requiring paint manufacturers to fund lead abatement programs in several communities. This would reduce funding for these programs by several hundred million dollars. It also appears to preclude other communities from filing similar law suits in the future, eliminating the potential for those communities to obtain similar funding.

Effects on Property Values. The measure could have several effects on property values and, in turn, local government property tax revenues. Some effects would be positive. For example, the use of bond funds to reduce hazards in homes likely would increase those homes' values. On the other hand, some effects may be negative. For example, homeowners that would have performed lead-based paint clean up funded by paint manufacturers—which likely would have increased those homes' values—would no longer do so. Overall, the measure's net effect on property values and property tax revenues is unclear.

Summary of Fiscal Effect

This measure would have the following fiscal effects:

- State General Fund costs of \$3.9 billion to pay off principal (\$2 billion) and interest (\$1.9 billion) on bonds over a period of 35 years. Annual payments would average \$110 million, with payments lower in the initial and final few years and somewhat higher in the intervening years.
- Reduction of several hundred million dollars or more in funding for local programs to clean up lead-based paint in homes.

Sincerely,



for
Mac Taylor
Legislative Analyst



for
Michael Cohen
Director of Finance