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OFFICE OF THE ATTORNEY GENERAL  
State of California

GEORGE DEUKMEJIAN  
Attorney General

OPINION  
  
of  
  
GEORGE DEUKMEJIAN  
Attorney General  
  
Anthony S. Da Vigo  
Deputy Attorney General

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No. 81-502  
  
OCTOBER 30, 1981

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THE HONORABLE CHARLES R. IMBRECHT, MEMBER OF THE  
ASSEMBLY, has requested an opinion on the following question:

May Medi-Cal, mental health, and other similar state funds be pledged by a  
county to the payment of a note of indebtedness, and interest thereon, for a temporary loan?

CONCLUSION

Medi-Cal, mental health, and other similar state funds which have been  
appropriated and committed to a county may be pledged by the county to the payment of a  
note of indebtedness, and interest thereon, for a temporary loan subject to the provisions  
and limitations of article 7.7, commencing with section 53859, of the Government Code.

## ANALYSIS

In addition to the fiscal resources including taxes, income, revenue, cash receipts, and other moneys such as inactive or term deposits generally available for its operating expenses, programs and services, a county may have certain accrued accounts receivable from state or federal governments for which funds have been committed and appropriated. By way of example, funds may have been committed and appropriated by the federal government under title XVIII of the Social Security Act (42 U.S.C. § 1395 *et seq.*, “medicare”) to a county as a provider of medical services to the aged and disabled. Title XIX of the Social Security Act (42 U.S.C. § 1396 *et seq.*, “medicaid”) establishes a program of federal grants to enable states to provide medical assistance, under an approved plan, through providers to eligible recipients whose income and resources are inadequate to meet the costs of such services. Under this program federal-state matching funds may have been committed and appropriated by the State of California (Welf. & Inst. Code, § 14000 *et seq.*, “Medi-Cal”) to a county for its current monthly administrative expenses (Welf. & Inst. Code, § 14153) and, through its fiscal intermediary, for medical services to qualified beneficiaries. Funds may have been committed and appropriated by the state to a county to finance its community mental health services under the Short-Doyle Act. (Welf. & Inst. Code, § 5600 *et seq.*; § 5705.)

The question presented is whether such or similar funds may be pledged by a county to the payment of a note of indebtedness, and interest thereon, for a temporary loan. Specifically, the issue is whether the authority of a county to borrow upon the security of such accounts receivable is generally limited. Thus, the absence of a specific statutory constraint with respect to any particular state or federal funding program, grant, or loan is assumed for purposes of this analysis.<sup>1</sup>

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<sup>1</sup>See, e.g., Welfare and Institutions Code section 14115.5 with regard to medi-cal:

“Moneys payable or rights existing under this chapter shall be subject to any claim, lien or offset of the State of California, and any claim of the United States of America made pursuant to federal statute, but shall not otherwise be subject to execution, levy, attachment, garnishment, or other legal process, and no transfer or assignment, at law or in equity, of any right of a provider of health care to any payment shall be enforceable against the state, a fiscal intermediary or carrier

But see *Manalis Finance Co. v. Gedulig* (1975) 47 Cal. App. 3d 672, 676 fn. 1. Compare *Manalis, Finance Co. v. United States* (1980) 611 F. 2d 1270.

Prior to its amendment in 1972, Government Code<sup>2</sup> section 53856 provided:

“Any taxes, income, revenue, cash receipts, *accrued accounts receivable from state or federal governments for which funds have been committed and appropriated* or other moneys of the local agency, including moneys deposited in inactive or term deposits, may be pledged to the payment of the note or notes and the interest thereon, except, however, that no moneys which, when received by the local agency, will be encumbered for a special purpose may be pledged for the payment of the note or notes or the interest thereon unless an equivalent amount of the proceeds from said note or notes is set aside for and used for said special purpose The note or notes and the interest thereon are a first lien upon and charge against the taxes, income, revenue, cash receipts, *accrued accounts receivable from state or federal governments for which funds have been committed and appropriated* or other moneys pledged for the payment thereof.” (Emphasis added.)

By its amendment (Stats. 1972, ch. 552)<sup>3</sup> the words italicized were deleted, and a new article 7.7 (§§ 53859–53859.08) pertaining to “grant anticipation notes” was added. Designated sections, in their present form, are set forth below:

#### Section 53859.

“As used in this article. (a) ‘local agency’ means county, city and county, city, school district, community college district, or any other municipal or public corporation or district.

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<sup>2</sup>Hereinafter, all section references are to the Government Code unless otherwise indicated.

<sup>3</sup>As further amended (Stats. 1976, ch. 390, § 1) section 53856 now provides:

“Any taxes, income, revenue, cash receipts, or other moneys of the local agency, including moneys deposited in inactive or term deposits. may be pledged to the payment of the note or notes and the interest thereon, except, however, that no moneys which, when received by the local agency, will be encumbered for a special purpose may be pledged for the payment of the note or notes or the interest thereon unless an equivalent amount of the proceeds from said note or notes is set aside for and used for said special purpose The resolution authorizing the issuance of the note or notes shall specify what taxes, income, revenue, cash receipts or other moneys are pledged for the payment thereof The note or notes and the interest thereon shall be a first lien and charge against, and shall be payable from the first moneys received by the local agency from, such pledged moneys.”

“(b) ‘Grant anticipation note’ means a note issued upon the security of specified accounts receivable from state or federal governments, including, without limitation, grants, loans, or a combination of both, for which funds have been appropriated and committed to a local agency.

“(c) ‘Loan’ includes, but is not limited to, a borrowing by a local agency represented or said to be represented by bonds of a local agency.”

#### Section 53859.01.

“The powers conferred by this article are in addition to and alternative to any powers conferred by any other law for borrowing by a local agency and any amount borrowed hereunder shall not be considered in any limitation on the amount which may be borrowed by any such local agency under any other law.”

#### Section 53859.02.

“A local agency may borrow money pursuant to this article, such indebtedness to be represented by a grant anticipation note or notes issued to the lender pursuant to this article. The money borrowed may be used and expended by the local agency solely for the purpose for which the grant or loan is to be received.”

#### Section 53859.03.

“The grant anticipation note or notes shall be issued pursuant to a resolution authorizing the issuance thereof, adopted by the legislative body of the local agency. . . .”

#### Section 53859.04.

“Any grant anticipation note issued under this article may be negotiable or may be payable to order or to bearer and may be in any denomination. Except as limited by the Constitution of the State of California, such note shall be payable not later than 36 months after the date of issue and shall be payable solely, except as provided in Section 53859.07, from committed and appropriated funds of grants or loans of the state or federal government to the local agency that the granting or loaning authority states shall be paid on specified dates or events within a 36-month period

from the dating of the grant anticipation notes issued. . . .”

Section 53859.05.

“The resolution authorizing the issuance of any note may provide that such note shall be subject to call and redemption prior to maturity, at the option of the local agency, at such price or prices as may be fixed in the resolution, not exceeding a premium of 3 percent of the par value of the note so subject to redemption. . . .”

Section 53859.06.

“Grant or loan funds from the state or federal government for any legally authorized capital improvement for which the local agency is authorized to expend moneys, when stated by the granting or loaning authority to be committed, appropriated and payable to the local agency on a specified date or dates, or event or events, shall be pledged for the payment of the grant anticipation note or notes and the interest thereon. The note or notes and the interest thereon are a first lien upon and charge against the grant or loan funds.”

Section 53859.07.

“Notwithstanding the provisions of Section 53854 and 53856, any note issued pursuant to this article to the extent not paid from grant or loan funds of the local agency pledged for the payment thereof, shall be paid with the interest thereon to the extent permitted by law from any taxes, income, revenue, cash receipts, or other moneys of local agency lawfully available therefor. Taxes, income, revenue, cash receipts or other moneys of the local agency lawfully available to pay a loan may be used to pay any note issued in anticipation of such loan, pending the granting of the loan.”

Section 53859.08.

“A grant or loan anticipation note or notes shall not be issued pursuant to this article in an amount at any time outstanding which shall exceed 95 percent of the grant or loan funds stated in writing by the granting or loaning authority as committed, appropriated and that shall be paid on a, specified date or dates, or event or events, within a 36-month period from the dating of such notes.”

The applicable rules of statutory interpretation were summarized in *Moyer v. Workmen's Comp. App. Bd.* (1973) 10 Cal. 3d 222, 230:

“We begin with the fundamental rule that a court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining such intent the court turns first to the words themselves for the answer. We are required to give effect to statutes according to the usual, ordinary import of the language employed in framing them. If possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose; a construction making some words surplusage is to be avoided. When used in a statute words must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear. Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole.” (Citations and quotations omitted.)

See also *California Teachers Assn. v. San Diego Community College Dist.* (1981) 28 Cal. 3d 692, 698.

A county is a local agency within the meaning of section 53859, subdivision (a). A note issued upon the security of accounts receivable from the state or federal governments, including those specified above, which funds have been appropriated and committed to a county, is a grant anticipation note within the purview of subdivision (b) of that section. A local agency is expressly authorized to borrow money, such indebtedness to be represented by a grant anticipation note, subject to the provisions and limitations of article 7.7. (§ 53859.02.) Thus, for example, such funds must have been appropriated and committed to the county (§ 53859(b)), the money borrowed may be used solely for the purpose for which the grant is to be received (§ 53859.02), the note shall be payable not later than 36 months after the date of issue (§ 53859.04), and the note may not exceed 95 percent of the grant funds committed, appropriated, and payable on a specified date or event within the designated 36 month period (§ 53859.08).

Where a statute prescribes the only mode by which a power may be exercised, the mode is the measure of the power. (*Reams v. Cooley* (1915) 171 Cal. 150, 154.) Section 53859.01, however, provides that the powers conferred by article 7.7 “are in addition to and alternative to any powers conferred by any other law for borrowing by a local agency. . . .” An issue arises, therefore, as to whether a county may borrow against accounts receivable from state or federal governments pursuant to section 53856, *supra*, not subject to the conditions and limitations of article 7.7.

Section 53856 does not, in our view, constitute an alternative source of authority for borrowing against such accounts receivable. Although its terms, particularly with regard to “moneys which, when received by the local agency, will be encumbered for a special purpose,” may be sufficiently broad to encompass accounts receivable from state or federal governments, a matter as to which no opinion herein is proffered, the Legislature plainly manifested its intent by its 1972 amendment enacting article 7.7 pertaining *specifically* to accounts receivable from *state or federal governments* and deleting in conjunction therewith the references in section 53856 to such accounts. Had the Legislature envisioned section 53856 as an alternative authority for such borrowing, there would have been no reason for the specific inclusion of such terms by way of amendment in 1970<sup>4</sup> or for their deletion in 1972.

It is concluded that Medi-Cal, mental health, and other similar state funds which have been appropriated and committed to a county may be pledged by the county to the payment of a note of indebtedness, and interest thereon, for a temporary loan subject to the provisions and limitations of article 7.7, commencing with section 53859.

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<sup>4</sup>Statutes 1970, chapter 232, section 2. Section 4 further provided:

“This act is an urgency statute necessary for the immediate preservation of the public peace, health of safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

“Certain local governments have experienced large and unexpected growth in programs operated at the direction of the state. Such program growth has caused these local agencies to expend all available surplus funds. As a result of this expenditure of local funds, these agencies are experiencing significant cash flow problems in attempting to operate local programs. Without the provision of additional funds at an early date it will be impossible for programs to be effectively operated during the balance of the 1969–70 fiscal year and the early portion of the 1970–71 fiscal year. State and federal agencies presently owe substantial unpaid moneys to local government which will not be received in time to offset such cash flow shortages. The use of temporary borrowing with such state and federal securities as collateral security would provide local governmental agencies with the necessary funds to operate these programs required for the public peace, health and safety of the citizens of the State of California. It is, therefore, necessary that this act go into immediate effect.”