

66932

05/03/19 02:00 PM
RN 19 15010 PAGE 1

An act to amend Sections 14932, 14934, and 14936 of, and to add Section 14937 to, the Government Code, relating to state government.



191501066932BILL

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14932 of the Government Code is amended to read:

14932. The department is authorized to ~~structure, administer, administer and maintain the GS \$Mart Program, the state's centralized financing program Program.~~ The GS \$Mart Program is a financing program that is available for use only by state agencies to finance certain goods and services as set forth in this chapter, agencies, pursuant to Sections 14934 and 14936, to finance certain goods and services as set forth in those sections. The department may provide consultative services to facilitate a financing for a local agency or school district pursuant to Section 14937.

SEC. 2. Section 14934 of the Government Code is amended to read:

14934. (a) Notwithstanding any other law, state agencies that are statutorily authorized to acquire assets listed in subdivision (b) are hereby eligible to apply to the GS \$Mart Program to enter into agreements for financing those assets without further competitive bidding.

(b) ~~(+)~~ Assets eligible for financing pursuant to the GS \$Mart Program include all of the following:

~~(A)~~

~~(1) Energy efficiency conservation measures as described in Section 4217.11 or energy savings contracts as described in Section 388 of the Public Utilities Code.~~

~~(B)~~

~~(2) Goods as defined in Section 10290 of the Public Contract Code.~~

~~(C) Services as described in Section 10335 of the Public Contract Code.~~

~~(D)~~

~~(3) (A) Technology goods or services as described in Section 11532 or information technology as defined in paragraph (2) subparagraph (B) that are capital assets eligible for tax exempt financing consistent with the Internal Revenue Code as confirmed by an opinion of bond counsel, as described in paragraph (3) of subdivision (a) of Section 14936.~~

~~(2)~~

~~(B) Information technology includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, including voice, video, and data communications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.~~

(c) State agencies may refinance any eligible asset through the GS \$Mart Program for the purpose of lowering financing costs or consolidating payments, or when refinancing will achieve an overall benefit and cost savings to the state.

(d) The department shall annually provide a report by September 1 of each year to the Joint Legislative Budget Committee, the State Treasurer's Office, and the Department of Finance that shall include, but not be limited to, the following information for each ~~loan~~ financing entered into during the preceding fiscal year:

~~(1) Each state agency that entered into a GS \$Mart loan. financing.~~

~~(2) The physical address at which the asset being financed is installed or located.~~

~~(2)~~

~~(3) The amount financed by each loan. financing.~~



~~(3)~~

~~(4) The term of each loan: financing.~~

~~(4)~~

~~(5) A description of the item, good, or service financed by each loan: financing.~~

~~(5)~~

~~(6) The total amount of outstanding GS \$Mart loans: financings.~~

SEC. 3. Section 14936 of the Government Code is amended to read:

14936. (a) The department shall develop a financing process that requires, but shall not be limited to, all of the following:

(1) Confirmation that the term of financing shall be limited to the average expected economic life of the asset or assets.

(2) Certification that the asset or assets to be financed are eligible under Section 14934.

~~(3) A submission of an opinion of counsel from an independent law firm of recognized standing in the field of law relating to the exemption from federal income taxation on state or local bonds confirming that the assets subject to the financing qualify for tax exempt financing consistent with the Internal Revenue Code.~~

(3) For tax-exempt financings, an opinion of counsel from a law firm admitted to the Treasurer's office most current approved bond counsel pool confirming that the assets subject to the financing qualify for tax exempt financing consistent with the Internal Revenue Code.

(4) The preparation and submission of payment schedules to the Controller for use by the Controller in transferring funds appropriated in the annual Budget Act to the state agency for payments due under the financing program.

~~(5) Prior approval by the Department of Finance and prior approval of the terms and conditions of the financing by the Treasurer for each financing over \$10,000,000.~~

(5) The use of standard financing terms and conditions, form certificates, and other form agreements. The standard financing terms and conditions, form certificates, and other form agreements, and any amendment of those standard terms and conditions, form certificates, and form agreements, shall be approved by the Department of Finance and the Treasurer's office before they are used.

(6) Prior approval by the Treasurer's office of the specific financial terms, including, but not limited to, the quotes received, the interest rate, and the payment term, for each financing over ten million dollars (\$10,000,000).

(7) Prior approval by the issuer of lease-revenue bonds on behalf of the state for any financing that affects a facility encumbered by issuer's lease-revenue bonds.

(8) (A) Notice to the Department of Finance and the Treasurer's office of each financing before seeking a request for a rate quote for that financing.

(B) The notice shall identify the following:

(i) The state agency seeking to enter into a GS \$Mart financing.

(ii) The assets to be financed.

(iii) The physical address at which the asset is located.

(iv) The estimated amount to be financed.

(v) The estimated closing date of the financing.

(b) The Controller may direct the transfer of funds according to the schedule or schedules submitted by the department pursuant to the GS \$Mart Program.



(c) The department, in consultation with the Department of Finance, shall be responsible for the continued development and administration of, at a minimum, financing applications, instructions, and application approval pursuant to the GS \$Mart Program.

SEC. 4. Section 14937 is added to the Government Code, to read:

14937. (a) Notwithstanding any other law, local agencies and school districts that are statutorily authorized to acquire goods, information technology, and related services pursuant to subdivision (b) of Section 10298 of the Public Contract Code and subdivision (b) of Section 10299 of the Public Contract Code, respectively, are eligible to use the preapproved lenders participating in the GS \$Mart Program.

(b) A local agency or school district using the preapproved lenders participating in the GS \$Mart Program may arrange for consulting services to be provided by the department, at current state price book rates, in order to facilitate the local agency or school district's financing of the assets authorized herein without further competitive bidding.

(c) For tax-exempt financings, a local agency or school district shall engage independent counsel in order to obtain an opinion confirming that the assets qualify for tax-exempt financing. The local agency or school district shall be solely responsible for compliance with any rules or laws necessary to maintain the tax-exempt status of those financings. The State of California and the GS \$Mart Program shall not have any responsibilities related to the tax exemption of financings authorized in this section.

(d) Neither the State of California nor the GS \$Mart Program shall be liable for or incur any financial responsibility in connection with any financing by a local agency or school district described in this section. Any such financing by a local agency or school district shall meet the following requirements:

(1) Not be a financial obligation or debt of the State of California.

(2) Be made on the basis of the credit worthiness and rating of the local agency or school district with repayment obligations being the sole responsibility of the local agency or school district.

(3) Not be characterized or use terms directly or indirectly indicating it is a financing pursuant to the GS \$Mart Program.

(e) Any financing authorized in this section by a local agency or school district shall be done on terms and conditions that set forth the provisions of this section. Those provisions shall be set forth in any request to lenders for quotes and in any contractual arrangements related to the financings authorized in this section.

(f) The department shall include in the report required by subdivision (d) of Section 14934 a summary of financings made pursuant to this section that includes the following information for each financing facilitated by the department during the preceding fiscal year:

(1) The name of the local agency or school district that entered into the financing.

(2) The amount of the financing.

(3) The term of each financing.

(4) A description of the goods, information technology, and related services financed.



191501066932BILL

LEGISLATIVE COUNSEL'S DIGEST

Bill No. _____
as introduced, _____
General Subject: Golden State Financial Marketplace Program.

Existing law establishes the Golden State Financial Marketplace Program or GS \$Mart Program (program), which is the state's centralized financing program available for state agencies to finance certain goods and services. The program makes state agencies, as defined, eligible to apply to the program in order to enter into agreements for financing those specified assets, including, but not limited to, services, without further competitive bidding. Existing law authorizes the Department of General Services, to structure, administer, and maintain the program. Existing law requires the department to develop a financing process for the program that requires, among other things, submission of an opinion of counsel from an independent law firm of recognized standing in the field of law relating to the exemption from federal income taxation on state or local bonds confirming that the assets subject to the financing qualify for tax-exempt financing consistent with the Internal Revenue Code and prior approval by the Department of Finance of the terms and conditions of the financing by the Treasurer for each financing over \$10,000,000.

This bill would revise the authorization described above to instead authorize the Department of General Services to administer and maintain the GS \$Mart Program and would remove the application of the program to agreements for services generally. The bill would, among other things, revise the financing process to require an opinion of counsel from a law firm, under specified circumstances, confirming that the assets subject to the financing qualify for tax-exempt financing; require the use of standard financing terms and conditions, form certificates, and other form agreements, subject to approval by the Department of Finance and the Treasurer's office before use; and require notice to the Department of Finance and the Treasurer's Office of each financing before seeking a request for a rate quote for that financing. The bill would authorize specified local agencies and school districts to use the preapproved lenders participating in the GS \$Mart Program, subject to specified requirements, including that further competitive bidding is not required and that the local agency or school district is responsible for compliance with laws related to tax-exempt financing.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

