

File No. 190393

Committee Item No. _____

Board Item No. 37

COMMITTEE/BOARD OF SUPERVISORS

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- Assembly Bill No. 857 - 02/20/19
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Prepared by: Lisa Lew
Prepared by: _____

Date: April 12, 2019
Date: _____

1 [Supporting California State Assembly Bill No. 857 (Chiu and Santiago) - Public Banking Act]

2
3 **Resolution supporting California State Assembly Bill No. 857, the “Public Banking**
4 **Act”, authored by Assembly Members David Chiu and Miguel Santiago, to allow local**
5 **government to apply for a state banking charter to establish a public bank.**
6

7 WHEREAS, San Francisco taxpayer money currently is held in private commercial
8 banks that engage in socially and environmentally destructive practices that are fundamentally
9 against the values of San Franciscans, from predatory lending practices for low-income
10 communities of color, to funding fossil fuel extraction, firearms, prisons and detention centers,
11 to charging the City high interest rates on loans for retrofitting our schools and hospitals; and

12 WHEREAS, A bank owned by the City and County of San Francisco would allow the
13 City to have more local control, transparency, self-determination, and allow us to move in a
14 direction to achieve sustainable community investments such as affordable housing, small
15 business development, loans to low-income households, public transit, infrastructure,
16 renewable energy; and

17 WHEREAS, A recent report from the Budget and Legislative Analyst notes that “a
18 public bank would be better equipped to meet the city’s business needs and public policy
19 goals”, prompting Treasurer José Cisneros to convene a Municipal Bank Feasibility Task
20 Force as recommended by the Board of Supervisors (via Resolution No. 152-17) to identify
21 and pursue opportunities to create a municipal bank; and

22 WHEREAS, A public bank is defined as a financial institution owned by one or more
23 public entities such as a state, city, or county; and

24 WHEREAS, The Bank of North Dakota is the one operational public bank in existence
25 in the United States, founded in 1919; and

1 WHEREAS, Public banking is actively being explored in municipalities across the
2 country, including Seattle, Oakland, Los Angeles, Santa Fe, St. Louis, Philadelphia, New York
3 City, and the states of Maryland and New Hampshire; and

4 WHEREAS, The creation of a San Francisco Public Bank has been endorsed by the
5 San Francisco Democratic County Central Committee, Harvey Milk Democratic Club, Rose
6 Pak Democratic Club, San Francisco Latino Democratic Club, Richmond District Democratic
7 Club, San Francisco Tenants Union, San Francisco Rising Alliance, Alliance of Californians
8 for Community Empowerment, California Faculty Association - San Francisco State University
9 Chapter, California Nurses Association - Northern California Chapter, Democratic Socialists of
10 America - San Francisco Chapter, and San Francisco Berniecrats; and

11 WHEREAS, On July 15, 2018, the California Democratic Party adopted a Resolution
12 supporting the creation of state-chartered public banks; and

13 WHEREAS, The California Department of Business Oversight (DBO) oversees the
14 operation of California's state-chartered banks, and the only licenses available for depository
15 banks are commercial, industrial, and credit unions; and

16 WHEREAS, The State of California does not currently have a public banking charter
17 option, whether at the municipal, regional or state level, providing a major obstacle in the
18 efforts to explore a public bank and preventing public banks from obtaining a banking charter
19 and becoming operational; and

20 WHEREAS, As a result of the lack of a public banking charter option, many California
21 local governments must hold their assets with large out-of-state commercial banks, who
22 charge local governments fees to hold their deposits and perform their cash management
23 services; and

24 WHEREAS, Assembly Members David Chiu and Miguel Santiago have authored
25 Assembly Bill No. 857, which would provide an option for local governments to apply for a

1 public bank charter; and

2 WHEREAS, Assembly Bill No. 857 would provide more control, transparency, and self-
3 determination in how local taxpayer dollars are leveraged in the banking system by allowing
4 local government to charter their own public banks; and

5 WHEREAS, Local public banks under Assembly Bill No. 857 would have oversight from
6 the Department of Business Oversight (DBO) and a separate, professional board, who would
7 have a fiduciary duty to protect taxpayers' assets; and

8 WHEREAS, Assembly Bill No. 857 also requires partnerships between a public bank
9 and existing local financial institutions to provide retail services, enabling public banks to
10 provide affordable loans and lines of credit to local businesses and nonprofits, and increase
11 the lending capacity of the local banking system; and

12 WHEREAS, By creating a public bank under Assembly Bill No. 857, taxpayer money
13 will be held by an insured financial institution that measures its return on investment not only
14 by profits, but also by its success in supporting communities; and

15 WHEREAS, Assembly Bill No. 857 is supported by California Public Banking Alliance,
16 Beneficial State Foundation, Communities for a Better Environment, Cooperation Humboldt –
17 Eureka, Friends of Public Banking Santa Rosa, Friends of the Earth, Lawyers' Committee for
18 Civil Rights of the San Francisco Bay Area, Local Clean Energy Alliance, Orange County
19 Public Banking Coalition, Public Bank East Bay, Public Bank Los Angeles, Public Bank Santa
20 Barbara, Public Bank San Diego, People for Public Banking Santa Cruz, Progressive Asian
21 Network for Action, San Francisco Berniecrats, San Francisco Public Bank Coalition, South
22 Bay Progressive Alliance, Teamsters Local 665, and United Educators of San Francisco; now,
23 therefore, be it

24 RESOLVED, That the San Francisco Board of Supervisors supports the continued
25 efforts in San Francisco to create and operationalize a municipal public bank; and, be it

1 FURTHER RESOLVED, That the San Francisco Board of Supervisors supports
2 Assembly Bill No. 857 and urges the California State Assembly to pass the bill; and, be it

3 FURTHER RESOLVED, That the San Francisco Board of Supervisors hereby directs
4 the Clerk of the Board to send a copy of this Resolution to the California State Assembly and
5 the Governor of the State of California.

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AMENDED IN ASSEMBLY MARCH 19, 2019

CALIFORNIA LEGISLATURE—2019—20 REGULAR SESSION

ASSEMBLY BILL

No. 857

Introduced by ~~Assembly Member~~ *Assembly Members Chiu and
Santiago*

February 20, 2019

~~An act to amend Section 31910 of the Penal Code, relating to firearms.~~ *An act to amend Section 119 of the Financial Code, and to amend Sections 23007, 53601, 53635, and 53635.2 of, and to add Division 5 (commencing with Section 57600) to Title 5 of, the Government Code, and to add Section 23701aa to the Revenue and Taxation Code, relating to public banks.*

LEGISLATIVE COUNSEL'S DIGEST

AB 857, as amended, Chiu. ~~Firearms: unsafe handguns.~~ *Public banks.*

~~Existing law, subject to exceptions, generally makes it an offense to manufacture or sell a handgun that is not safe. Existing law establishes criteria for determining if a handgun is unsafe. Existing law generally requires manufacturers to submit samples of new handgun models for testing to determine if the new handgun models are unsafe or may be approved for sale, as specified. Existing law requires the Department of Justice to compile a roster listing all of the handguns that have been tested and determined not to be unsafe.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Existing law, the Financial Institutions Law, regulates the activities of various financial entities, including commercial banks, industrial banks, trust companies, credit unions, and savings associations. The

Banking Law defines and regulates state banks and commits the enforcement of banking laws to the Commissioner of Business Oversight.

Existing law prohibits a county from giving or loaning its credit to, or in aid of, any person or corporation. Existing law requires a local agency, as defined, to deposit all money belonging to, or in the custody of that local agency, into specified state or national banks, as defined. Existing law regulates the investment of public funds by local agencies.

Existing law generally governs benefit corporations and requires that a benefit corporation make an annual report to shareholders, as specified. Existing law, the Social Purpose Corporations Act, generally governs social purpose corporations and requires that a social purpose corporation make a specified annual report to shareholders.

This bill would define the term "bank" for purposes of the Financial Institutions Law and the Banking Law to include a public bank. The bill would define the term "public bank" to mean a corporation, organized for the purpose of engaging in the commercial banking business or industrial banking business, that is wholly owned by a local agency, local agencies, a joint powers authority, or a special district.

The bill would require a public bank to comply with all requirements of the Financial Institutions Law and the Banking Law and to obtain and maintain insurance, subject to specified requirements. The bill would authorize a county to lend its credit to a public bank. The bill would also would authorize a local agency to deposit funds in a public bank, and to invest in a public bank, subject to certain requirements.

The bill would further require a public bank to identify in its articles of incorporation either a special purpose or a special public benefit. The bill would authorize, but not require, a public bank to incorporate as a benefit corporation or a social purpose corporation but would require a public bank to comply with the reporting requirements to which a social benefit or social purpose corporation are held, as specified.

The Corporation Tax Law imposes a franchise tax on financial corporations, but provides that the tax is in lieu of all other state and local taxes and licenses, with certain exceptions. That law also exempts specified classes of entities from the franchise and income taxes imposed by that law, including state-chartered credit unions.

This bill would additionally exempt from those franchise and income taxes any public bank. This bill would also exempt a public bank from all other state and local taxes and licenses, with certain exceptions.

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

The people of the State of California do enact as follows:

1 SECTION 1. *It is the intent of the Legislature that this act*
2 *authorize the lending of public credit to public banks and authorize*
3 *public ownership of stock in public banks for the purpose of*
4 *achieving cost savings, strengthening local economies, supporting*
5 *community economic development, and addressing infrastructure*
6 *and housing needs for localities.*

7 SEC. 2. *Section 119 of the Financial Code is amended to read:*

8 119. "Bank" or "banks" includes a public bank, as defined in
9 *Section 57600 of the Government Code, commercial banks,*
10 *industrial banks, and trust companies unless the context otherwise*
11 *requires. However, "bank" does not include a savings association*
12 *or a credit union.*

13 SEC. 3. *Section 23007 of the Government Code is amended to*
14 *read:*

15 23007. Except as specified in this chapter, a county shall not,
16 in any manner, give or loan its credit to or in aid of any person or
17 ~~corporation:~~ *corporation that is not a public bank, as defined in*
18 *Section 57600. An indebtedness or liability incurred contrary to*
19 *this chapter is void.*

20 SEC. 4. *Section 53601 of the Government Code is amended to*
21 *read:*

22 53601. This section shall apply to a local agency that is a city,
23 a district, or other local agency that does not pool money in
24 deposits or investments with other local agencies, other than local
25 agencies that have the same governing body. However, Section
26 53635 shall apply to all local agencies that pool money in deposits
27 or investments with other local agencies that have separate
28 governing bodies. The legislative body of a local agency having
29 moneys in a sinking fund or moneys in its treasury not required
30 for the immediate needs of the local agency may invest any portion
31 of the moneys that it deems wise or expedient in those investments
32 set forth below. A local agency purchasing or obtaining any
33 securities prescribed in this section, in a negotiable, bearer,
34 registered, or nonregistered format, shall require delivery of the
35 securities to the local agency, including those purchased for the

1 agency by financial advisers, consultants, or managers using the
2 agency's funds, by book entry, physical delivery, or by third-party
3 custodial agreement. The transfer of securities to the counterparty
4 bank's customer book entry account may be used for book entry
5 delivery.

6 For purposes of this section, "counterparty" means the other
7 party to the transaction. A counterparty bank's trust department
8 or separate safekeeping department may be used for the physical
9 delivery of the security if the security is held in the name of the
10 local agency. Where this section specifies a percentage limitation
11 for a particular category of investment, that percentage is applicable
12 only at the date of purchase. Where this section does not specify
13 a limitation on the term or remaining maturity at the time of the
14 investment, no investment shall be made in any security, other
15 than a security underlying a repurchase or reverse repurchase
16 agreement or securities lending agreement authorized by this
17 section, that at the time of the investment has a term remaining to
18 maturity in excess of five years, unless the legislative body has
19 granted express authority to make that investment either
20 specifically or as a part of an investment program approved by the
21 legislative body no less than three months prior to the investment:

22 (a) Bonds issued by the local agency, including bonds payable
23 solely out of the revenues from a revenue-producing property
24 owned, controlled, or operated by the local agency or by a
25 department, board, agency, or authority of the local agency.

26 (b) United States Treasury notes, bonds, bills, or certificates of
27 indebtedness, or those for which the faith and credit of the United
28 States are pledged for the payment of principal and interest.

29 (c) Registered state warrants or treasury notes or bonds of this
30 state, including bonds payable solely out of the revenues from a
31 revenue-producing property owned, controlled, or operated by the
32 state or by a department, board, agency, or authority of the state.

33 (d) Registered treasury notes or bonds of any of the other 49
34 states in addition to California, including bonds payable solely out
35 of the revenues from a revenue-producing property owned,
36 controlled, or operated by a state or by a department, board, agency,
37 or authority of any of the other 49 states, in addition to California.

38 (e) Bonds, notes, warrants, or other evidences of indebtedness
39 of a local agency within this state, including bonds payable solely
40 out of the revenues from a revenue-producing property owned,

1 controlled, or operated by the local agency, or by a department,
2 board, agency, or authority of the local agency.

3 (f) Federal agency or United States government-sponsored
4 enterprise obligations, participations, or other instruments,
5 including those issued by or fully guaranteed as to principal and
6 interest by federal agencies or United States government-sponsored
7 enterprises.

8 (g) Bankers' acceptances otherwise known as bills of exchange
9 or time drafts that are drawn on and accepted by a commercial
10 bank. Purchases of bankers' acceptances shall not exceed 180
11 days' maturity or 40 percent of the agency's moneys that may be
12 invested pursuant to this section. However, no more than 30 percent
13 of the agency's moneys may be invested in the bankers'
14 acceptances of any one commercial bank pursuant to this section.

15 This subdivision does not preclude a municipal utility district
16 from investing moneys in its treasury in a manner authorized by
17 the Municipal Utility District Act (Division 6 (commencing with
18 Section 11501) of the Public Utilities Code).

19 (h) Commercial paper of "prime" quality of the highest ranking
20 or of the highest letter and number rating as provided for by a
21 nationally recognized statistical rating organization (NRSRO).
22 The entity that issues the commercial paper shall meet all of the
23 following conditions in either paragraph (1) or (2):

24 (1) The entity meets the following criteria:

25 (A) Is organized and operating in the United States as a general
26 corporation.

27 (B) Has total assets in excess of five hundred million dollars
28 (\$500,000,000).

29 (C) Has debt other than commercial paper, if any, that is rated
30 in a rating category of "A" or its equivalent or higher by an
31 NRSRO.

32 (2) The entity meets the following criteria:

33 (A) Is organized within the United States as a special purpose
34 corporation, trust, or limited liability company.

35 (B) Has programwide credit enhancements including, but not
36 limited to, overcollateralization, letters of credit, or a surety bond.

37 (C) Has commercial paper that is rated "A-1" or higher, or the
38 equivalent, by an NRSRO.

39 Eligible commercial paper shall have a maximum maturity of
40 270 days or less. Local agencies, other than counties or a city and

1 county, may invest no more than 25 percent of their moneys in
2 eligible commercial paper. Local agencies, other than counties or
3 a city and county, may purchase no more than 10 percent of the
4 outstanding commercial paper of any single issuer. Counties or a
5 city and county may invest in commercial paper pursuant to the
6 concentration limits in subdivision (a) of Section 53635.

7 (i) Negotiable certificates of deposit issued by a nationally or
8 state-chartered bank, a savings association or a federal association
9 (as defined by Section 5102 of the Financial Code), a state or
10 federal credit union, or by a federally licensed or state-licensed
11 branch of a foreign bank. Purchases of negotiable certificates of
12 deposit shall not exceed 30 percent of the agency's moneys that
13 may be invested pursuant to this section. For purposes of this
14 section, negotiable certificates of deposit do not come within
15 Article 2 (commencing with Section 53630), except that the amount
16 so invested shall be subject to the limitations of Section 53638.
17 The legislative body of a local agency and the treasurer or other
18 official of the local agency having legal custody of the moneys
19 are prohibited from investing local agency funds, or funds in the
20 custody of the local agency, in negotiable certificates of deposit
21 issued by a state or federal credit union if a member of the
22 legislative body of the local agency, or a person with investment
23 decisionmaking authority in the administrative office manager's
24 office, budget office, auditor-controller's office, or treasurer's
25 office of the local agency also serves on the board of directors, or
26 any committee appointed by the board of directors, or the credit
27 committee or the supervisory committee of the state or federal
28 credit union issuing the negotiable certificates of deposit.

29 (j) (1) Investments in repurchase agreements or reverse
30 repurchase agreements or securities lending agreements of
31 securities authorized by this section, as long as the agreements are
32 subject to this subdivision, including the delivery requirements
33 specified in this section.

34 (2) Investments in repurchase agreements may be made, on an
35 investment authorized in this section, when the term of the
36 agreement does not exceed one year. The market value of securities
37 that underlie a repurchase agreement shall be valued at 102 percent
38 or greater of the funds borrowed against those securities and the
39 value shall be adjusted no less than quarterly. Since the market
40 value of the underlying securities is subject to daily market

1 fluctuations, the investments in repurchase agreements shall be in
2 compliance if the value of the underlying securities is brought back
3 up to 102 percent no later than the next business day.

4 (3) Reverse repurchase agreements or securities lending
5 agreements may be utilized only when all of the following
6 conditions are met:

7 (A) The security to be sold using a reverse repurchase agreement
8 or securities lending agreement has been owned and fully paid for
9 by the local agency for a minimum of 30 days prior to sale.

10 (B) The total of all reverse repurchase agreements and securities
11 lending agreements on investments owned by the local agency
12 does not exceed 20 percent of the base value of the portfolio.

13 (C) The agreement does not exceed a term of 92 days, unless
14 the agreement includes a written codicil guaranteeing a minimum
15 earning or spread for the entire period between the sale of a security
16 using a reverse repurchase agreement or securities lending
17 agreement and the final maturity date of the same security.

18 (D) Funds obtained or funds within the pool of an equivalent
19 amount to that obtained from selling a security to a counterparty
20 using a reverse repurchase agreement or securities lending
21 agreement shall not be used to purchase another security with a
22 maturity longer than 92 days from the initial settlement date of the
23 reverse repurchase agreement or securities lending agreement,
24 unless the reverse repurchase agreement or securities lending
25 agreement includes a written codicil guaranteeing a minimum
26 earning or spread for the entire period between the sale of a security
27 using a reverse repurchase agreement or securities lending
28 agreement and the final maturity date of the same security.

29 (4) (A) Investments in reverse repurchase agreements, securities
30 lending agreements, or similar investments in which the local
31 agency sells securities prior to purchase with a simultaneous
32 agreement to repurchase the security may be made only upon prior
33 approval of the governing body of the local agency and shall be
34 made only with primary dealers of the Federal Reserve Bank of
35 New York or with a nationally or state-chartered bank that has or
36 has had a significant banking relationship with a local agency.

37 (B) For purposes of this chapter, "significant banking
38 relationship" means any of the following activities of a bank:

1 (i) Involvement in the creation, sale, purchase, or retirement of
2 a local agency's bonds, warrants, notes, or other evidence of
3 indebtedness.

4 (ii) Financing of a local agency's activities.

5 (iii) Acceptance of a local agency's securities or funds as
6 deposits.

7 (5) (A) "Repurchase agreement" means a purchase of securities
8 by the local agency pursuant to an agreement by which the
9 counterparty seller will repurchase the securities on or before a
10 specified date and for a specified amount and the counterparty will
11 deliver the underlying securities to the local agency by book entry,
12 physical delivery, or by third-party custodial agreement. The
13 transfer of underlying securities to the counterparty bank's
14 customer book-entry account may be used for book-entry delivery.

15 (B) "Securities," for purposes of repurchase under this
16 subdivision, means securities of the same issuer, description, issue
17 date, and maturity.

18 (C) "Reverse repurchase agreement" means a sale of securities
19 by the local agency pursuant to an agreement by which the local
20 agency will repurchase the securities on or before a specified date
21 and includes other comparable agreements.

22 (D) "Securities lending agreement" means an agreement under
23 which a local agency agrees to transfer securities to a borrower
24 who, in turn, agrees to provide collateral to the local agency.
25 During the term of the agreement, both the securities and the
26 collateral are held by a third party. At the conclusion of the
27 agreement, the securities are transferred back to the local agency
28 in return for the collateral.

29 (E) For purposes of this section, the base value of the local
30 agency's pool portfolio shall be that dollar amount obtained by
31 totaling all cash balances placed in the pool by all pool participants,
32 excluding any amounts obtained through selling securities by way
33 of reverse repurchase agreements, securities lending agreements,
34 or other similar borrowing methods.

35 (F) For purposes of this section, the spread is the difference
36 between the cost of funds obtained using the reverse repurchase
37 agreement and the earnings obtained on the reinvestment of the
38 funds.

39 (k) Medium-term notes, defined as all corporate and depository
40 institution debt securities with a maximum remaining maturity of

1 five years or less, issued by corporations organized and operating
2 within the United States or by depository institutions licensed by
3 the United States or any state and operating within the United
4 States. Notes eligible for investment under this subdivision shall
5 be rated in a rating category of "A" or its equivalent or better by
6 an NRSRO. Purchases of medium-term notes shall not include
7 other instruments authorized by this section and shall not exceed
8 30 percent of the agency's moneys that may be invested pursuant
9 to this section.

10 (d) (1) Shares of beneficial interest issued by diversified
11 management companies that invest in the securities and obligations
12 as authorized by subdivisions (a) to (k), inclusive, and subdivisions
13 (m) to (q), inclusive, and that comply with the investment
14 restrictions of this article and Article 2 (commencing with Section
15 53630). However, notwithstanding these restrictions, a counterparty
16 to a reverse repurchase agreement or securities lending agreement
17 is not required to be a primary dealer of the Federal Reserve Bank
18 of New York if the company's board of directors finds that the
19 counterparty presents a minimal risk of default, and the value of
20 the securities underlying a repurchase agreement or securities
21 lending agreement may be 100 percent of the sales price if the
22 securities are marked to market daily.

23 (2) Shares of beneficial interest issued by diversified
24 management companies that are money market funds registered
25 with the Securities and Exchange Commission under the
26 Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

27 (3) If investment is in shares issued pursuant to paragraph (1),
28 the company shall have met either of the following criteria:

29 (A) Attained the highest ranking or the highest letter and
30 numerical rating provided by not less than two NRSROs.

31 (B) Retained an investment adviser registered or exempt from
32 registration with the Securities and Exchange Commission with
33 not less than five years' experience investing in the securities and
34 obligations authorized by subdivisions (a) to (k), inclusive, and
35 subdivisions (m) to (q), inclusive, and with assets under
36 management in excess of five hundred million dollars
37 (\$500,000,000).

38 (4) If investment is in shares issued pursuant to paragraph (2),
39 the company shall have met either of the following criteria:

1 (A) Attained the highest ranking or the highest letter and
2 numerical rating provided by not less than two NRSROs.

3 (B) Retained an investment adviser registered or exempt from
4 registration with the Securities and Exchange Commission with
5 not less than five years' experience managing money market
6 mutual funds with assets under management in excess of five
7 hundred million dollars (\$500,000,000).

8 (5) The purchase price of shares of beneficial interest purchased
9 pursuant to this subdivision shall not include commission that the
10 companies may charge and shall not exceed 20 percent of the
11 agency's moneys that may be invested pursuant to this section.
12 However, no more than 10 percent of the agency's funds may be
13 invested in shares of beneficial interest of any one mutual fund
14 pursuant to paragraph (1).

15 (m) Moneys held by a trustee or fiscal agent and pledged to the
16 payment or security of bonds or other indebtedness, or obligations
17 under a lease, installment sale, or other agreement of a local
18 agency, or certificates of participation in those bonds, indebtedness,
19 or lease installment sale, or other agreements, may be invested in
20 accordance with the statutory provisions governing the issuance
21 of those bonds, indebtedness, or lease installment sale, or other
22 agreement, or to the extent not inconsistent therewith or if there
23 are no specific statutory provisions, in accordance with the
24 ordinance, resolution, indenture, or agreement of the local agency
25 providing for the issuance.

26 (n) Notes, bonds, or other obligations that are at all times secured
27 by a valid first priority security interest in securities of the types
28 listed by Section 53651 as eligible securities for the purpose of
29 securing local agency deposits having a market value at least equal
30 to that required by Section 53652 for the purpose of securing local
31 agency deposits. The securities serving as collateral shall be placed
32 by delivery or book entry into the custody of a trust company or
33 the trust department of a bank that is not affiliated with the issuer
34 of the secured obligation, and the security interest shall be perfected
35 in accordance with the requirements of the Uniform Commercial
36 Code or federal regulations applicable to the types of securities in
37 which the security interest is granted.

38 (o) A mortgage passthrough security, collateralized mortgage
39 obligation, mortgage-backed or other pay-through bond, equipment
40 lease-backed certificate, consumer receivable passthrough

1 certificate, or consumer receivable-backed bond. Securities eligible
2 for investment under this subdivision shall be rated in a rating
3 category of "AA" or its equivalent or better by an NRSRO and
4 have a maximum remaining maturity of five years or less. Purchase
5 of securities authorized by this subdivision shall not exceed 20
6 percent of the agency's surplus moneys that may be invested
7 pursuant to this section.

8 (p) Shares of beneficial interest issued by a joint powers
9 authority organized pursuant to Section 6509.7 that invests in the
10 securities and obligations authorized in subdivisions (a) to (q),
11 inclusive. Each share shall represent an equal proportional interest
12 in the underlying pool of securities owned by the joint powers
13 authority. To be eligible under this section, the joint powers
14 authority issuing the shares shall have retained an investment
15 adviser that meets all of the following criteria:

16 (1) The adviser is registered or exempt from registration with
17 the Securities and Exchange Commission.

18 (2) The adviser has not less than five years of experience
19 investing in the securities and obligations authorized in
20 subdivisions (a) to (q), inclusive.

21 (3) The adviser has assets under management in excess of five
22 hundred million dollars (\$500,000,000).

23 (q) United States dollar denominated senior unsecured
24 unsubordinated obligations issued or unconditionally guaranteed
25 by the International Bank for Reconstruction and Development,
26 International Finance Corporation, or Inter-American Development
27 Bank, with a maximum remaining maturity of five years or less,
28 and eligible for purchase and sale within the United States.
29 Investments under this subdivision shall be rated in a rating
30 category of "AA" or its equivalent or better by an NRSRO and
31 shall not exceed 30 percent of the agency's moneys that may be
32 invested pursuant to this section.

33 (r) *Commercial paper, debt securities, or other obligations of*
34 *a public bank, as defined in Section 57600.*

35 *SEC. 5. Section 53635 of the Government Code is amended to*
36 *read:*

37 53635. (a) This section shall apply to a local agency that is a
38 county, a city and county, or other local agency that pools money
39 in deposits or investments with other local agencies, including
40 local agencies that have the same governing body. However,

1 Section 53601 shall apply to all local agencies that pool money in
2 deposits or investments exclusively with local agencies that have
3 the same governing body.

4 This section shall be interpreted in a manner that recognizes the
5 distinct characteristics of investment pools and the distinct
6 administrative burdens on managing and investing funds on a
7 pooled basis pursuant to Article 6 (commencing with Section
8 27130) of Chapter 5 of Division 2 of Title 3.

9 A local agency that is a county, a city and county, or other local
10 agency that pools money in deposits or investments with other
11 agencies may invest in commercial paper pursuant to subdivision
12 (h) of Section 53601, except that the local agency shall be subject
13 to the following concentration limits:

14 (1) No more than 40 percent of the local agency's money may
15 be invested in eligible commercial paper.

16 (2) No more than 10 percent of the total assets of the investments
17 held by a local agency may be invested in any one issuer's
18 commercial paper.

19 (b) Notwithstanding Section 53601, the City of Los Angeles
20 shall be subject to the concentration limits of this section for
21 counties and for cities and counties with regard to the investment
22 of money in eligible commercial paper.

23 (c) *A local agency subject to this section may invest in*
24 *commercial paper, debt securities, or other obligations of a public*
25 *bank, as defined in Section 57600.*

26 *SEC. 6. Section 53635.2 of the Government Code is amended*
27 *to read:*

28 53635.2. As far as possible, all money belonging to, or in the
29 custody of, a local agency, including money paid to the treasurer
30 or other official to pay the principal, interest, or penalties of bonds,
31 shall be deposited for safekeeping in state or national banks, *public*
32 *banks*, savings associations, federal associations, credit unions, or
33 federally insured industrial loan companies in this state selected
34 by the treasurer or other official having legal custody of the money;
35 or may be invested in the investments set forth in Section 53601.
36 To be eligible to receive local agency money, a bank, savings
37 association, federal association, or federally insured industrial loan
38 company shall have received an overall rating of not less than
39 "satisfactory" in its most recent evaluation by the appropriate
40 federal financial supervisory agency of its record of meeting the

1 credit needs of California's communities, including low- and
2 moderate-income neighborhoods, pursuant to Section 2906 of Title
3 12 of the United States Code. Sections 53601.5 and 53601.6 shall
4 apply to all investments that are acquired pursuant to this section.

5 *SEC. 7. Division 5 (commencing with Section 57600) is added*
6 *to Title 5 of the Government Code, to read:*

7
8 *DIVISION 5. PUBLIC BANKS*
9

10 *57600. For purposes of this division:*

11 *(a) "Local financial institution" means a certified community*
12 *development financial institution, a credit union, or a small bank*
13 *or an intermediate small bank, as defined in Section 25.12 of Title*
14 *12 of the Code of Federal Regulations.*

15 *(b) "Public bank" means a corporation, organized for the*
16 *purpose of engaging in the commercial banking business or*
17 *industrial banking business, that is wholly owned by a local agency,*
18 *local agencies, a joint powers authority formed pursuant to the*
19 *Joint Exercise of Powers Act (Article 1 (commencing with Section*
20 *6500) of Chapter 5 of Division 7 of Title 1) that is composed only*
21 *of local agencies, or a special district.*

22 *(c) "Self-insurance" means deposits guaranteed by the owners*
23 *of the public bank in an amount approved by the Commissioner*
24 *of Business Oversight.*

25 *57601. (a) A public bank shall identify in its articles of*
26 *incorporation either a social purpose, as provided in paragraph*
27 *(2) of subdivision (6) of Section 2602 of the Corporations Code,*
28 *or a specific public benefit, as provided in Section 14610 of the*
29 *Corporations Code. Examples of a social purpose or a specific*
30 *public benefit include, but are not limited to, strengthening local*
31 *economies, supporting community economic development,*
32 *addressing infrastructure and housing needs for localities, and*
33 *providing banking services to the unbanked or underbanked.*

34 *(b) A public bank may, but is not required to, incorporate as a*
35 *benefit corporation or a social purpose corporation.*

36 *(c) Notwithstanding subdivision (b), a public bank that identifies*
37 *a social purpose in its articles of incorporation shall comply with*
38 *Section 3500 of the Corporations Code, and a public bank that*
39 *identifies a specific public benefit in its articles of incorporation*
40 *shall comply with Section 14630 of the Corporations Code.*

1 57602. (a) A public bank shall obtain and maintain deposit
2 insurance approved by the Commissioner of Business Oversight,
3 either by the Federal Deposit Insurance Corporation under the
4 Federal Deposit Insurance Act (12 U.S.C. Sec. 1811 et seq.),
5 private share insurance, or self-insurance.

6 (b) In seeking and retaining insurance, a public bank may do
7 all things and assume and discharge all obligations required of it
8 that are not in conflict with state law.

9 57603. (a) A public bank shall comply with all requirements
10 of the Financial Institutions Law (Division 1 (commencing with
11 Section 99) of the Financial Code) and the Banking Law (Division
12 1.1 (commencing with Section 1000)) of the Financial Code, except
13 to the extent that a requirement of those laws is inconsistent with
14 a provision of this division, in which case the provisions of this
15 division shall prevail.

16 (b) A public bank shall comply with the requirements of Section
17 53638 unless the public bank and the depositor agree otherwise.

18 (c) Notwithstanding Section 23010, a county may lend its credit
19 to any public bank.

20 (d) Notwithstanding Section 53601, any local agency that does
21 not pool money in deposits or investments with other local agencies
22 that have separate governing bodies may invest in debt securities
23 or other obligations of a public bank.

24 (e) Notwithstanding Section 53635, any local agency that pools
25 money in deposits or investments with other local agencies,
26 including local agencies that have the same governing body, may
27 invest in debt securities or other obligations of a public bank.

28 (f) Notwithstanding Section 53635.2, a public bank shall be
29 eligible to receive local agency money.

30 57604. (a) Wherever possible, any retail services of a public
31 bank shall be conducted in partnership with local financial
32 institutions.

33 (b) Notwithstanding subdivision (a), a public bank may do both
34 of the following:

35 (1) Engage in banking activities, including but not limited to,
36 infrastructure lending, wholesale lending, and participation
37 lending.

38 (2) Engage in retail activities that are not provided by local
39 financial institutions in the jurisdiction of the local agency or
40 agencies that own the public bank.

1 57605. For the purposes of Section 1280 of the Financial Code,
2 any person or entity, including a local agency, that owns, controls,
3 or holds an ownership interest in a public bank is not a bank
4 holding company by reason of that ownership interest.

5 SEC. 8. Section 23701aa is added to the Revenue and Taxation
6 Code, to read:

7 23701aa. A public bank as defined in Section 57600 of the
8 Government Code. In addition, a public bank is exempt from all
9 other taxes and licenses, state, county, and municipal, imposed
10 upon a public bank, except taxes upon its real property, local utility
11 user taxes, sales and use taxes, state energy resources surcharges,
12 state emergency telephone users surcharges, motor vehicle and
13 other vehicle registration license fees, and any other tax or license
14 fee imposed by the state upon vehicles, motor vehicles, or the
15 operation thereof.

16 SECTION 1. Section 31910 of the Penal Code is amended to
17 read:

18 31910. As used in this part, "unsafe handgun" means any pistol,
19 revolver, or other firearm capable of being concealed upon the
20 person, for which any of the following is true:

21 (a) For a revolver:

22 (1) It does not have a safety device that, either automatically in
23 the case of a double-action firing mechanism, or by manual
24 operation in the case of a single-action firing mechanism, causes
25 the hammer to retract to a point where the firing pin does not rest
26 upon the primer of the cartridge.

27 (2) It does not meet the firing requirement for handguns.

28 (3) It does not meet the drop safety requirement for handguns.

29 (b) For a pistol:

30 (1) It does not have a positive manually operated safety device,
31 as determined by standards relating to imported guns promulgated
32 by the federal Bureau of Alcohol, Tobacco, Firearms and
33 Explosives.

34 (2) It does not meet the firing requirement for handguns.

35 (3) It does not meet the drop safety requirement for handguns.

36 (4) Commencing January 1, 2006, for a center fire
37 semiautomatic pistol that is not already listed on the roster pursuant
38 to Section 32015, it does not have either a magazine disconnect
39 mechanism, or a chamber load indicator.

1 ~~(5) Commencing January 1, 2007, for all center fire~~
2 ~~semiautomatic pistols that are not already listed on the roster~~
3 ~~pursuant to Section 32015, it does not have both a chamber load~~
4 ~~indicator and if it has a detachable magazine, a magazine~~
5 ~~disconnect mechanism.~~

6 ~~(6) Commencing January 1, 2006, for all rimfire semiautomatic~~
7 ~~pistols that are not already listed on the roster pursuant to Section~~
8 ~~32015, it does not have a magazine disconnect mechanism, if it~~
9 ~~has a detachable magazine.~~

10 ~~(7) (A) Commencing January 1, 2010, for all semiautomatic~~
11 ~~pistols that are not already listed on the roster pursuant to Section~~
12 ~~32015, it is not designed and equipped with a microscopic array~~
13 ~~of characters that identify the make, model, and serial number of~~
14 ~~the pistol, etched or otherwise imprinted in two or more places on~~
15 ~~the interior surface or internal working parts of the pistol, and that~~
16 ~~are transferred by imprinting on each cartridge case when the~~
17 ~~firearm is fired, provided that the Department of Justice certifies~~
18 ~~that the technology used to create the imprint is available to more~~
19 ~~than one manufacturer unencumbered by any patent restrictions.~~

20 ~~(B) The Attorney General may also approve a method of equal~~
21 ~~or greater reliability and effectiveness in identifying the specific~~
22 ~~serial number of a firearm from spent cartridge casings discharged~~
23 ~~by that firearm than that which is set forth in this paragraph, to be~~
24 ~~thereafter required as otherwise set forth by this paragraph where~~
25 ~~the Attorney General certifies that this new method is also~~
26 ~~unencumbered by any patent restrictions. Approval by the Attorney~~
27 ~~General shall include notice of that fact via regulations adopted~~
28 ~~by the Attorney General for purposes of implementing that method~~
29 ~~for purposes of this paragraph.~~

30 ~~(C) The microscopic array of characters required by this section~~
31 ~~shall not be considered the name of the maker, model,~~
32 ~~manufacturer's number, or other mark of identification, including~~
33 ~~any distinguishing number or mark assigned by the Department~~
34 ~~of Justice, within the meaning of Sections 23900 and 23920.~~

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2019 APR 8 PM 5:00
Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Topic submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Fewer

Subject:

Supporting California State Assembly Bill No. 857 (Chiu and Santiago) – Public Banking Act

The text is listed:

Resolution in support of California State Assembly Bill 857, the "Public Banking Act", authored by Assemblymembers David Chiu and Miguel Santiago, to allow local government to apply for a state banking charter to establish a public bank.

Signature of Sponsoring Supervisor:

Brandon Lee Fewer

For Clerk's Use Only