CONCURRENCE IN SENATE AMENDMENTS
AB 226 (Calderon and Alvarez)
As Amended June 16, 2025
2/3 vote. Urgency

SUMMARY

Establishes the FAIR Plan Stabilization Act, which authorizes the California Infrastructure and Economic Development Bank (IBank), upon the request of the California Fair Access to Insurance Requirements Plan (FAIR Plan), to issue bonds to finance the costs of claims, to increase liquidity, and claims-paying capacity of the FAIR Plan, and to refund bonds previously issued for that purpose.

1) Specifies that a financing of the costs of claims or to increase liquidity and claims-paying capacity upon the request of the FAIR Plan are in the public interest and eligible for financing by IBank.

2) Authorizes IBank to issue taxable or tax-exempt bonds to finance the costs of claims or to increase liquidity and the FAIR Plan's claims-paying capacity and to refund bonds previously issued for that purpose.

3) Authorizes IBank to loan the proceeds of bonds to the FAIR Plan and specifies that bond proceeds may also be used to fund necessary reserves, capitalized interest, credit or liquidity enhancement costs, and costs of issuance.

4) Clarifies that IBank shall not have authority over any matter subject to the approval of the Insurance Commissioner but that IBank has the right to enforce all obligations of the FAIR Plan under the agreements relating to bonds issued.

5) Authorizes the FAIR Plan, if granted prior approval from the Insurance Commissioner, to:

   a) Request that IBank issue bonds from time to time to finance all or any portion of the costs of claims or to increase liquidity and claims-paying capacity

   b) Enter into loan agreements with IBank.

   c) Enter into line of credit agreements with one or more institutional lenders or one or more broker-dealers for the purpose of financing the costs of claims or to increase liquidity and claims paying capacity and to refund lines of credit previously incurred for that purpose.

   d) Secure those loan agreements or line of credit agreements by a pledge of, and the grant of a lien and security interest in, collateral, including premiums, revenues, and receivables.

   e) Enter into any other agreement or take any other action necessary or convenient to the execution and delivery of loan agreements or line of credit agreements.

6) Requires the FAIR Plan, with the approval of the Insurance Commissioner, to assess all members to repay all loan agreement obligations and all lines of credit.

Senate Amendments

1) Authorized the FAIR Plan to secure bonds, loan agreements, lines of credit, and other agreements by a statutory lien.

2) Made clarifying changes.

COMMENTS

1) *A new and necessary financial tool for the FAIR Plan:* This measure allows the FAIR Plan to utilize the IBank for the purpose of enhancing solvency, by issuing bonds. It is a sound assumption that if this measure was already enacted prior to the most recent Southern California wildfires, the FAIR Plan would have had the ability to utilize these financial tools. These tools would only be used following a large and costly catastrophe where the FAIR Plan needs additional resources for claims paying capacity, like the one the FAIR Plan just faced.

   Under existing law, as well as in the FAIR Plan's Plan of Operation, the FAIR Plan determines whether to seek approval from the Insurance Commissioner to assess their members (based on market share). Once approved and member insurers are notified, those members (insurers) must remit payment to the FAIR Plan within 30 days. The FAIR Plan would need immediate capital as to not delay paying claims to their policyholders.

2) *No longer a Looming Fear of an Assessment, but a Reality:* As it works right now, if there is a catastrophic event in an area where the FAIR Plan is heavily concentrated, and if the FAIR Plan is unable to pay claims, with prior approval from the Insurance Commissioner, the FAIR Plan has the ability to assess the admitted market. The admitted market is the financial backstop to the FAIR Plan in case of an "emergency." The amount of the assessment is based on the insurer's market share with a two year look-back. From 1968 to 2024, the FAIR Plan had assessed twice, between 1993 and 1995 for about $260 million total, due to the Northridge earthquake.

   Unfortunately, on February 11, 2025, due to FAIR Plan exposure in the Los Angeles wildfire area and the amount of damage incurred, the FAIR Plan for the first time in 30 years sought approval to assess their member insurers. The Insurance Commissioner approved the FAIR Plan to assess $1 billion from their membership. Historically, member insurers did not pass on this assessment to policyholders, but recently, the Insurance Commissioner announced the ability for member insurers to recoup a portion of an assessment from policyholders. Perhaps with additional financial tools provided under this measure, the burden on insurers and ultimately policyholders could be lessened.

3) *The FAIR Plan:* The California FAIR Plan – "Fair Access to Insurance Requirements" – is an "association" of all insurance companies licensed by the California Department of Insurance (CDI) that provides basic property and casualty insurance in California. It was created in 1968, following urban disturbances, notably the Watts Riots in Los Angeles.

   Simply stated, the purpose of the FAIR Plan is to be the "insurer of last resort" for "basic" property insurance in the event of a market failure. At inception, that was essentially urban commercial property. Ultimately, it has expanded to include homeowners' insurance anywhere in the state, provided that insurance "cannot be obtained" in the normal manner in the market. At origination, the FAIR Plan was not intended to compete with the admitted, market but that point is now debatable.

FAIR Plan policies are capped at $3.3 million in coverage for residential properties and $20 million per structure for commercial properties. These caps were increased by the Insurance Commissioner in 2020 for residential and 2023 for commercial. Commercial went from $8.4 million per location in 2021, to $20 million per location in 2023, to $20 million per structure subsequently in 2023.

According to the Author

"The FAIR Plan does not currently have statute allowing them to use the financial tools included in this measure. AB 226 increases the financial tools available to offset the increased exposure to the FAIR Plan. Through the financial tools that AB 226 establishes, it ensures the admitted market is better positioned to absorb the costs of an assessment in the case of a catastrophe by giving admitted insurers a much longer runway to pay off the debts of the FAIR Plan, and the FAIR Plan more options to try and avoid requesting an assessment."

Arguments in Support
According to California's Insurance Commissioner Ricardo Lara, "No one should face the kind of unprecedented devastation we are seeing today without adequate insurance coverage. AB 226 would establish a critical funding buffer for the FAIR Plan with access to bonds, loans, and lines of credit to help prevent the financial burden of a catastrophic wildfire from spilling over into the broader insurance market, while also supporting the prompt payment of claims to FAIR Plan consumers in its aftermath. This measure helps strengthen the overall financial resilience of the FAIR Plan, enabling it to better prepare for and respond to catastrophic events, safeguard long-term solvency, and serve as a safety net ready to help when consumers need it most."

Arguments in Opposition
None on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee, unknown, one-time significant costs for IBank to facilitate the bond transaction, which will be recovered from bond sale proceeds. IBank's overall costs of issuance will depend on the size of the bond.

For comparison, IBank issued approximately $750 million in bonds to the California Insurance Guarantee Association in 2004. IBank's total costs of issuance were approximately $14 million. To the extent that a bond of similar size is issued to the FAIR Plan, IBank's cost of issuance may range into the tens of millions of dollars. IBank notes that since its costs will be recovered from bond sale proceeds and the FAIR Plan will be responsible for bond repayment, IBank does not anticipate any General Fund costs pressures.

The California Department of Insurance does not anticipate a fiscal impact.

VOTES:

ASM INSURANCE: 12-0-5
YES: Calderon, Wallis, Addis, Alvarez, Ávila Farías, Berman, Chen, Macedo, Gipson, Krell, Nguyen, Valencia
ABS, ABST OR NV: Hadwick, Harabedian, Ortega, Petrie-Norris, Michelle Rodriguez

ASM APPROPRIATIONS: 15-0-0
YES: Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hadwick, Hart, Pacheco, Pellerin, Solache, Ta

ASSEMBLY FLOOR: 77-0-3
YES: Addis, Aguiar-Curry, Ahrens, Alanis, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, DeMaio, Dixon, Elhawary, Ellis, Essayli, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wilson, Zbur, Rivas
ABS, ABST OR NV: Alvarez, Davies, Wicks

UPDATED

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