

The Sonoma County Commonwealth Act

Section 1: Name. The name of this Act shall be “The Sonoma County Commonwealth Act.”

Section 2: Authority. This Act is adopted and enacted pursuant to the authority granted to the people of Sonoma County by all relevant state and federal Constitutions and laws, and legal memorandums, including, but not limited to, the following:

(a) The California Constitution, Article XI, Section 7, which states: "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws."

(b) The California Constitution, Article II, Section 1, which states: "All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require."

(c) The California Constitution, Article I, Section 1, which states: "All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy."

(d) The United States Constitution, and the 9th Amendment to the United States Constitution, which recognize and secure the fundamental and inalienable right of people to govern themselves.

(e) The 14th Amendment to the United States Constitution, which states: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States..."

(f) Seattle’s Authority to Create a Municipal Bank, by -, May 20, 2014, states, “It is likely that a court would find that the establishment of a municipal bank falls under a city’s local police power. Police powers “extend not only to the preservation of the public health, safety, and morals, but also to the preservation and promotion of the public welfare” (Hudson v. City of Wenatchee, 94 Wash. App. 990 (1999)).”

(g) The Constitutional Prohibition on a City Lending its Credit Memorandum to City of Englewood, By Earl H. Staelin, April 7, 2015, states “The plain meaning of the words in Article XI, §1, the origin and history of this section of which comparable provisions were enacted in 45 states, and Colorado cases interpreting this section, all make clear that the section does not prohibit the city from operating a bank or lending money to either a private entity or to a public entity, including to itself, but only prohibits the city from lending or pledging its credit, i.e. its ability to pay its obligations, to another person or entity, public or private, such as if the city were to guarantee payment of a loan made to another party. Even if the city were to guarantee

repayment of a loan by another party, the prohibition does not apply if the loan is for a public purpose.”

(h) San Francisco Deputy City Attorney Thomas J. Owen stated in a written memorandum dated June 21, 2013:

1. A court would likely conclude that Section 23007 does not cover San Francisco because the City is a chartered city and county. Similarly, a court would likely conclude that Article XVI, section 6 of the State Constitution, which limits the power of the State Legislature to give or lend the credit of cities or counties, does not apply to the City. . . . [A] court would likely then determine that neither those laws nor the general limitations on expending City funds for a municipal purpose bar the City from establishing a municipal bank.

2. A court would likely conclude that the City may own stock in a municipal bank and spend City money to support the bank’s operation, if the City appropriated funds for that purpose and the operation of the bank served a legitimate municipal purpose.

Section 3: Purpose and Findings. The People of Sonoma County, in order to secure public funds, maintain independence from private banks, protect the economy against national and international markets, support small business, agriculture, education, home-owners and our local economy, deem it necessary to create a County owned and operated “Sonoma County Public Bank” whether through the drafting of a County Charter, or through exercising the authority granted to the people of Sonoma County by the California and U.S. Constitutions.

We feel compelled to take such action for the following principal reasons:

(a) The California Policy Center’s “Sonoma County Pension Crisis - Analysis and Recommendations” Jan. 12, 2014, states, “Sonoma County is approaching balance sheet insolvency, which means the County’s liabilities will exceed their net assets when the GASB’s new accounting standards take effect. These will require the County to list their pension liabilities on their balance sheet in 2014, and unfunded retiree medical liabilities by 2016.”

(b) The Sonoma County Pension Crisis - How Retroactive Benefit Increases, Overly Generous Salaries, and Poor Financial Management Have Destroyed the County’s Finances by Ken Churchill states, “Sonoma County now has the highest pension debt per capita of any county in California and maybe the nation. And even with all this debt, which stands at over \$500 million, the pension fund is underfunded by \$380 million and the health insurance fund is underfunded by \$298 million. In the last 4 years alone, due to the poor performance of its investments, the unfunded liability has increased by \$600 million.

“The county is now in such a financial bind it can no longer afford to maintain 84% of its roads and pension costs may double over the next decade unless the current Board of Supervisors

and employees can agree to drastic cuts in salaries and benefits, which the employees seem unwilling to do.”

(c) The Board of Supervisors’ most recent attempt to raise funds for infrastructure projects through a General Sales Tax; Measure A (June, 2015), was rejected by voters.

(d) North Dakota, with only twice the average GDP as Sonoma County, has, through the Bank of North Dakota, the only functioning Public Bank in the United States, returned as much as \$30 Million Annually to the General Fund, and in 2014 made over \$100 Million in total Profits. (Institute of Self Reliance, Public Banks: Bank of North Dakota, July 2, 2015)

(e) Sonoma County’s Pension Crisis – Analysis and Recommendations, January 12, 2014, by Ken Churchill, states, “Newly mandated financial reporting requirements by the General Accounting Standards Board indicate that Sonoma County will be required to recognize a \$1 billion reduction in net assets next year, reducing them from \$1.2 billion to about \$200 million. After adding on the \$297 million in unfunded liability for retiree healthcare, the new rules will wipe out the net assets of the County.” Between 2005 and 2014 the Bank of North Dakota has increased their assets from \$2 Billion, to \$7.2 Billion (Institute of Self Reliance, Public Banks: Bank of North Dakota, July 2, 2015)

(f) International events, such as the “bail-ins” of Cyprus, where funds were directly taken from customer accounts to bail-out the bank, and the U.S. Housing and Market Crashes of the previous decade, have made the future financial stability of the world uncertain, and put the savings and earnings of The People, and public holdings, at risk.

(g) Public Banking has been used by Nations around the world for two centuries; promoting the Public Welfare, and enhancing the Commons, by empowering governments to hold capital in favor of the common good, rather than toward the benefit of private interests; taking advantage of the “local multiplier effect” that has proven in multiple studies to double, and even triple, the amount of revenues spent locally by local independent business versus regional and national chains.

(h) North Dakota has the most local banks per capita and the lowest default rate of any state.

Section 4: Exemptions

(a) Nothing in this Act shall be construed to direct the Board of Supervisor, Staff, or the Treasurer, to put the County at financial or legal risk.

(b) Nothing in this Act shall be construed to prohibit the County from doing business with private banking institutions; local, regional or national.

(c) Nothing in this Act shall be construed to prohibit any private bank or credit union from conducting business in Sonoma County.

Section 5: Definitions

(a) "Treasurer" means the Auditor-Controller-Treasurer-Tax Collector of Sonoma County.

(b) "Legal entity" means a corporation, limited liability company, partnership, sole proprietorship, firm, club, government agency, or other form of legal organization used by persons to engage in the acts of farming, ranching, fishing, forestry, research, or any other activity.

(c) "Board of Supervisors" means the Sonoma County Board of Supervisors.

(d) "Study" means the studies required in Section X of this Act

(e) "Sonoma County Public Bank" and "Public Bank" mean the county-owned municipal bank established in this Act.

(f) "General Fund" means the Sonoma County General Fund.

Section 5: Study

(a) The Board of Supervisors shall determine, through an independent legal assessment, given that Sonoma County does not have charter status, what kind of possible lawful and legitimate municipal purposes a county-owned bank would have.

(b) The Board of Supervisors shall determine, through an independent fiscal feasibility study, the viability and risk of not having a public bank that serves as a source of credit in times of natural disasters or any other economic calamity facing citizens of Sonoma County.

Section 6: Establishment

(a) Based on conclusions of the Study, the Board of Supervisors are hereby designated to take any required steps on their part to carry out the purposes and provisions of this Act.

(b) The Treasurer is hereby designated to enforce this ordinance and shall exercise such powers as legal and necessary to carry out and effectuate the purposes and provisions of this Act.

(c) The Board of Supervisors or the Treasurer shall allocate money, not to exceed an amount which the Treasury deems necessary to remain economically secure, from the County General Fund or locate other sources to capitalize the bank, which will be the County of Sonoma doing business as the Sonoma County Public Bank, or as otherwise established in accordance with

constitutional and statutory provisions. Subsequently it shall be self-supporting and shall return to the General Fund profits not needed for projects.

(d) The Treasurer shall be the Chair of the Board of Directors of the Sonoma County Public Bank (the Bank Board). The other members of the Bank Board shall be determined by the Board of Supervisors. There will be one seat on the Bank Board for a representative of each government agency that keeps their money in the Public Bank.

(e) The Bank Board shall appoint the Bank President and other employees of the Sonoma County Public Bank and determine their salaries; the Board of Supervisors shall confirm those appointments and salaries.

(f) The Bank Board shall evaluate the management performance and customer service of the Public Bank, and shall recommend overall improvements in methods, procedures and operating policies.

(g) The Treasurer and Bank Board in conjunction with the Board of Supervisors shall exercise authority over the Sonoma County Public Bank profits.

(h) The Bank Board and the Board of Supervisors shall assure that the Sonoma County Public Bank utilizes county revenues for the benefit of county residents and businesses by funding local projects, significantly reducing county debt service costs, and recycling returns on investments back into the General Fund. The following programs shall be included but not limited to the purview of the Public Bank;

1. underwrite general obligation bonds for infrastructure projects.
2. partner with community banks and credit unions to increase their liquidity.
3. finance sustainable economic development within the County.
4. finance Clean Energy infrastructure.
5. make low interest student loans to qualified students
6. assist with disaster relief financing.
7. shall support the local economy by increasing the availability of loans in times of economic downturn.

(i) The Board of Supervisors, with consent of the Bank Board, shall appoint from diverse citizen applicants a Citizens' Advisory Committee of five members to meet as needed and make recommendations to the Bank Board and the Board of Supervisors about projects or services that the Sonoma County Public Bank should undertake to best serve the people of Sonoma County. The Chair of the Citizens' Advisory Committee shall be appointed to sit on the Bank Board as a voting member.

(j) The Bank Board as authorized by the Board of Supervisors may purchase at current market value or acquire by Eminent Domain if the title is in question, properties being fraudulently

foreclosed or in danger of being fraudulently foreclosed. The Bank shall refinance those mortgages based on current market value, and current interest rates to enable the credit-worthy residents to remain in their homes, in order to maintain property values and protect property tax revenues for the County. After acquiring any properties by Eminent Domain, the Sonoma County Bank shall notify bank servicers through publication in a newspaper that they no longer have servicing rights to those named properties.

(k) The Treasurer and the Board of Supervisors shall assure that the Sonoma County Public Bank be helpful to, and assist in the development of, financial institutions within the County.

Section 7: Severability. The provisions of this Act are severable. If any section, clause, sentence, word, part or provision of this Act or its application is held illegal, invalid or unconstitutional, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.