

## AB 857 and Public Bank Information & FAQs

- AB 857 would allow local governments the opportunity to establish a public bank.
  - AB 857 does not open a bank or invest any taxpayer money in a public bank. It is not a spending bill!
- AB 857 will enable a framework for state and regional public banks in California.
  - Public banks are financial institutions that are owned by one or more public entities, such as a city, county, or joint powers authority.
- California does not have any public banking options.
  - As a result, billions of taxpayer dollars are invested with commercial banks that have little incentive to use their assets for the betterment of the local community.
- Some key points about public banks
  - **Address local issues:** Public banks leverage their deposit base and lending power to benefit the public. This allows public banks to focus on pressing local needs, like affordable housing, small business loans, and public infrastructure projects such as rebuilding after wildfires.
  - **Partnership with local banks:** Public Banks bolster and enhance local bank and credit union activities, enabling lending capital for local businesses.
  - **Address housing crisis:** Public Banking under our legislation enables a viable means of publicly financing housing and infrastructure projects to remediate our statewide housing crisis.
  - **Protection during downturns:** A robust public banking network in California provides strong protections against insolvency of large banks in periods of economic duress
  - **Builds assets for local constituents:** Public Banks return interest and fee revenues to the communities they serve, creating value revenue reserves for local constituencies
  - **Public accountability:** Public Banks promote a transparent, independent and publicly governed finance system that is accountable to the people they serve. Unlike commercial banks which must prioritize shareholder returns over obligations to the public.
  - **Provides a mechanism for divestment:** Public Banks create a stable means of divestment of public deposited funds and investments from unethical banking organizations and industries.
- The Bank of North Dakota provides the best example of the long-term benefits of a fiscally prudent public bank that focuses on local needs alongside local partners.
  - Established by the North Dakota legislature in 1919, the Bank of North Dakota (BND) is the oldest publicly owned bank in the United States. BND, in partnership with local banks and credit unions, promotes economic development within the state and has

been profitable for many years. Recently, several states and cities across the nation have started exploring the feasibility of creating public banks.

## General FAQs

(adapted from [Mythbusters](#))

In an effort to educate legislators, public officials and finance staff assessing the proposed legislation advocated by the California Public Banking Alliance (CPBA), our organization would like to dispel some misunderstandings and misconceptions that have been communicated about our legislation.

We have noticed a number of 'myths' that have arisen from the public conversations, hearings and written correspondence our group has been involved in that we would like to address.

**Myth:** A public bank provides a backdoor to unsecured deposits

Our legislation requires any public bank to utilize FDIC.

**Myth:** Public Banking legislation guts collateralization requirements for public funds

Our legislation does not undermine the current, stringent legal requirements for the collateralization of deposits for public funds. We have introduced legislation that creates a new charter that relies on existing structures for oversight by the Department of Business Oversight.

Depositing funds in a public bank would be no more risky than a deposit in an existing commercial bank.

**Myth:** Public Banks increase the likelihood of insolvency in the event of a municipal bankruptcy

Technical objections to public banking have invoked the Orange County bankruptcy with concerns that a public bank would somehow increase the risk of insolvency during a crisis.

Orange County sued Merrill Lynch in 1995 for \$2 billion in damages, contending that the Wall Street firm sold risky investments to OC's former treasurer which led to the County's bankruptcy. Merrill Lynch settled for \$400 Million and Orange County subsequently barred the financial firm from doing business for nearly a decade.

As public entities, public banks face increased oversight. Our bill makes the financial structures of public banks transparent, with the public bank's business model subject to continuing oversight by the DBO. Our legislation also does not increase risk for the investment of public funds. We use all of the existing legal and regulatory structures established by law in California in the wake of the OC bankruptcy.

**Myth:** Public Banking legislation is a sneaky attempt to create a Cannabis Bank

While the CPBA has [much to say](#) about the findings of the recent Cannabis Banking Working Group commissioned feasibility report for a Public Bank designed specifically for Cannabis, our organization does not include cannabis in any of our legislation. From the CPBA's perspective, the advent of public banking is about a just, equitable and ethical financial services network for California public monies and nothing more.

**Myth:** A Public Bank opens the door for self-dealing and creates conflicts of interest by allowing a municipality to lend to itself

There have been some technical objections to our legislation related to State and local Constitutional clauses related to self-dealing and self-issuance of credit.

Under our legislation, a public bank is an independent corporation with its own professional board and governance structures. The municipality is the customer and does not have direct governance capability. Self-dealing and conflicts of interest within the governance structures of a particular public banking business plan would not survive the required review and approval of the Department of Business Oversight.

**Myth:** A Public Bank unfairly competes with existing commercial banks

Because our legislation prevents Public Banks from competing with retail consumer banking entities, under the legislation, a public bank would operate like a commercial bank, not a retail consumer bank. In fact, our legislation explicitly requires a public bank to actively engage in partnerships with community banks and credit unions to offer loans and financial services wherever possible. By establishing a public bank, a municipality has no obligation to use it as its sole depository or to otherwise use it to the exclusion of other banking relationship.

**Myth:** Public bank advocates fail to identify how current mega-banks are not meeting the needs of local communities.

Within the past few years, Los Angeles, Santa Monica, Alameda, Santa Rosa and San Jose have all voted to move its business away from Wells Fargo after it received a "[Needs to Improve](#)" on its Community Reinvestment Act performance evaluation. Mega-banks profit from financing and enabling precisely the same [fossil fuels](#), [private prisons](#), [destruction of communities](#), and other [reprehensible activities](#) that our Communities are actively fighting against. Public banks can be a much-needed alternative to the mega-banks, help counteract the risky trend towards [bank consolidation](#), and serve as a source of strength for local economies.

# Committee FAQs

## Banking and Finance Committee

- How will taxpayer dollars be secured?
  - All deposits in public banks will have FDIC. They will be collateralized like all public deposits. AB 857 makes no adjustment to collateral or capital requirements for public banks.
- Will public banks compete with credit unions, community banks, & local financial institutions?
  - No. AB 857 restricts public banks from consumer and commercial markets where local banks already adequately serve constituents. Public banks will partner with local banks and non-profit credit institutions to extend credit to communities and expand services to the underbanked.

## Local Government Committee

- Will a public bank put municipal or county finances in jeopardy in the event of a bankruptcy?
  - Banks imagined by AB 857 will face increased oversight compared to current depositories because as public entities they will be subject to state sunshine laws and closer regulation by DBO. Public deposits will be FDIC insured and collateralized. Public investment in the bank will be secured by senior claims to the assets of the bank.
- How will the lending activity of public banks be kept independent of political influence?
  - AB 857 requires public banks to submit a governance plan to DBO for approval, which will apply the law to prevent self dealing and conflicts of interest.
- How will public banks impact the credit and borrowing power of municipalities and counties?
  - Municipal and county treasurers will be an integral part of conceiving, managing, and overseeing public banks in their jurisdictions. They will assess the credit impacts of public banks before investing or depositing public funds. Additionally, DBO will regulate these banks and ensure they do not over extend their lending and create undue risk for public depositors.
- Will pooled or pension funds be used to capitalize these banks?
  - Public banks will start small and operate only within the bounds of their charters, as approved by DBO. They will expand only after developing a track record of good management and returns. Existing standards and due diligence for public investments will always apply.

## Appropriations Committee

- Will public banks cost the State money?
  - AB857 does not open a bank or invest any State money in a public bank. Any financial impact of AB857 will be from the review of bank applications and regulation of new public banks, which may possibly be handled by existing DBO staff.