

AMENDED IN SENATE APRIL 25, 2001

SENATE BILL

No. 539

**Introduced by Committee on Local Government (Senators
Torlakson (Chair), Ackerman, Machado, Margett, Perata, and
Soto)**

February 22, 2001

An act to *amend Section 53753 of the Government Code, and to amend Section 35469.6 of the Streets and Highways Code, relating to local agency assessments.*

LEGISLATIVE COUNSEL'S DIGEST

SB 539, as amended, Committee on Local Government. Local agency assessments.

Existing statutory law provides notice, protest, and hearing procedures for the levying of new or increased assessments by local government agencies pursuant to Articles XIII C and XIII D of the California Constitution. *These procedures specifically require that at the conclusion of the public hearing on a proposed assessment, the agency shall have the assessment ballots tabulated by a designated impartial person who may be the clerk of the agency.* These statutory procedures supersede other statutory provisions applicable to the levying of these assessments.

This bill would *provide instead that in a city, the impartial person may include, but is not limited to, the clerk of the agency.* The bill would also conform a provision of the Parking District Law of 1951 to the statutory procedures for levying assessments pursuant to Articles XIII C and XIII D of the California Constitution.

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

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

1 SECTION 1. *Section 53753 of the Government Code is*
2 *amended to read:*

3 53753. (a) The notice, protest, and hearing requirements
4 imposed by this section supersede any statutory provisions
5 applicable to the levy of a new or increased assessment that is in
6 existence on the effective date of this section, whether or not that
7 provision is in conflict with this article. Any agency that complies
8 with the notice, protest, and hearing requirements of this section
9 shall not be required to comply with any other statutory notice,
10 protest, and hearing requirements that would otherwise be
11 applicable to the levy of a new or increased assessment, with the
12 exception of Division 4.5 (commencing with Section 3100) of the
13 Streets and Highways Code. If the requirements of that division
14 apply to the levy of a new or increased assessment, the levying
15 agency shall comply with the notice, protest, and hearing
16 requirements imposed by this section as well as with the
17 requirements of that division.

18 (b) Prior to levying a new or increased assessment, or an
19 existing assessment that is subject to the procedures and approval
20 process set forth in Section 4 of Article XIII D of the California
21 Constitution, an agency shall give notice by mail to the record
22 owner of each identified parcel. Each notice shall include the total
23 amount of the proposed assessment chargeable to the entire
24 district, the amount chargeable to the record owner's parcel, the
25 duration of the payments, the reason for the assessment and the
26 basis upon which the amount of the proposed assessment was
27 calculated, and the date, time, and location of a public hearing on
28 the proposed assessment. Each notice shall also include, in a
29 conspicuous place thereon, a summary of the procedures for the
30 completion, return, and tabulation of the assessment ballots
31 required pursuant to subdivision (c), including a statement that the
32 assessment shall not be imposed if the ballots submitted in
33 opposition to the assessment exceed the ballots submitted in favor
34 of the assessment, with ballots weighted according to the
35 proportional financial obligation of the affected property. An
36 agency shall give notice by mail at least 45 days prior to the date
37 of the public hearing upon the proposed assessment.



1 (c) Each notice given pursuant to subdivision (b) shall contain
2 an assessment ballot that includes the agency's address for receipt
3 of the form and a place where the person returning the assessment
4 ballot may indicate his or her name, a reasonable identification of
5 the parcel, and his or her support or opposition to the proposed
6 assessment. Each assessment ballot shall be in a form that conceals
7 its contents once it is sealed by the person submitting the
8 assessment ballot. Each assessment ballot shall be signed and
9 either mailed or otherwise delivered to the address indicated on the
10 assessment ballot. Regardless of the method of delivery, all
11 assessment ballots shall be received at the address indicated, or the
12 site of the public testimony, in order to be included in the tabulation
13 of a majority protest pursuant to subdivision (e). Assessment
14 ballots shall remain sealed until the tabulation of ballots pursuant
15 to subdivision (e) commences, provided that an assessment ballot
16 may be submitted, or changed, or withdrawn by the person who
17 submitted the ballot prior to the conclusion of the public testimony
18 on the proposed assessment at the hearing required pursuant to
19 subdivision (d). An agency may provide an envelope for the return
20 of the assessment ballot, provided that if the return envelope is
21 opened by the agency prior to the tabulation of ballots pursuant to
22 subdivision (e), the enclosed assessment ballot shall remain sealed
23 as provided in this section.

24 (d) At the time, date, and place stated in the notice mailed
25 pursuant to subdivision (b), the agency shall conduct a public
26 hearing upon the proposed assessment. At the public hearing, the
27 agency shall consider all objections or protests, if any, to the
28 proposed assessment. At the public hearing, any interested person
29 shall be permitted to present written or oral testimony. The public
30 hearing may be continued from time to time.

31 (e) (1) At the conclusion of the public hearing conducted
32 pursuant to subdivision (d), an impartial person, ~~including, but not~~
33 ~~limited to, the clerk of the agency,~~ designated by the agency who
34 does not have a vested interest in the outcome of the proposed
35 assessment shall tabulate the assessment ballots submitted, and not
36 withdrawn, in support of or opposition to the proposed assessment.
37 *In a city, the impartial person may include, but is not limited to, the*
38 *clerk of the agency.* The impartial person may use technological
39 methods of tabulating the assessment ballots, including, but not
40 limited to, punchcard or optically readable (bar-coded) assessment



1 ballots. During and after the tabulation, the assessment ballots
2 shall be treated as disclosable public records, as defined in Section
3 6252, and equally available for inspection by the proponents and
4 the opponents of the proposed assessment.

5 In the event that more than one of the record owners of an
6 identified parcel submits an assessment ballot, the amount of the
7 proposed assessment to be imposed upon the identified parcel shall
8 be allocated to each ballot submitted in proportion to the respective
9 record ownership interests or, if the ownership interests are not
10 shown on the record, as established to the satisfaction of the
11 agency by documentation provided by those record owners.

12 (2) A majority protest exists if the assessment ballots
13 submitted, and not withdrawn, in opposition to the proposed
14 assessment exceed the assessment ballots submitted, and not
15 withdrawn, in its favor, weighting those assessment ballots by the
16 amount of the proposed assessment to be imposed upon the
17 identified parcel for which each assessment ballot was submitted.

18 (3) If there is a majority protest against the imposition of a new
19 assessment, or the extension of an existing assessment, or an
20 increase in an existing assessment, the agency shall not impose,
21 extend, or increase the assessment.

22 (4) The majority protest proceedings described in this
23 subdivision shall not constitute an election or voting for purposes
24 of Article II of the California Constitution or of the California
25 Elections Code.

26 *SEC. 2.* Section 35469.6 of the Streets and Highways Code is
27 amended to read:

28 35469.6. At the hearing and prior to consideration of the
29 correctness of the assessment and diagram, the legislative body
30 shall hear and consider all protests to the proceedings for the levy
31 of that assessment. The notice, hearing, and protest procedures
32 shall comply with Section 53753 of the Government Code.

33 The Special Assessment Investigation, Limitation and Majority
34 Protest Act of 1931 (commencing with Section 2800) shall not
35 apply to proceedings under this chapter.

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