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CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 811

**Introduced by Assembly Members Levine and Beall
(Principal coauthor: Assembly Member Garcia)
(Coauthors: Assembly Members Huffman, Krekorian, and Leno)**

February 22, 2007

An act to amend Sections 5898.12, 5898.20, 5898.22, and 5898.30 of, and to add Sections 5898.14 and 5898.21 to, the Streets and Highways Code, relating to contractual assessments, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 811, as amended, Levine. Contractual assessments: energy efficiency improvements.

Existing law authorizes the legislative body of any city, as defined, to determine that it would be convenient and advantageous to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments and make arrangements to finance public improvements to specified lots or parcels under certain circumstances. Existing law requires the legislative body to make these determinations by adopting a resolution indicating its

intention to do so and requires the resolution to include certain information, including, but not limited to, identification of the kinds of public works that may be financed, a description of the boundaries of the area within which contractual assessments may be entered into, and a description of the proposed arrangements for financing the program. Existing law also directs an appropriate city official to prepare a report to include, among other things, the terms and conditions that would be agreed to by a property owner within the contractual assessment area and the city and identification of the types of facilities that may be financed through the use of contractual assessments.

This bill would additionally authorize a legislative body of any city, as defined, to determine that it would be in the public interest to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property, as specified. The bill would require the resolution of intention to include, among other things, the kinds of distributed generation renewable energy sources or energy efficiency improvements that may be financed as well as a statement specifying that it is in the public interest to finance those distributed generation renewable energy sources or energy efficiency improvements. The bill would further require the report to include, among other things, the types of distributed generation renewable energy sources or energy efficiency improvements that may be financed through the use of contractual assessments. The bill would authorize a property owner, upon written consent of an authorized city official, to purchase directly the related equipment and materials for the distributed generation renewable energy sources or energy efficiency improvements and to contract directly for those sources or improvements. The bill would make findings and a declaration in this regard.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 5898.12 of the Streets and Highways
- 2 Code is amended to read:

1 5898.12. (a) It is the intent of the Legislature that this chapter
2 should be used to finance public improvements to lots or parcels
3 which are developed and where the costs and time delays involved
4 in creating an assessment district pursuant to other provisions of
5 this division or any other law would be prohibitively large relative
6 to the cost of the public improvements to be financed.

7 (b) It is also the intent of the Legislature that this chapter should
8 be used to finance the installation of distributed generation
9 renewable energy sources or energy efficiency improvements that
10 are permanently fixed to residential, commercial, industrial, or
11 other real property.

12 (c) This chapter shall not be used to finance facilities for parcels
13 which are undergoing development.

14 (d) This chapter shall not be used to finance the purchase or
15 installation of appliances that are not permanently fixed to
16 residential, commercial, industrial, or other real property.

17 (e) Assessments may be levied pursuant to this chapter only
18 with the free and willing consent of the owner of each lot or parcel
19 on which an assessment is levied at the time the assessment is
20 levied.

21 SEC. 2. Section 5898.14 is added to the Streets and Highways
22 Code, to read:

23 5898.14. (a) The Legislature finds all of the following:

24 (1) Energy conservation efforts, including the promotion of
25 energy efficiency improvements to residential, commercial,
26 industrial, or other real property are necessary to address the issue
27 of global climate change.

28 (2) The upfront cost of making residential, commercial,
29 industrial, or other real property more energy efficient prevents
30 many property owners from making those improvements. To make
31 those improvements more affordable and to promote the installation
32 of those improvements, it is necessary to authorize an alternative
33 procedure for authorizing assessments to finance the cost of energy
34 efficiency improvements.

35 (b) The Legislature declares that a public purpose will be served
36 by a contractual assessment program that provides the legislative
37 body of any city with the authority to finance the installation of
38 distributed generation renewable energy sources and energy
39 efficiency improvements that are permanently fixed to residential,
40 commercial, industrial, or other real property.

1 SEC. 3. Section 5898.20 of the Streets and Highways Code is
2 amended to read:

3 5898.20. (a) (1) The legislative body of any city may
4 determine that it would be convenient and advantageous to
5 designate an area within the city, which may encompass the entire
6 city or a lesser portion, within which authorized city officials and
7 property owners may enter into contractual assessments for public
8 improvements and to make financing arrangements pursuant to
9 this chapter.

10 (2) The legislative body of any city may also determine that it
11 would be convenient, advantageous, and in the public interest to
12 designate an area within the city, which may encompass the entire
13 city or a lesser portion, within which authorized city officials and
14 property owners may enter into contractual assessments to finance
15 the installation of distributed generation renewable energy sources
16 or energy efficiency improvements that are permanently fixed to
17 real property pursuant to this chapter.

18 (b) The legislative body shall make these determinations by
19 adopting a resolution indicating its intention to do so. The
20 resolution of intention shall include a statement that the city
21 proposes to make contractual assessment financing available to
22 property owners, shall identify the kinds of public works,
23 distributed generation renewable energy sources, or energy
24 efficiency improvements that may be financed, shall describe the
25 boundaries of the area within which contractual assessments may
26 be entered into, and shall briefly describe the proposed
27 arrangements for financing the program. The resolution of intention
28 shall state that it is in the public interest to finance the installation
29 of distributed generation renewable energy sources or energy
30 efficiency improvements, or both, pursuant to paragraph (2) of
31 subdivision (a), if applicable. The resolution shall state that a public
32 hearing should be held at which interested persons may object to
33 or inquire about the proposed program or any of its particulars,
34 and shall state the time and place of the hearing. The resolution
35 shall direct an appropriate city official to prepare a report pursuant
36 to Section 5898.22 and to enter into consultations with the county
37 *assessor's auditor's office or county controller's* office in order
38 to reach agreement on what additional fees, if any, will be charged
39 to the city or county for incorporating the proposed contractual

1 assessments into the assessments of the general taxes of the city
2 or county on real property.

3 (c) As used in this chapter, each of the following terms has the
4 following meaning:

5 (1) Notwithstanding Section 5005, “city” means a city, county,
6 or city and county.

7 (2) “Legislative body” has the same meaning as defined in
8 Section 5006.

9 SEC. 4. Section 5898.21 is added to the Streets and Highways
10 Code, to read:

11 5898.21. Notwithstanding any other provision of this chapter,
12 upon the written consent of an authorized city official, the proposed
13 arrangements for financing the program pertaining to the
14 installation of distributed generation renewable energy sources or
15 energy efficiency improvements that are permanently fixed to real
16 property may authorize the property owner to purchase directly
17 the related equipment and materials for the installation of
18 distributed generation renewable energy sources or energy
19 efficiency improvements and to contract directly for the installation
20 of distributed generation renewable energy sources or energy
21 efficiency improvements that are permanently fixed to the property
22 owner’s residential, commercial, industrial, or other real property.

23 SEC. 5. Section 5898.22 of the Streets and Highways Code is
24 amended to read:

25 5898.22. The report shall contain all of the following:

26 (a) A map showing the boundaries of the territory within which
27 contractual assessments are proposed to be offered.

28 (b) A draft contract specifying the terms and conditions that
29 would be agreed to by a property owner within the contractual
30 assessment area and the city.

31 (c) A statement of city policies concerning contractual
32 assessments including all of the following:

33 (1) Identification of types of facilities, distributed generation
34 renewable energy sources, or energy efficiency improvements that
35 may be financed through the use of contractual assessments.

36 (2) Identification of a city official authorized to enter into
37 contractual assessments on behalf of the city.

38 (3) A maximum aggregate dollar amount of contractual
39 assessments.

1 (4) A method for setting requests from property owners for
 2 financing through contractual assessments in priority order in the
 3 event that requests appear likely to exceed the authorization
 4 amount.

5 (d) A plan for raising a capital amount required to pay for work
 6 performed pursuant to contractual assessments. The plan may
 7 include amounts to be advanced by the city through funds available
 8 to it from any source. The plan may include the sale of a bond or
 9 bonds or other financing relationship pursuant to Section 5898.28.
 10 The plan shall include a statement of or method for determining
 11 the interest rate and time period during which contracting property
 12 owners would pay any assessment. The plan shall provide for any
 13 reserve fund or funds. The plan shall provide for the apportionment
 14 of all or any portion of the costs incidental to financing,
 15 administration, and collection of the contractual assessment
 16 program among the consenting property owners and the city.

17 (e) A report on the results of the consultations with the county
 18 ~~assessor's~~ *auditor's office or county controller's* office concerning
 19 the additional fees, if any, that will be charged to the city or county
 20 for incorporating the proposed contractual assessments into the
 21 assessments of the general taxes of the city or county on real
 22 property, and a plan for financing the payment of those fees.

23 SEC. 6. Section 5898.30 of the Streets and Highways Code is
 24 amended to read:

25 5898.30. Assessments levied pursuant to this chapter, and the
 26 interest and any penalties thereon shall constitute a lien against
 27 the lots and parcels of land on which they are made, until they are
 28 paid. Division 10 (commencing with Section 8500) applies to the
 29 levy and collection of assessments levied pursuant to this chapter,
 30 insofar as those provisions are not in conflict with the provisions
 31 of this chapter, including, but not limited to, the collection of
 32 assessments in the same manner and at the same time as the general
 33 taxes of the city on real property are payable and any penalties and
 34 remedies and lien priorities in the event of delinquency and default.

35 SEC. 7. This act is an urgency statute necessary for the
 36 immediate preservation of the public peace, health, or safety within
 37 the meaning of Article IV of the Constitution and shall go into
 38 immediate effect. The facts constituting the necessity are:

39 In order for legislative bodies of cities and free and willing
 40 property owners to enter into contractual assessments to finance

1 the installation of distributed generation renewable energy sources
2 or energy efficiency improvements and for the state to begin to
3 experience the effects of these contractual assessments, such as
4 saving millions of kilowatthours, as early as this summer when
5 usage is the highest, it is necessary that this act take effect
6 immediately.

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