

## **Assembly Bill No. 1208**

### CHAPTER 114

An act to amend Sections 36522, 36535, 36541, 36622, 36623, 36636, 36712, 36714, and 36735 of the Streets and Highways Code, relating to improvement districts.

[Approved by Governor July 20, 2007. Filed with  
Secretary of State July 20, 2007.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1208, Silva. Improvement districts.

Existing law, the Parking and Business Improvement Area Law of 1989, authorizes local governmental entities to levy assessments on businesses located and operating in a parking and business improvement area. Existing law requires specified proceedings to establish or modify a parking and business improvement area, including the adoption of a resolution by the governing body and a public hearing. Existing law requires these public hearings to be completed within 30 days of the adoption of the resolution indicating the intent to establish or modify a parking and business improvement area.

This bill would delete the 30-day limit for completion of those public hearings.

Existing law, the Property and Business Improvement District Law of 1994, authorizes local governmental entities to levy assessments on properties and businesses within a business improvement district for the purpose of financing certain improvements. Existing law requires the management district plan for a business improvement district to include certain information, including a description of the boundaries of the district. Existing law prohibits the boundaries of a proposed district to overlap with the boundaries of an existing district. Existing law specifies that this prohibition does not apply to business improvement districts overlapping with other improvement areas. Existing law requires a local governmental entity to provide specified notice and hearing if the governing body proposes to modify a management district plan, to levy an assessment, or to impose a new or increased assessment.

This bill would revise the limitation on the overlapping of business improvement districts to instead prohibit the overlapping of proposed and existing property assessment districts. The bill would require different provisions of existing law relating to notice and hearing procedures to be applied to new or increased property assessments and business assessments, as specified. The bill would also revise the notice and hearing procedures to be applied to proposed modifications of a management district plan.

Existing law, the Multifamily Improvement District Law, provides that upon submission of a written petition, signed by either more than  $\frac{2}{3}$  of the property owners or more than  $\frac{2}{3}$  of the business owners in a proposed multifamily improvement district, the governing body may initiate proceedings to form a multifamily improvement district, as specified. Existing law requires the governing body to provide specified notice and hearing if the governing body proposes to modify a management district plan.

This bill would authorize a governing body to initiate proceedings to form a multifamily improvement district upon the submission of a written petition signed by either property owners or business owners that would pay more than  $\frac{2}{3}$  of the proposed assessment. The bill would also revise the notice and hearing procedures to be applied to proposed modifications of a management district plan, as specified.

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

SECTION 1. Section 36522 of the Streets and Highways Code is amended to read:

36522. Proceedings to establish a parking and business improvement area shall be instituted by the adoption by the city council of a resolution of intention to establish the area. The resolution of intention shall do all of the following:

(a) State that a parking and business improvement area is proposed to be established pursuant to this chapter and describe the boundaries of the territory proposed to be included in the area and the boundaries of each separate benefit zone to be established within the area. The boundaries of the area may be described by reference to a map on file in the office of the clerk, showing the proposed area.

(b) State the name of the proposed area.

(c) State the type or types of improvements and activities proposed to be funded by the levy of assessments on businesses in the area. The resolution of intention shall specify any improvements to be acquired.

(d) State that, except where funds are otherwise available, an assessment will be levied annually to pay for all improvements and activities within the area.

(e) State the proposed method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business.

(f) State whether new businesses will be exempt from the levy of the assessment, pursuant to Section 36531.

(g) Fix a time and place for a public hearing on the establishment of the parking and business improvement area and the levy of assessments, which shall be consistent with the requirements of Section 54954.6 of the Government Code.

(h) State that at the hearing the testimony of all interested persons for or against the establishment of the area, the extent of the area, or the furnishing of specified types of improvements or activities will be heard. The notice shall also describe, in summary, the effect of protests made by business owners against the establishment of the area, the extent of the area, and the furnishing of a specified type of improvement or activity, as provided in Section 36524.

SEC. 2. Section 36535 of the Streets and Highways Code is amended to read:

36535. (a) The city council shall hold the public hearing at the time and in the place specified in the resolution of intention. The public hearing shall be conducted as provided in Sections 36524 and 36525. The city council may continue the public hearing from time to time.

(b) During the course or upon the conclusion of the public hearing, the city council may order changes in any of the matters provided in the report, including changes in the proposed assessments, the proposed improvements and activities to be funded with the revenues derived from the levy of the assessments, and the proposed boundaries of the area and any benefit zones within the area. The city council shall not change the boundaries to include any territory that will not, in its judgment, benefit by the improvement or activity.

(c) At the conclusion of the public hearing, the city council may adopt a resolution confirming the report as originally filed or as changed by it. The adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the report.

(d) Notwithstanding subdivision (c), if the primary purpose of the area is promotion of tourism, the city council may adopt a resolution confirming the report as submitted by the advisory board, or may adopt a resolution continuing the program and assessments as levied in the then current year without change, and that resolution shall constitute the levy of an assessment for the fiscal year referred to in the report. As an alternative, the city council may modify the report and adopt a resolution confirming the report as modified, but in that case the city council may adopt the resolution only after providing notice of the proposed changes as specified in Section 36523 and only after conducting a public hearing on the resolution as provided in Sections 36524 and 36525.

SEC. 3. Section 36541 of the Streets and Highways Code is amended to read:

36541. (a) The city council shall modify the basis and method of levying the assessment or the boundaries of the area by adopting an ordinance after holding a public hearing on the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be consistent with the requirements of Section 54954.6 of the Government Code. Notice of the public hearing shall be published and shall be mailed to each owner of a business affected by the

proposed modification, as provided in Section 36523. The public hearing shall be conducted as provided in Sections 36524 and 36525.

SEC. 4. Section 36622 of the Streets and Highways Code is amended to read:

36622. The management district plan shall contain all of the following:

(a) A map of the district in sufficient detail to locate each parcel of property and, if businesses are to be assessed, each business within the district.

(b) The name of the proposed district.

(c) A description of the boundaries of the district, including the boundaries of any benefit zones, proposed for establishment or extension in a manner sufficient to identify the affected lands and businesses included. Under no circumstances shall the boundaries of a proposed property assessment district overlap with the boundaries of another existing property assessment district created pursuant to this part. Nothing in this part prohibits the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law including, but not limited to, the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500)). Nothing in this part prohibits the boundaries of a business assessment district created pursuant to this part to overlap with another business assessment district created pursuant to this part. Nothing in this part prohibits the boundaries of a business assessment district created pursuant to this part to overlap with a property assessment district created pursuant to this part.

(d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.

(e) The total annual amount proposed to be expended for improvements, maintenance and operations, and debt service in each year of operation of the district.

(f) The proposed source or sources of financing including the proposed method and basis of levying the assessment in sufficient detail to allow each property or business owner to calculate the amount of the assessment to be levied against his or her property or business. The plan shall also state whether bonds will be issued to finance improvements.

(g) The time and manner of collecting the assessments.

(h) The specific number of years in which assessments will be levied. In a new district, the maximum number of years shall be five. Upon renewal, a district shall have a term not to exceed 10 years. Notwithstanding these limitations, a district created pursuant to this part to finance capital improvements with bonds may levy assessments until the maximum maturity of the bonds. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) A list of the properties or businesses to be assessed, including the assessor's parcel numbers for any properties to be assessed, and a statement

of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business, to defray the cost thereof, including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be included within the boundaries of the district but shall not be subject to assessment on real property.

(l) Any other item or matter required to be incorporated therein by the city council.

SEC. 5. Section 36623 of the Streets and Highways Code is amended to read:

36623. If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedure shall comply with Section 53753 of the Government Code. If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed.

SEC. 6. Section 36636 of the Streets and Highways Code is amended to read:

36636. (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36623. Notice of all other public meetings and public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public meeting.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.

SEC. 7. Section 36712 of the Streets and Highways Code is amended to read:

36712. (a) Upon the submission of a written petition, signed by either property owners paying more than two-thirds of the proposed assessment or by business owners paying more than two-thirds of the proposed assessment, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district.

(b) The petition of the property owners or the business owners required pursuant to subdivision (a) shall include all of the following:

(1) A map showing the general boundaries of the proposed district.

(2) A general description of the proposed activities and improvements to be carried out by the district.

(3) A general description of how the proposed district will be financed, and whether bonds are proposed to be issued.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

(1) A brief description of the proposed activities and improvements, the amount of the proposed assessment, a statement as to whether the assessment will be levied on property or on businesses within the district, a statement as to whether bonds will be issued, and a description of the exterior boundaries of the proposed district. The descriptions and statements do not need to be detailed and shall be sufficient if they enable an owner to generally identify the nature and extent of the improvements and activities and the location and extent of the proposed district.

(2) Order the preparation of a management district plan by a registered professional engineer certified by the state.

SEC. 8. Section 36714 of the Streets and Highways Code is amended to read:

36714. (a) If a city council proposes to levy a new or increased property assessment, the notice and protest and hearing procedures shall comply with Section 53753 of the Government Code. Notwithstanding subdivision (e) of Section 53753 of the Government Code, the city may not establish the district or levy assessments if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed one-third of the total assessment ballots submitted, and not withdrawn, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

(b) If a city council proposes to levy a new or increased business assessment, the notice and protest and hearing procedure shall comply with Section 54954.6 of the Government Code, except that notice shall be mailed to the owners of the businesses proposed to be assessed.

SEC. 9. Section 36735 of the Streets and Highways Code is amended to read:

36735. (a) Upon the written request of the owners' association, the city council may modify the management district plan after conducting one public hearing on the proposed modifications. The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. If the modification includes the levy of a new or increased assessment, the city council shall comply with Section 36714. Notice of all other public meetings and public hearings pursuant to this section shall comply with both of the following:

(1) The resolution of intention shall be published in a newspaper of general circulation in the city once at least seven days before the public meeting.

(2) A complete copy of the resolution of intention shall be mailed by first class mail, at least 10 days before the public meeting, to each business owner or property owner affected by the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 90 days after the adoption of the resolution of intention.