

ASSEMBLY BILL

No. 474

Introduced by Assembly Member Blumenfield

February 24, 2009

An act to amend Sections 5898.12, 5898.14, 5898.20, 5898.21, 5898.22, 5898.28, and 5898.30 of the Streets and Highways Code, and to add Section 73.5 to the Revenue and Taxation Code, relating to contractual assessments, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 474, as introduced, Blumenfield. Contractual assessments: water efficiency improvements.

Existing law authorizes the legislative body of any city, defined as a city, county, or city and county, 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 or to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property, as specified. 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 specified information.

This bill would expand these provisions to authorize the legislative body of any public agency, 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 water efficiency improvements

that are permanently fixed to real property, as specified. The bill would also, with respect to all of the provisions relating to public improvements and the installation of distributed generation renewable energy sources or energy efficiency improvements, redefine the term “city” as a “public agency” to include, every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation and every town, city, county, and city and county, and municipal corporation, whether incorporated or not and whether chartered or not. The bill would similarly modify the definition of “legislative body” to also include the governing body of a public agency or any other public body created by statute. The bill would also specify that these improvements are not new construction which would be subject to property taxation. The bill would declare the intent of the Legislature 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:
 3 5898.12. (a) It is the intent of the Legislature that this chapter
 4 should be used to finance public improvements to lots or parcels
 5 which are developed and where the costs and time delays involved
 6 in creating an assessment district pursuant to other provisions of
 7 this division or any other law would be prohibitively large relative
 8 to the cost of the public improvements to be financed.
 9 (b) It is also the intent of the Legislature that this chapter should
 10 be used to finance the installation of distributed generation
 11 renewable energy sources or energy efficiency improvements that
 12 are permanently fixed to residential, commercial, industrial, or
 13 other real property.
 14 (c) *It is also the intent of the Legislature to address chronic*
 15 *water needs throughout California by permitting, voluntary,*
 16 *individual efforts to improve water efficiency. The Legislature*
 17 *further intends that this chapter should be used to finance the*
 18 *installation of water efficiency improvements that are permanently*
 19 *fixed to residential, commercial, industrial, or other real property,*

1 *including, but not limited to, recycled water connections, synthetic*
2 *turf, cisterns for stormwater recovery, and water-porous concrete.*

3 ~~(e)~~

4 *(d)* This chapter shall not be used to finance facilities for parcels
5 which are undergoing development.

6 ~~(d)~~

7 *(e)* This chapter shall not be used to finance the purchase or
8 installation of appliances that are not permanently fixed to
9 residential, commercial, industrial, or other real property.

10 ~~(e)~~

11 *(f)* Assessments may be levied pursuant to this chapter only
12 with the free and willing consent of the owner of each lot or parcel
13 on which an assessment is levied at the time the assessment is
14 levied.

15 SEC. 2. Section 5898.14 of the Streets and Highways Code is
16 amended to read:

17 5898.14. (a) The Legislature finds all of the following:

18 (1) Energy *and water* conservation efforts, including the
19 promotion of energy efficiency improvements to residential,
20 commercial, industrial, or other real property are necessary to
21 address the issue of global climate change.

22 (2) The upfront cost of making residential, commercial,
23 industrial, or other real property more energy *and water* efficient
24 prevents many property owners from making those improvements.
25 To make those improvements more affordable and to promote the
26 installation of those improvements, it is necessary to authorize an
27 alternative procedure for authorizing assessments to finance the
28 cost of energy *and water* efficiency improvements.

29 (b) The Legislature declares that a public purpose will be served
30 by a contractual assessment program that provides the legislative
31 body of any ~~city~~ *public agency* with the authority to finance the
32 installation of distributed generation renewable energy sources
33 and energy *or water* efficiency improvements that are permanently
34 fixed to residential, commercial, industrial, or other real property.

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

37 5898.20. (a) (1) The legislative body of any ~~city~~ *public agency*
38 may determine that it would be convenient and advantageous to
39 designate an area within the ~~city~~ *public agency*, which may
40 encompass the entire ~~city~~ *public agency* or a lesser portion, within

1 which authorized ~~city~~ *public agency* officials and property owners
2 may enter into contractual assessments for public improvements
3 and to make financing arrangements pursuant to this chapter.

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

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

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

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

3 (1) “Public agency” means every governmental subdivision,
4 every district, every public and quasi-public corporation, every
5 public agency and public service corporation and every town, city,
6 county, and city and county, and municipal corporation, whether
7 incorporated or not and whether chartered or not.

8 (2) “Legislative body” ~~has the same meaning~~ includes bodies
9 as defined in Section 5006 and the governing body of a public
10 agency or any other public body created by statute.

11 (3) “Efficiency improvements” means permanent improvements
12 fixed to residential, commercial, industrial, or other real property.

13 SEC. 4. Section 5898.21 of the Streets and Highways Code is
14 amended to read:

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

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

30 5898.22. The report shall contain all of the following:

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

33 (b) A draft contract specifying the terms and conditions that
34 would be agreed to by a property owner within the contractual
35 assessment area and the ~~city~~ public agency.

36 (c) A statement of ~~city~~ public agency policies concerning
37 contractual assessments including all of the following:

38 (1) Identification of types of facilities, distributed generation
39 renewable energy sources, or energy *or water* efficiency

1 improvements that may be financed through the use of contractual
2 assessments.

3 (2) Identification of a ~~city~~ *public agency* official authorized to
4 enter into contractual assessments on behalf of the ~~city~~ *public*
5 *agency*.

6 (3) A maximum aggregate dollar amount of contractual
7 assessments.

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

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

25 (e) A report on the results of the consultations with the county
26 auditor’s office or county controller’s office concerning the
27 additional fees, if any, that will be charged to the city or county
28 for incorporating the proposed contractual assessments into the
29 assessments of the general taxes of the city or county on real
30 property, and a plan for financing the payment of those fees.

31 SEC. 6. Section 5898.28 of the Streets and Highways Code is
32 amended to read:

33 5898.28. A ~~city~~ *public agency* may issue bonds pursuant to
34 this chapter, the principal and interest for which would be repaid
35 by contractual assessments. A ~~city~~ *public agency* may advance its
36 own funds to finance work to be repaid through contractual
37 assessments, and may from time to time sell bonds to reimburse
38 itself for such advances. A ~~city~~ *public agency* may enter into a
39 relationship with an underwriter or financial institution that would
40 allow the sequential issuance of a series of bonds, each bond being

1 issued as the need arose to finance work to be repaid through
2 contractual assessments. The interest rate of each bond may be
3 determined by an appropriate index, but shall be fixed at the time
4 each bond is issued. Bond proceeds may be used to establish a
5 reserve fund, and to pay for expenses incidental to the issuance
6 and sale of the bonds. Division 10 (commencing with Section
7 8500) shall apply to any bonds issued pursuant to this section,
8 insofar as that division is not in conflict with this chapter.

9 SEC. 7. Section 5898.30 of the Streets and Highways Code is
10 amended to read:

11 5898.30. Assessments levied pursuant to this chapter, and the
12 interest and any penalties thereon shall constitute a lien against
13 the lots and parcels of land on which they are made, until they are
14 paid. Division 10 (commencing with Section 8500) applies to the
15 levy and collection of assessments levied pursuant to this chapter,
16 insofar as those provisions are not in conflict with the provisions
17 of this chapter, including, but not limited to, the collection of
18 assessments in the same manner and at the same time as the general
19 taxes of the city *or county* on real property are payable and any
20 penalties and remedies and lien priorities in the event of
21 delinquency and default.

22 SEC. 8. Section 73.5 is added to the Revenue and Taxation
23 Code, to read:

24 73.5. Notwithstanding any other provision of law, the term
25 “newly constructed” as used in subdivision (a) of Section 2 of
26 Article XIII A of the California Constitution does not include the
27 construction or addition of any distributed generation renewable
28 energy sources or energy or water efficiency improvements, as
29 specified in Chapter 29 (commencing with Section 5898.10) of
30 the Streets and Highways Code.

31 SEC. 9. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety within
33 the meaning of Article IV of the Constitution and shall go into
34 immediate effect. The facts constituting the necessity are:

35 In order for legislative bodies of public agencies and free and
36 willing property owners to enter into contractual assessments to
37 finance water efficiency improvements and for the state to begin

- 1 to experience the effects of these contractual assessments, it is
- 2 necessary that this act take effect immediately.

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