

ASSEMBLY BILL

No. 2182

Introduced by Assembly Member Huffman

February 18, 2010

An act to amend Sections 5898.12, 5898.14, 5898.20, 5898.21, and 5898.22 of the Streets and Highways Code, relating to contractual assessments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2182, as introduced, Huffman. Contractual assessments: sewer lateral lines.

Existing law authorizes a legislative body of a public agency, as defined, to determine that it would be convenient and advantageous to designate an area within which authorized officials and free and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property.

This bill would expand these provisions to include contractual assessments to finance sewer lateral lines.

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 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

1 ~~which~~ *that* are developed and where the costs and time delays
2 involved in creating an assessment district pursuant to other
3 provisions of this division or any other law would be prohibitively
4 large relative to the cost of the public improvements to be financed.

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

10 (c) It is also the intent of the Legislature to address chronic
11 water needs throughout California by permitting voluntary
12 individual efforts to improve water efficiency. The Legislature
13 further intends that this chapter should be used to finance the
14 installation of water efficiency improvements that are permanently
15 fixed to residential, commercial, industrial, agricultural, or other
16 real property, including, but not limited to, recycled water
17 connections, synthetic turf, cisterns for stormwater recovery, and
18 permeable pavement.

19 *(d) It is also the intent of the Legislature that this chapter should*
20 *be used to finance the replacement of sewer lateral lines*
21 *permanently fixed to residential, commercial, industrial,*
22 *agricultural, or other real property to provide water quality*
23 *benefits to surface and groundwater due to aging and leaking*
24 *sewer lines.*

25 ~~(d)~~

26 (e) It is also the intent of the Legislature that a public agency
27 in the process of establishing an assessment program, to the extent
28 feasible, use a good faith effort to provide advance notice of the
29 proposed program to water and electric service providers in the
30 relevant service area, as set forth in Section 5898.24, to allow the
31 most efficient coordination and collaboration between the public
32 agency and water and electric service providers.

33 ~~(e)~~

34 (f) This chapter shall not be used to finance facilities for parcels
35 which are undergoing development.

36 ~~(f)~~

37 (g) This chapter shall not be used to finance the purchase or
38 installation of appliances that are not permanently fixed to
39 residential, commercial, industrial, agricultural, or other real
40 property.

1 ~~(g)~~

2 (h) Assessments may be levied pursuant to this chapter only
3 with the free and willing consent of the owner of each lot or parcel
4 on which an assessment is levied at the time the assessment is
5 levied.

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

8 5898.14. (a) The Legislature finds all of the following:

9 (1) Energy and water conservation efforts, including the
10 promotion of energy efficiency improvements to residential,
11 commercial, industrial, agricultural, or other real property, are
12 necessary to address the issue of global climate change.

13 (2) The upfront cost of making residential, commercial,
14 industrial, agricultural, or other real property more energy and
15 water efficient prevents many property owners from making those
16 improvements. To make those improvements more affordable and
17 to promote the installation of those improvements, it is necessary
18 to authorize an alternative procedure for authorizing assessments
19 to finance the cost of energy and water efficiency improvements.

20 (b) The Legislature declares that a public purpose will be served
21 by a voluntary contractual assessment program that provides the
22 legislative body of ~~any~~ a public agency with the authority to
23 finance the installation of distributed generation renewable energy
24 sources, *sewer lateral lines*, and energy or water efficiency
25 improvements that are permanently fixed to residential,
26 commercial, industrial, agricultural, or other real property.

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

29 5898.20. (a) (1) The legislative body of ~~any~~ a public agency
30 may determine that it would be convenient and advantageous to
31 designate an area within the public agency, ~~which~~ *that* may
32 encompass the entire public agency or a lesser portion, within
33 which authorized public agency officials and property owners may
34 enter into voluntary contractual assessments for public
35 improvements and to make financing arrangements pursuant to
36 this chapter.

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

1 within which authorized public agency officials and property
2 owners may enter into voluntary contractual assessments to finance
3 the installation of distributed generation renewable energy sources,
4 *sewer lateral lines*, or energy or water efficiency improvements
5 that are permanently fixed to real property pursuant to this chapter.

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

33 (c) As used in this chapter, each of the following terms shall
34 have the following meaning:

35 (1) "Efficiency improvements" means permanent improvements
36 fixed to residential, commercial, industrial, agricultural, or other
37 real property.

38 (2) "Legislative body" means the governing body of a public
39 agency.

1 (3) (A) For the purpose of financing the installation of water
2 efficiency improvements *or sewer lateral lines*, “public agency”
3 means a city, county, city and county, municipal utility district,
4 community services district, sanitary district, sanitation district,
5 or water district, as defined in Section 20200 of the Water Code.
6 The definition of “city” in Section 5005 shall not apply to this
7 subparagraph.

8 (B) For the purpose of financing the installation of distributed
9 generation renewable energy sources or energy efficiency
10 improvements, “public agency” means a county, city, city and
11 county, or a municipal utility district, an irrigation district, or public
12 utility district that owns and operates an electric distribution
13 system. The definition of “city” in Section 5005 shall not apply to
14 this subparagraph.

15 (C) For the purpose of financing the public improvements,
16 “public agency” means a city as defined in Section 5005.

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

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

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

35 5898.22. The report shall contain all of the following:

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

38 (b) A draft contract specifying the terms and conditions that
39 would be agreed to by a property owner within the voluntary
40 contractual assessment area and the public agency.

- 1 (c) A statement of public agency policies concerning voluntary
2 contractual assessments including all of the following:
 - 3 (1) Identification of types of facilities, distributed generation
4 renewable energy sources, *sewer lateral lines*, or energy or water
5 efficiency improvements that may be financed through the use of
6 contractual assessments.
 - 7 (2) Identification of a public agency official authorized to enter
8 into voluntary contractual assessments on behalf of the public
9 agency.
 - 10 (3) A maximum aggregate dollar amount of voluntary
11 contractual assessments.
 - 12 (4) A method for setting requests from property owners for
13 financing through voluntary contractual assessments in priority
14 order in the event that requests appear likely to exceed the
15 authorization amount.
- 16 (d) A plan for raising a capital amount required to pay for work
17 performed pursuant to voluntary contractual assessments. The plan
18 may include amounts to be advanced by the public agency through
19 funds available to it from any source. The plan may include the
20 sale of a bond or bonds or other financing relationship pursuant
21 to Section 5898.28. The plan shall include a statement of or method
22 for determining the interest rate and time period during which
23 contracting property owners would pay any assessment. The plan
24 shall provide for any reserve fund or funds. The plan shall provide
25 for the apportionment of all or any portion of the costs incidental
26 to financing, administration, and collection of the voluntary
27 contractual assessment program among the consenting property
28 owners and the public agency.
- 29 (e) A report on the results of the consultations with the county
30 auditor's office or county controller's office concerning the
31 additional fees, if any, that will be charged to the city or county
32 for incorporating the proposed voluntary contractual assessments
33 into the assessments of the general taxes of the city or county on
34 real property, and a plan for financing the payment of those fees.