

AMENDED IN ASSEMBLY APRIL 13, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1032**

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**Introduced by Assembly Member Mansoor**

February 18, 2011

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An act to ~~amend Section 53313.5 of~~ *add Section 53314.12* to the Government Code, relating to community facilities districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1032, as amended, Mansoor. Community facilities districts: financing.

Existing law authorizes a community facilities district to finance the purchase of facilities whose construction has been completed before the resolution of formation to establish the district is adopted, except that a district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency that will own or operate the facility.

This bill would ~~require any construction of a public facility that is funded in whole or in part by special taxes or the proceeds of bonds of the district to comply with wage requirements for public works projects, and would specify~~ *provide* that projects funded entirely with private funds are not subject to ~~this requirement~~ *the wage requirements for public works projects*.

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 53314.12 is added to the Government  
2 Code, to read:

3 53314.12. Notwithstanding any other law, compliance with  
4 Article 2 (commencing with Section 1770) of Chapter 1 of Part 7  
5 of Division 2 of the Labor Code shall not be required for  
6 development projects constructed entirely with private funds.

7 SECTION 1. ~~Section 53313.5 of the Government Code is~~  
8 ~~amended to read:~~

9 ~~53313.5. A community facilities district may also finance the~~  
10 ~~purchase, construction, expansion, improvement, or rehabilitation~~  
11 ~~of any real or other tangible property with an estimated useful life~~  
12 ~~of five years or longer or may finance planning and design work~~  
13 ~~that is directly related to the purchase, construction, expansion, or~~  
14 ~~rehabilitation of any real or tangible property. The facilities need~~  
15 ~~not be physically located within the district. A district may not~~  
16 ~~lease out facilities that it has financed except pursuant to a lease~~  
17 ~~agreement or annexation agreement entered into prior to January~~  
18 ~~1, 1988. A district may only finance the purchase of facilities~~  
19 ~~whose construction has been completed, as determined by the~~  
20 ~~legislative body, before the resolution of formation to establish~~  
21 ~~the district is adopted pursuant to Section 53325.1, except that a~~  
22 ~~district may finance the purchase of facilities completed after the~~  
23 ~~adoption of the resolution of formation if the facility was~~  
24 ~~constructed as if it had been constructed under the direction and~~  
25 ~~supervision, or under the authority of, the local agency that will~~  
26 ~~own or operate the facility. Construction of the public facility shall~~  
27 ~~comply with Article 2 (commencing with Section 1770) of Chapter~~  
28 ~~1 of Part 7 of Division 2 of the Labor Code for public facilities~~  
29 ~~funded in whole or in part by special taxes or the proceeds of bonds~~  
30 ~~of the district. Compliance with Article 2 (commencing with~~  
31 ~~Section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor~~  
32 ~~Code shall not be required for facilities constructed entirely with~~  
33 ~~private funds. For example, a community facilities district may~~  
34 ~~finance facilities, including, but not limited to, the following:~~

- 35 (a) ~~Local park, recreation, parkway, and open-space facilities.~~
- 36 (b) ~~Elementary and secondary schoolsites and structures~~  
37 ~~provided that the facilities meet the building area and cost standards~~  
38 ~~established by the State Allocation Board.~~

1 ~~(e) Libraries.~~

2 ~~(d) Child care facilities, including costs of insuring the facilities~~  
3 ~~against loss, liability insurance in connection with the operation~~  
4 ~~of the facility, and other insurance costs relating to the operation~~  
5 ~~of the facilities, but excluding all other operational costs. However,~~  
6 ~~the proceeds of bonds issued pursuant to this chapter shall not be~~  
7 ~~used to pay these insurance costs.~~

8 ~~(e) The district may also finance the construction or~~  
9 ~~undergrounding of water transmission and distribution facilities,~~  
10 ~~natural gas pipeline facilities, telephone lines, facilities for the~~  
11 ~~transmission or distribution of electrical energy, and cable~~  
12 ~~television lines to provide access to those services to customers~~  
13 ~~who do not have access to those services or to mitigate existing~~  
14 ~~visual blight. The district may enter into an agreement with a public~~  
15 ~~utility to utilize those facilities to provide a particular service and~~  
16 ~~for the conveyance of those facilities to the public utility. "Public~~  
17 ~~utility" shall include all utilities, whether public and regulated by~~  
18 ~~the Public Utilities Commission, or municipal. If the facilities are~~  
19 ~~conveyed to the public utility, the agreement shall provide that the~~  
20 ~~cost or a portion of the cost of the facilities that are the~~  
21 ~~responsibility of the utility shall be refunded by the public utility~~  
22 ~~to the district or improvement area thereof, to the extent that~~  
23 ~~refunds are applicable pursuant to (1) the Public Utilities Code or~~  
24 ~~rules of the Public Utilities Commission, as to utilities regulated~~  
25 ~~by the commission, or (2) other laws regulating public utilities.~~  
26 ~~Any reimbursement made to the district shall be utilized to reduce~~  
27 ~~or minimize the special tax levied within the district or~~  
28 ~~improvement area, or to construct or acquire additional facilities~~  
29 ~~within the district or improvement area, as specified in the~~  
30 ~~resolution of formation.~~

31 ~~(f) The district may also finance the acquisition, improvement,~~  
32 ~~rehabilitation, or maintenance of any real or other tangible property,~~  
33 ~~whether privately or publicly owned, for flood and storm protection~~  
34 ~~services, including, but not limited to, storm drainage and treatment~~  
35 ~~systems and sandstorm protection systems.~~

36 ~~(g) The district may also pay in full all amounts necessary to~~  
37 ~~eliminate any fixed special assessment liens or to pay, repay, or~~  
38 ~~defease any obligation to pay or any indebtedness secured by any~~  
39 ~~tax, fee, charge, or assessment levied within the area of a~~  
40 ~~community facilities district or may pay debt service on that~~

1 indebtedness. When the amount financed by the district is to pay  
 2 a tax, fee, charge, or assessment imposed by a public agency other  
 3 than the one conducting the proceedings, and if the amount  
 4 provided to the other public agency will not be entirely used to  
 5 pay off or prepay an assessment lien or special tax obligation  
 6 pursuant to the property owner's legal right to do so, the written  
 7 consent of the other public agency is required. In addition, tax  
 8 revenues of a district may be used to make lease or debt service  
 9 payments on any lease, lease-purchase contract, or certificate of  
 10 participation used to finance authorized district facilities.

11 (h) Any other governmental facilities that the legislative body  
 12 creating the community facilities district is authorized by law to  
 13 contribute revenue to, or construct, own, or operate. However, the  
 14 district shall not operate or maintain or, except as otherwise  
 15 provided in subdivisions (e) and (k), have any ownership interest  
 16 in any facilities for the transmission or distribution of natural gas,  
 17 telephone service, or electrical energy.

18 (i) (1) A district may also pay for the following:

19 (A) Work deemed necessary to bring buildings or real property,  
 20 including privately owned buildings or real property, into  
 21 compliance with seismic safety standards or regulations. Only  
 22 work certified as necessary to comply with seismic safety standards  
 23 or regulations by local building officials may be financed. No  
 24 project involving the dismantling of an existing building and its  
 25 replacement by a new building, nor the construction of a new or  
 26 substantially new building may be financed pursuant to this  
 27 subparagraph. Work on qualified historical buildings or structures  
 28 shall be done in accordance with the State Historical Building  
 29 Code (Part 2.7 (commencing with Section 18950) of Division 13  
 30 of the Health and Safety Code).

31 (B) In addition, within any county or area designated by the  
 32 President of the United States or by the Governor as a disaster area  
 33 or for which the Governor has proclaimed the existence of a state  
 34 of emergency because of earthquake damage, a district may also  
 35 pay for any work deemed necessary to repair any damage to real  
 36 property directly or indirectly caused by the occurrence of an  
 37 earthquake cited in the President's or the Governor's designation  
 38 or proclamation, or by aftershocks associated with that earthquake,  
 39 including work to reconstruct, repair, shore up, or replace any  
 40 building damaged or destroyed by the earthquake, and specifically

1 including, but not limited to, work on any building damaged or  
2 destroyed in the Loma Prieta earthquake that occurred on October  
3 17, 1989, or by its aftershocks. Work may be financed pursuant  
4 to this subparagraph only on property or buildings identified in a  
5 resolution of intention to establish a community facilities district  
6 adopted within seven years of the date on which the county or area  
7 is designated as a disaster area by the President or by the Governor  
8 or on which the Governor proclaims for the area the existence of  
9 a state of emergency.

10 (2) ~~Work on privately owned property, including reconstruction~~  
11 ~~or replacement of privately owned buildings pursuant to~~  
12 ~~subparagraph (B) of paragraph (1), may only be financed by a tax~~  
13 ~~levy if all of the votes cast on the question of levying the tax, vote~~  
14 ~~in favor of levying the tax, or with the prior written consent to the~~  
15 ~~tax of the owners of all property that may be subject to the tax, in~~  
16 ~~that case the prior written consent shall be deemed to constitute a~~  
17 ~~vote in favor of the tax and any associated bond issue. Any district~~  
18 ~~created to finance seismic safety work on privately owned~~  
19 ~~buildings, including repair, reconstruction, or replacement of~~  
20 ~~privately owned buildings pursuant to this subdivision, shall consist~~  
21 ~~only of lots or parcels that the legislative body finds have buildings~~  
22 ~~that were damaged or destroyed by the earthquake cited pursuant~~  
23 ~~to subparagraph (B) of paragraph (1) or by the aftershocks of that~~  
24 ~~earthquake.~~

25 (j) A district may also pay for the following:

26 (1) ~~Work deemed necessary to repair and abate damage caused~~  
27 ~~to privately owned buildings and structures by soil deterioration.~~  
28 ~~“Soil deterioration” means a chemical reaction by soils that causes~~  
29 ~~structural damage or defects in construction materials including~~  
30 ~~concrete, steel, and ductile or cast iron. Only work certified as~~  
31 ~~necessary by local building officials may be financed. No project~~  
32 ~~involving the dismantling of an existing building or structure and~~  
33 ~~its replacement by a new building or structure, nor the construction~~  
34 ~~of a new or substantially new building or structure may be financed~~  
35 ~~pursuant to this subparagraph.~~

36 (2) ~~Work on privately owned buildings and structures pursuant~~  
37 ~~to this subdivision, including reconstruction, repair, and abatement~~  
38 ~~of damage caused by soil deterioration, may only be financed by~~  
39 ~~a tax levy if all of the votes cast on the question of levying the tax~~  
40 ~~vote in favor of levying the tax. Any district created to finance the~~

1 ~~work on privately owned buildings or structures, including~~  
2 ~~reconstruction, repair, and abatement of damage caused by soil~~  
3 ~~deterioration, shall consist only of lots or parcels on which the~~  
4 ~~legislative body finds that the buildings or structures to be worked~~  
5 ~~on pursuant to this subdivision suffer from soil deterioration.~~  
6 ~~(k) A district may also finance the acquisition, improvement,~~  
7 ~~rehabilitation, or maintenance of any real or other tangible property,~~  
8 ~~whether privately or publicly owned, for the purposes of removal~~  
9 ~~or remedial action for the cleanup of any hazardous substance~~  
10 ~~released or threatened to be released into the environment. As used~~  
11 ~~in this subdivision, the terms “remedial action” and “removal”~~  
12 ~~shall have the meaning set forth in Sections 25322 and 25323,~~  
13 ~~respectively, of the Health and Safety Code, and the term~~  
14 ~~“hazardous substance” shall have the meaning set forth in Section~~  
15 ~~25281 of the Health and Safety Code.~~

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