

AMENDED IN SENATE SEPTEMBER 4, 2013

AMENDED IN SENATE AUGUST 13, 2013

AMENDED IN SENATE JUNE 26, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 483

Introduced by Assembly Member Ting
(Coauthors: Assembly Members Atkins and Ian Calderon)
(Coauthor: Senator Hueso)

February 19, 2013

An act to add Section 53758 to the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 483, as amended, Ting. Local government: taxes, fees, assessments, and charges: definitions.

Article XIII C of the California Constitution generally requires a majority vote of the electorate for a local government to impose, extend, or increase any general tax and a $\frac{2}{3}$ vote of the electorate to impose, extend, or increase any special tax, and permits the use of the initiative to affect local taxes, assessments, fees, and charges. Article XIII C of the California Constitution also defines a local tax and sets out the categories of charges that are excluded from that definition. ~~Article XIII D of the California Constitution generally requires that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing.~~ Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions

to comply with ~~Articles Article XIII C and XIII D~~ of the California Constitution, and defines various terms for these purposes.

This bill would *add a provision to the Proposition 218 Omnibus Implementation Act* to additionally define the terms “specific benefit,” and “specific government service” for purposes of ~~the Proposition 218 Omnibus Implementation Act Article XIII C of the California Constitution.~~

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. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *Business improvement districts and tourism marketing*
4 *districts are important to California’s economy, and provide a*
5 *number of tourism-related services to California’s tourism industry,*
6 *including marketing of assessed businesses, tourism promotion,*
7 *and special events to attract tourists.*

8 (b) *Business improvement district and tourism marketing district*
9 *assessment revenues are intended only to provide benefits or*
10 *services directly to those businesses paying the assessment, and*
11 *business improvement district and tourism marketing district*
12 *assessment revenues cannot be diverted to support general*
13 *governmental programs.*

14 (c) *The purpose of this bill is to clarify that business*
15 *improvement district and tourism marketing district assessments*
16 *are not taxes within the meaning of Article XIII C of the California*
17 *Constitution merely because they might generate indirect,*
18 *secondary benefits for nonpayors, provided that those indirect,*
19 *secondary benefits occur incidentally and without cost to the*
20 *payors of the assessment.*

21 SECTION 1.

22 SEC. 2. Section 53758 is added to the Government Code, to
23 read:

24 53758. For purposes of ~~Articles Article XIII C and XIII D~~ of
25 the California Constitution and this article:

1 (a) “Specific benefit” means a benefit that is provided directly
2 to a payor and is not provided to those not charged. ~~Ancillary or~~
3 ~~other benefits to nonpayors may be created in the course of~~
4 ~~providing the specific benefit to payors. A benefit is not excluded~~
5 ~~from classification as a “specific benefit” by reason of a complete~~
6 ~~or partial exemption from the levy, charge, or exaction imposed~~
7 ~~for that benefit, provided that a levy, charge, or exaction paid for~~
8 ~~that benefit is used to provide that benefit only to the payor. A~~
9 *specific benefit is not excluded from classification as a “specific*
10 *benefit” merely because an indirect benefit to a nonpayor occurs*
11 *incidentally and without cost to the payor as a consequence of*
12 *providing the specific benefit to the payor.*

13 (b) “Specific government service” means a service that is
14 provided by ~~an agency~~ *a local government* directly to the payor
15 and is not provided to those not charged. *A specific government*
16 *service is not excluded from classification as a “specific*
17 *government service” merely because an indirect benefit to a*
18 *nonpayor occurs incidentally and without cost to the payor as a*
19 *consequence of providing the specific government service to the*
20 *payor. A “specific government service” may include, but is not*
21 *limited to, safety, maintenance, landscaping, marketing, events,*
22 *capital improvements, and promotions. A service is not excluded*
23 *from classification as a “specific government service” by reason*
24 *of a complete or partial exemption from the levy, charge, or*
25 *exaction imposed for that service, provided that a levy, charge, or*
26 *exaction paid for that service is used to provide that service only*
27 *to the payor.*

28 (c) *The local government bears the burden of proving by a*
29 *preponderance of the evidence that a levy, charge, or other*
30 *exaction imposed for a specific benefit or specific government*
31 *service is not a tax, that the amount is no more than necessary to*
32 *cover the reasonable costs to the local government in providing*
33 *the specific benefit or specific government service, and that the*
34 *manner in which those costs are allocated to a payor bear a fair*
35 *or reasonable relationship to the specific benefits or specific*
36 *government services received by the payor.*

37 ~~SEC. 2.~~

38 *SEC. 3.* This act is an urgency statute necessary for the
39 immediate preservation of the public peace, health, or safety within

- 1 the meaning of Article IV of the Constitution and shall go into
- 2 immediate effect. The facts constituting the necessity are:
- 3 In order to ensure compliance with the California Constitution
- 4 it is necessary that this act take effect immediately.