

ASSEMBLY BILL

No. 1883

Introduced by Assembly Member Skinner

February 19, 2014

An act to amend Section 5898.28 of the Streets and Highways Code, relating to public improvements.

LEGISLATIVE COUNSEL'S DIGEST

AB 1883, as introduced, Skinner. Public improvements: contractual assessments: delinquency.

Existing law, under the Improvement Act of 1911, authorizes the legislative body of a public agency to designate an area within which the public agency and property owners may enter into voluntary contractual assessments to finance certain public improvements. Existing law authorizes the public agency to advance its own funds to finance work to be repaid through the voluntary assessments, and to issue bonds in that regard. Existing law provides that assessments levied in this manner constitute a lien against the property on which the assessments are made, and, in the case of delinquency, provides for collection of assessments and associated interest and penalties, as specified.

This bill would authorize a public agency to transfer, as defined, its right, title, and interest in any voluntary contractual assessments and in all rights to initiate and prosecute a foreclosure action resulting from a delinquency in those assessments, as specified, if bonds have not been issued in that regard.

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 5898.28 of the Streets and Highways
2 Code is amended to read:

3 5898.28. (a) A public agency may issue bonds pursuant to this
4 chapter, the principal and interest for which would be repaid by
5 voluntary contractual assessments. A public agency may advance
6 its own funds to finance work to be repaid through voluntary
7 contractual assessments, and may from time to time sell bonds to
8 reimburse itself for ~~such~~ *those* advances. A public agency may
9 enter into a relationship with an underwriter or financial institution
10 that would allow the sequential issuance of a series of bonds, each
11 bond being issued as the need arose to finance work to be repaid
12 through voluntary contractual assessments. The interest rate of
13 each bond may be determined by an appropriate index, but shall
14 be fixed at the time each bond is issued. Bond proceeds may be
15 used to establish a reserve fund, and to pay for expenses incidental
16 to the issuance and sale of the bonds. Division 10 (commencing
17 with Section 8500) shall apply to any bonds issued pursuant to
18 this section, insofar as that division is not in conflict with this
19 chapter.

20 (b) *Notwithstanding any provision of this division or the*
21 *Improvement Act of 1915 (Division 10 (commencing with Section*
22 *8500)), a public agency may transfer its right, title, and interest*
23 *in and to (1) any voluntary contractual assessments and (2) all*
24 *rights to initiate and prosecute a foreclosure action resulting from*
25 *a delinquency in the payment of the voluntary contractual*
26 *assessments, if bonds have not been issued pursuant to subdivision*
27 *(a). A transfer of any voluntary contractual assessments under this*
28 *subdivision shall be treated as a true and absolute transfer of the*
29 *asset so transferred and not as a pledge or grant of a security*
30 *interest by the public agency for any borrowing. The*
31 *characterization of the transfer of any of those assets as an*
32 *absolute transfer by the public agency shall not be negated or*
33 *adversely affected by the fact that only a portion of any voluntary*
34 *contractual assessment is transferred, nor by any characterization*
35 *of the transferee for purposes of accounting, taxation, or securities*
36 *regulation, nor by any other factor whatsoever. As used in this*
37 *section, "transfer" means sale, assignment, or other transfer.*

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