

AMENDED IN SENATE AUGUST 11, 2014

AMENDED IN SENATE JUNE 18, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2194

Introduced by Assembly Member Mullin

February 20, 2014

An act to amend Sections 53313 and 53313.5 of the Government Code, relating to local government. An act to amend Sections 15360, 15560, and 15626 of, to amend the heading of Chapter 8.5 (commencing with Section 15560) of Division 15 of, and to add Article 5 (commencing with Section 15645) to Chapter 9 of Division 15 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2194, as amended, Mullin. ~~Mello-Roos Community Facilities Act of 1982: storm water.~~ *Elections: statewide recounts.*

(1) Existing law establishes procedures by which a voter may request a recount of the votes cast in an election following completion of the official canvass. Under existing law, the voter seeking the recount is required, before the recount is commenced and at the beginning of each subsequent day, to deposit with the elections official the amount of money required by the elections official to cover the cost of the recount for that day.

This bill would require the Secretary of State to order an automatic manual recount of all votes cast for a statewide office or state ballot measure if the difference in the number of votes received is less than or equal to 0.1%. The bill would allow the Secretary of State and the

candidates, or the proponents of a state ballot measure and the persons filing ballot arguments against the measure, to agree to an alternative method of conducting a recount in lieu of a full statewide recount. By imposing new duties on local elections officials, this bill would impose a state-mandated local program.

(2) Existing law authorizes the Secretary of State to establish a postcanvass risk-limiting audit pilot program for the purpose of verifying the accuracy of election results. Under the program, a participating county would conduct an audit of one or more contests in each election after the tabulation of the unofficial final results, as defined, or after completion of the official canvass for the election. Existing law requires, during the official canvass of an election in which a voting system is used, the elections official conducting the election to conduct a public manual tally of the ballots tabulated by those devices, including vote by mail voters' ballots, cast in 1% of the precincts chosen at random by the elections official.

This bill would allow a county to conduct a postcanvass risk-limiting audit in lieu of a 1% manual tally.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

~~The Mello-Roos Community Facilities Act of 1982 authorizes a community facilities district to finance various services, including, but not limited to, flood and storm protection services, as specified.~~

~~This bill would additionally authorize the financing of storm water management.~~

~~The act also authorizes a community facilities district to finance the purchase, construction, expansion, improvement, or rehabilitation of certain facilities, including, among others, undergrounding of water transmission and distribution facilities.~~

~~This bill would authorize a community facilities district to finance the acquisition, improvement, rehabilitation, or maintenance of any~~

~~publicly owned real or other tangible property for local agencies' compliance with storm water management permits.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: ~~no~~^{yes}.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 15360 of the Elections Code is amended*
2 *to read:*

3 15360. (a) During the official canvass of every election in
4 which a voting system is used, the official conducting the election
5 shall conduct a public manual tally of the ballots tabulated by those
6 devices, including vote by mail ballots, using either of the
7 following methods:

8 (1) (A) A public manual tally of the ballots, including vote by
9 mail ballots, cast in 1 percent of the precincts chosen at random
10 by the elections official. If 1 percent of the precincts is less than
11 one whole precinct, the tally shall be conducted in one precinct
12 chosen at random by the elections official.

13 (B) (i) In addition to the 1 percent manual tally, the elections
14 official shall, for each race not included in the initial group of
15 precincts, count one additional precinct. The manual tally shall
16 apply only to the race not previously counted.

17 (ii) Additional precincts for the manual tally may be selected
18 at the discretion of the elections official.

19 (2) A two-part public manual tally, which includes both of the
20 following:

21 (A) A public manual tally of the ballots, not including vote by
22 mail ballots, cast in 1 percent of the precincts chosen at random
23 by the elections official and conducted pursuant to paragraph (1).

24 (B) (i) A public manual tally of not less than 1 percent of the
25 vote by mail ballots cast in the election. Batches of vote by mail
26 ballots shall be chosen at random by the elections official.

27 (ii) For the purposes of this section, a "batch" means a set of
28 ballots tabulated by the voting system devices, for which the voting
29 system can produce a report of the votes cast.

30 (iii) (I) In addition to the 1 percent manual tally of the vote by
31 mail ballots, the elections official shall, for each race not included
32 in the initial 1 percent manual tally of vote by mail ballots, count

1 one additional batch of vote by mail ballots. The manual tally shall
2 apply only to the race not previously counted.

3 (II) Additional batches for the manual tally may be selected at
4 the discretion of the elections official.

5 (b) If vote by mail ballots are cast on a direct recording
6 electronic voting system at the office of an elections official or at
7 a satellite location of the office of an elections official pursuant to
8 Section 3018, the official conducting the election shall either
9 include those ballots in the manual tally conducted pursuant to
10 paragraph (1) or (2) of subdivision (a) or conduct a public manual
11 tally of those ballots cast on no fewer than 1 percent of all the
12 direct recording electronic voting machines used in that election
13 chosen at random by the elections official.

14 (c) The elections official shall use either a random number
15 generator or other method specified in regulations that shall be
16 adopted by the Secretary of State to randomly choose the initial
17 precincts, batches of vote by mail ballots, or direct recording
18 electronic voting machines subject to the public manual tally.

19 (d) The manual tally shall be a public process, with the official
20 conducting the election providing at least a five-day public notice
21 of the time and place of the manual tally and of the time and place
22 of the selection of the precincts, batches, or direct recording
23 electronic voting machines subject to the public manual tally prior
24 to conducting the selection and tally.

25 (e) The official conducting the election shall include a report
26 on the results of the 1 percent manual tally in the certification of
27 the official canvass of the vote. This report shall identify any
28 discrepancies between the machine count and the manual tally and
29 a description of how each of these discrepancies was resolved. In
30 resolving any discrepancy involving a vote recorded by means of
31 a punchcard voting system or by electronic or electromechanical
32 vote tabulating devices, the voter verified paper audit trail shall
33 govern if there is a discrepancy between it and the electronic
34 record.

35 (f) *This section does not apply to a county that conducts a*
36 *postcanvass risk-limiting audit pursuant to Section 15560.*

37 *SEC. 2. The heading of Chapter 8.5 (commencing with Section*
38 *15560) of Division 15 of the Elections Code is amended to read:*

CHAPTER 8.5. POSTCANVASS RISK-LIMITING AUDIT ~~PILOT~~
PROGRAM

SEC. 3. *Section 15560 of the Elections Code is amended to read:*

~~15560. (a) The Secretary of State is authorized to establish a postcanvass risk-limiting audit pilot program in five or more counties to improve the accuracy of, and public confidence in, election results. The Secretary of State is encouraged to include urban and rural counties; counties from northern, central, and southern California; and counties with various different voting systems.~~

~~(b) The pilot program described in subdivision (a) shall be conducted as follows:~~

~~(1) During the year 2011, each county that chooses to participate in the pilot program shall conduct a postcanvass risk-limiting audit of one or more contests after each election in that county.~~

15560. (a) (1) Any county may conduct a postcanvass risk-limiting audit of one or more contests after each election in that county pursuant to this section in lieu of a 1 percent manual tally, as provided for in Section 15360. The contest or contests to be audited and the audit units examined shall be chosen at random by the elections official using a random number generator or other method approved by the Secretary of State pursuant to subdivision (c) of Section 15360.

(2) An elections official conducting an audit pursuant to this section shall do all of the following:

(A) Provide at least a five-day public notice of the time and place of the random selection of the audit units to be manually tallied and of the time and place of the audit.

(B) Make available to the public a report of the vote tabulating device results for the contest, including the results for each audit unit in the contest, prior to the random selection of audit units to be manually tallied and prior to the commencement of the audit.

(C) Conduct the audit upon tabulation of the unofficial final results or upon completion of the official canvass for the election.

(D) Conduct the audit in public view by hand without the use of electronic scanning equipment using the tally procedures established by Section 15360 for conducting a manual tally.

1 ~~(3) On or before March 1, 2012, the Secretary of State shall~~
 2 ~~report to the Legislature on the effectiveness and efficiency of~~
 3 ~~postcanvass risk-limiting audits conducted pursuant to this section.~~
 4 ~~The report shall include an analysis of the efficiency of postcanvass~~
 5 ~~risk-limiting audits, including the costs of performing the audits,~~
 6 ~~as compared to the 1-percent manual tallies conducted in the same~~
 7 ~~election pursuant to Section 15360.~~

8 ~~(e) An audit shall not be conducted pursuant to this section with~~
 9 ~~respect to a state or multijurisdictional contest unless all of the~~
 10 ~~counties involved in the contest choose to participate in the pilot~~
 11 ~~program authorized by this section.~~

12 ~~(d)~~

13 (b) For purposes of this section, the following terms have the
 14 following meanings:

15 (1) “Audit unit” means a precinct, a set of ballots, or a single
 16 ballot. A precinct, a set of ballots, or a single ballot may be used
 17 as an audit unit for purposes of this section only if all of the
 18 following conditions are satisfied:

19 (A) The relevant vote tabulating device is able to produce a
 20 report of the votes cast in the precinct, set of ballots, or single
 21 ballot.

22 (B) The elections official is able to match the report described
 23 in subparagraph (A) with the ballots corresponding to the report
 24 for purposes of conducting an audit pursuant to this section.

25 (C) Each ballot is assigned to not more than one audit unit.

26 (2) “Contest” means an election for an office or for a measure.
 27 “Contest” shall not include either of the following:

28 (A) An election for a political party central committee, as
 29 provided in Division 7 (commencing with Section 7000).

30 (B) An advisory election, as provided in Section 9603.

31 (3) “Risk-limiting audit” means a manual tally employing a
 32 statistical method that ensures a large, predetermined minimum
 33 chance of requiring a full manual tally whenever a full manual
 34 tally would show an electoral outcome that differs from the
 35 outcome reported by the vote tabulating device for the audited
 36 contest. A risk-limiting audit shall begin with a hand tally of the
 37 votes in one or more audit units and shall continue to hand tally
 38 votes in additional audit units until there is strong statistical
 39 evidence that the electoral outcome is correct. In the event that
 40 counting additional audit units does not provide strong statistical

1 evidence that the electoral outcome is correct, the audit shall
2 continue until there has been a full manual tally to determine the
3 correct electoral outcome of the audited contest.

4 (4) “Unofficial final results” means election results tabulated
5 pursuant to an official canvass conducted pursuant to Chapter 4
6 (commencing with Section 15300) but not yet reported to the
7 governing board or the Secretary of State pursuant to subdivision
8 (h) of Section 15302.

9 (c) *The Secretary of State may adopt, amend, and repeal rules
10 and regulations necessary for the administration of this section.*

11 *SEC. 4. Section 15626 of the Elections Code is amended to
12 read:*

13 15626. The recount shall be commenced not more than seven
14 days following the receipt by the elections official of the request
15 for the recount under Section 15620~~0~~, 15621, or 15645 and shall
16 be continued daily, Saturdays, Sundays, and holidays excepted,
17 for not less than six hours each day until completed. The recount
18 shall not be commenced until the first day following notification
19 of the individuals specified in Section 15628.

20 *SEC. 5. Article 5 (commencing with Section 15645) is added
21 to Chapter 9 of Division 15 of the Elections Code, to read:*

22

23 *Article 5. Automatic Recounts*

24

25 15645. (a) *Within five days after the Secretary of State files a
26 statement of the vote, as required by subdivision (b) of Section
27 15501, the Secretary of State shall order an automatic manual
28 recount of all votes cast for a statewide office or state ballot
29 measure if any of the following occurs:*

30 (1) *The official canvass of returns in a statewide primary
31 election shows that the difference in the number of votes received
32 by the second and third place candidates for a statewide office is
33 less than or equal to one-tenth of 1 percent of the number of all
34 votes cast for both candidates.*

35 (2) *The official canvass of returns in a statewide general election
36 shows that the difference in the number of votes received by the
37 two candidates receiving the greatest number of votes for a
38 statewide office is less than or equal to one-tenth of 1 percent of
39 the number of all votes cast for both candidates.*

1 (3) *The official canvass of returns in a statewide election shows*
2 *that the difference in the number of votes cast for and against a*
3 *state ballot measure is less than or equal to one-tenth of 1 percent*
4 *of the number of all votes cast on the measure.*

5 (b) (1) *The Secretary of State and both candidates, or the*
6 *proponents of the state ballot measure and the persons filing ballot*
7 *arguments against the measure, subject to a recount under this*
8 *section may agree to use an alternative method of conducting the*
9 *recount in lieu of a full statewide recount. The reason for agreeing*
10 *to an alternative method of recount may include, but is not limited*
11 *to, the discovery of uncounted ballots or a counting error in one*
12 *or more precincts or counties.*

13 (2) *The Secretary of State shall notify the elections official of*
14 *each county of, and shall direct county elections officials to*
15 *implement, the alternative method of conducting the recount.*

16 (3) *If an alternative method of conducting a recount is*
17 *implemented pursuant to this subdivision, a voter may request a*
18 *recount pursuant to Section 15623.*

19 (c) *It is the intent of the Legislature to fully reimburse counties*
20 *for costs resulting from conducting an automatic manual recount*
21 *required by this section in an expeditious manner upon certification*
22 *of those costs. A candidate shall not be charged for an automatic*
23 *manual recount required by this section.*

24 15646. *Upon ordering a recount pursuant to subdivision (a)*
25 *of Section 15645, the Secretary of State shall notify the elections*
26 *official of each county and shall direct the county elections officials*
27 *to recount all the votes cast for the office or for and against the*
28 *state ballot measure. The elections official in each county shall*
29 *commence the recount within seven days of receiving notice under*
30 *this section.*

31 15647. *All the provisions of Article 3 (commencing with Section*
32 *15620), except Sections 15620, 15621, 15622, 15623, 15624, and*
33 *15627, shall apply to this article unless otherwise provided herein.*

34 15648. *The Secretary of State may adopt, amend, and repeal*
35 *rules and regulations necessary for the administration of this*
36 *article.*

37 SEC. 6. *If the Commission on State Mandates determines that*
38 *this act contains costs mandated by the state, reimbursement to*
39 *local agencies and school districts for those costs shall be made*

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code.

3 SEC. 7. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety within
5 the meaning of Article IV of the Constitution and shall go into
6 immediate effect. The facts constituting the necessity are:

7 In order to ensure that all eligible voters are able to have their
8 votes counted at the November 4, 2014, statewide general election,
9 it is necessary for this act to take effect immediately.

10 SECTION 1. ~~Section 53313 of the Government Code is~~
11 ~~amended to read:~~

12 ~~53313. A community facilities district may be established under~~
13 ~~this chapter to finance any one or more of the following types of~~
14 ~~services within an area:~~

15 ~~(a) Police protection services, including, but not limited to,~~
16 ~~criminal justice services. However, criminal justice services shall~~
17 ~~be limited to providing services for jails, detention facilities, and~~
18 ~~juvenile halls.~~

19 ~~(b) Fire protection and suppression services, and ambulance~~
20 ~~and paramedic services.~~

21 ~~(c) Recreation program services, library services, maintenance~~
22 ~~services for elementary and secondary schoolsites and structures,~~
23 ~~and the operation and maintenance of museums and cultural~~
24 ~~facilities. A special tax may be levied for any of the services~~
25 ~~specified in this subdivision only upon approval of the registered~~
26 ~~voters as specified in subdivision (b) of Section 53326. An election~~
27 ~~to enact a special tax for recreation program services, library~~
28 ~~services, and the operation and maintenance of museums and~~
29 ~~cultural facilities may be conducted pursuant to subdivision (c) of~~
30 ~~Section 53326.~~

31 ~~(d) Maintenance and lighting of parks, parkways, streets, roads,~~
32 ~~and open space.~~

33 ~~(e) Flood, storm protection services, and storm water~~
34 ~~management, including, but not limited to, local agencies'~~
35 ~~compliance with state and federal storm water permit requirements,~~
36 ~~the operation and maintenance of storm drainage systems, plowing~~
37 ~~and removal of snow, and sandstorm protection systems.~~

38 ~~(f) Services with respect to removal or remedial action for the~~
39 ~~cleanup of any hazardous substance released or threatened to be~~
40 ~~released into the environment. As used in this subdivision, the~~

1 terms “remedial action” and “removal” shall have the meanings
2 set forth in Sections 25322 and 25323, respectively, of the Health
3 and Safety Code, and the term “hazardous substance” shall have
4 the meaning set forth in Section 25281 of the Health and Safety
5 Code. Community facilities districts shall provide the State
6 Department of Health Care Services and local health and building
7 departments with notification of any cleanup activity pursuant to
8 this subdivision at least 30 days prior to commencement of the
9 activity.

10 (g) Maintenance and operation of any real property or other
11 tangible property with an estimated useful life of five or more
12 years that is owned by the local agency or by another local agency
13 pursuant to an agreement entered into under Section 53316.2.

14 A community facilities district tax approved by vote of the
15 landowners of the district may only finance the services authorized
16 in this section to the extent that they are in addition to those
17 provided in the territory of the district before the district was
18 created. The additional services shall not supplant services already
19 available within that territory when the district was created.

20 Bonds shall not be issued pursuant to this chapter to fund any
21 of the services specified in this section, although bonds may be
22 issued to fund capital facilities to be used in providing these
23 services.

24 SEC. 2.— Section 53313.5 of the Government Code is amended
25 to read:

26 53313.5.— A community facilities district may also finance the
27 purchase, construction, expansion, improvement, or rehabilitation
28 of any real or other tangible property with an estimated useful life
29 of five years or longer or may finance planning and design work
30 that is directly related to the purchase, construction, expansion, or
31 rehabilitation of any real or tangible property. The facilities need
32 not be physically located within the district. A district may not
33 lease out facilities that it has financed except pursuant to a lease
34 agreement or annexation agreement entered into prior to January
35 1, 1988. A district may only finance the purchase of facilities
36 whose construction has been completed, as determined by the
37 legislative body, before the resolution of formation to establish
38 the district is adopted pursuant to Section 53325.1, except that a
39 district may finance the purchase of facilities completed after the
40 adoption of the resolution of formation if the facility was

1 ~~constructed as if it had been constructed under the direction and~~
2 ~~supervision, or under the authority of, the local agency that will~~
3 ~~own or operate the facility. For example, a community facilities~~
4 ~~district may finance facilities, including, but not limited to, the~~
5 ~~following:~~

6 ~~(a) Local park, recreation, parkway, and open-space facilities.~~

7 ~~(b) Elementary and secondary schoolsites and structures~~
8 ~~provided that the facilities meet the building area and cost standards~~
9 ~~established by the State Allocation Board.~~

10 ~~(c) Libraries.~~

11 ~~(d) Child care facilities, including costs of insuring the facilities~~
12 ~~against loss, liability insurance in connection with the operation~~
13 ~~of the facility, and other insurance costs relating to the operation~~
14 ~~of the facilities, but excluding all other operational costs. However,~~
15 ~~the proceeds of bonds issued pursuant to this chapter shall not be~~
16 ~~used to pay these insurance costs.~~

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

1 ~~(f) (1) The district may also finance the acquisition,~~
 2 ~~improvement, rehabilitation, or maintenance of any real or other~~
 3 ~~tangible property, whether privately or publicly owned, for flood~~
 4 ~~and storm protection services, including, but not limited to, storm~~
 5 ~~drainage and treatment systems and sandstorm protection systems.~~
 6 ~~(2) The district may also finance the acquisition, improvement,~~
 7 ~~rehabilitation, or maintenance of any publicly owned real or other~~
 8 ~~tangible property for local agencies' compliance with storm water~~
 9 ~~management permits.~~
 10 ~~(g) The district may also pay in full all amounts necessary to~~
 11 ~~eliminate any fixed special assessment liens or to pay, repay, or~~
 12 ~~defease any obligation to pay or any indebtedness secured by any~~
 13 ~~tax, fee, charge, or assessment levied within the area of a~~
 14 ~~community facilities district or may pay debt service on that~~
 15 ~~indebtedness. When the amount financed by the district is to pay~~
 16 ~~a tax, fee, charge, or assessment imposed by a public agency other~~
 17 ~~than the one conducting the proceedings, and if the amount~~
 18 ~~provided to the other public agency will not be entirely used to~~
 19 ~~pay off or prepay an assessment lien or special tax obligation~~
 20 ~~pursuant to the property owner's legal right to do so, the written~~
 21 ~~consent of the other public agency is required. In addition, tax~~
 22 ~~revenues of a district may be used to make lease or debt service~~
 23 ~~payments on any lease, lease-purchase contract, or certificate of~~
 24 ~~participation used to finance facilities authorized to be financed~~
 25 ~~by the district.~~
 26 ~~(h) Any other governmental facilities that the legislative body~~
 27 ~~creating the community facilities district is authorized by law to~~
 28 ~~contribute revenue to, or construct, own, or operate. However, the~~
 29 ~~district shall not operate or maintain or, except as otherwise~~
 30 ~~provided in subdivisions (e) and (k), have any ownership interest~~
 31 ~~in any facilities for the transmission or distribution of natural gas,~~
 32 ~~telephone service, or electrical energy.~~
 33 ~~(i) (1) A district may also pay for the following:~~
 34 ~~(A) Work deemed necessary to bring buildings or real property,~~
 35 ~~including privately owned buildings or real property, into~~
 36 ~~compliance with seismic safety standards or regulations. Only~~
 37 ~~work certified as necessary to comply with seismic safety standards~~
 38 ~~or regulations by local building officials may be financed. No~~
 39 ~~project involving the dismantling of an existing building and its~~
 40 ~~replacement by a new building, nor the construction of a new or~~

1 substantially new building may be financed pursuant to this
2 subparagraph. Work on qualified historical buildings or structures
3 shall be done in accordance with the State Historical Building
4 Code (Part 2.7 (commencing with Section 18950) of Division 13
5 of the Health and Safety Code).

6 (B) In addition, within any county or area designated by the
7 President of the United States or by the Governor as a disaster area
8 or for which the Governor has proclaimed the existence of a state
9 of emergency because of earthquake damage, a district may also
10 pay for any work deemed necessary to repair any damage to real
11 property directly or indirectly caused by the occurrence of an
12 earthquake cited in the President's or the Governor's designation
13 or proclamation, or by aftershocks associated with that earthquake,
14 including work to reconstruct, repair, shore up, or replace any
15 building damaged or destroyed by the earthquake, and specifically
16 including, but not limited to, work on any building damaged or
17 destroyed in the Loma Prieta earthquake that occurred on October
18 17, 1989, or by its aftershocks. Work may be financed pursuant
19 to this subparagraph only on property or buildings identified in a
20 resolution of intention to establish a community facilities district
21 adopted within seven years of the date on which the county or area
22 is designated as a disaster area by the President or by the Governor
23 or on which the Governor proclaims for the area the existence of
24 a state of emergency.

25 (2) Work on privately owned property, including reconstruction
26 or replacement of privately owned buildings pursuant to
27 subparagraph (B) of paragraph (1), may only be financed by a tax
28 levy if all of the votes cast on the question of levying the tax, vote
29 in favor of levying the tax, or with the prior written consent to the
30 tax of the owners of all property that may be subject to the tax, in
31 that case the prior written consent shall be deemed to constitute a
32 vote in favor of the tax and any associated bond issue. Any district
33 created to finance seismic safety work on privately owned
34 buildings, including repair, reconstruction, or replacement of
35 privately owned buildings pursuant to this subdivision, shall consist
36 only of lots or parcels that the legislative body finds have buildings
37 that were damaged or destroyed by the earthquake cited pursuant
38 to subparagraph (B) of paragraph (1) or by the aftershocks of that
39 earthquake.

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

1 ~~(1) Work deemed necessary to repair and abate damage caused~~
2 ~~to privately owned buildings and structures by soil deterioration.~~
3 ~~“Soil deterioration” means a chemical reaction by soils that causes~~
4 ~~structural damage or defects in construction materials including~~
5 ~~concrete, steel, and ductile or cast iron. Only work certified as~~
6 ~~necessary by local building officials may be financed. No project~~
7 ~~involving the dismantling of an existing building or structure and~~
8 ~~its replacement by a new building or structure, nor the construction~~
9 ~~of a new or substantially new building or structure may be financed~~
10 ~~pursuant to this paragraph.~~

11 ~~(2) Work on privately owned buildings and structures pursuant~~
12 ~~to this subdivision, including reconstruction, repair, and abatement~~
13 ~~of damage caused by soil deterioration, may only be financed by~~
14 ~~a tax levy if all of the votes cast on the question of levying the tax~~
15 ~~vote in favor of levying the tax. Any district created to finance the~~
16 ~~work on privately owned buildings or structures, including~~
17 ~~reconstruction, repair, and abatement of damage caused by soil~~
18 ~~deterioration, shall consist only of lots or parcels on which the~~
19 ~~legislative body finds that the buildings or structures to be worked~~
20 ~~on pursuant to this subdivision suffer from soil deterioration.~~

21 ~~(k) A district may also finance the acquisition, improvement,~~
22 ~~rehabilitation, or maintenance of any real or other tangible property,~~
23 ~~whether privately or publicly owned, for the purposes of removal~~
24 ~~or remedial action for the cleanup of any hazardous substance~~
25 ~~released or threatened to be released into the environment. As used~~
26 ~~in this subdivision, “remedial action” and “removal” shall have~~
27 ~~the meaning set forth in Sections 25322 and 25323, respectively,~~
28 ~~of the Health and Safety Code, and “hazardous substance” shall~~
29 ~~have the meaning set forth in Section 25281 of the Health and~~
30 ~~Safety Code.~~

31 ~~(l) A district may also finance and refinance the acquisition,~~
32 ~~installation, and improvement of energy efficiency, water~~
33 ~~conservation, and renewable energy improvements that are affixed,~~
34 ~~as specified in Section 660 of the Civil Code, to or on real property~~
35 ~~and in buildings, whether the real property or buildings are~~
36 ~~privately or publicly owned. Energy efficiency, water conservation,~~
37 ~~and renewable energy improvements financed by a district may~~
38 ~~only be installed on a privately owned building and on privately~~
39 ~~owned real property with the prior written consent of the owner~~
40 ~~or owners of the building or real property. This chapter shall not~~

1 ~~be used to finance installation of energy efficiency, water~~
2 ~~conservation, and renewable energy improvements on a privately~~
3 ~~owned building or on privately owned real property in connection~~
4 ~~with the initial construction of a residential building unless the~~
5 ~~initial construction is undertaken by the intended owner or~~
6 ~~occupant.~~

7 ~~(m) Any improvement on private property authorized to be~~
8 ~~financed by this section shall constitute a “public facility” for~~
9 ~~purposes of this chapter and a “public improvement” for purposes~~
10 ~~of Part 1 (commencing with Section 3100) and Part 2 (commencing~~
11 ~~with Section 3110) of Division 4.5 of the Streets and Highways~~
12 ~~Code, whether the improvement is owned by a private entity, if~~
13 ~~the legislative body has determined that the improvement provides~~
14 ~~a public benefit, or the improvement is owned by a public agency.~~