

Senate Bill No. 142

Passed the Senate September 10, 2013

Secretary of the Senate

Passed the Assembly September 9, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to repeal Chapter 2 (commencing with Section 99100) of, and to repeal, add, and repeal Chapter 1 (commencing with Section 99000) of, Part 11 of Division 10 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 142, DeSaulnier. Public transit.

Existing law provides for creation of one or more special benefit districts within a transit district or rapid transit district relative to the issuance of bonds to be repaid through special assessments levied on property within the special benefit district, or certain zones within the special benefit district, with the proceeds of the bonds to be used for specified transit improvements. Existing law enacts similar provisions applicable to a municipal transit system owned by a city or county.

This bill would repeal all of these provisions.

Existing law, with respect to the Santa Clara Valley Transportation Authority, authorizes the creation of one or more benefit districts by the authority for rail transit purposes.

This bill, until January 1, 2021, would enact new general provisions similar to the Santa Clara Valley Transportation Authority provisions that would authorize an operator, defined to mean a transit district, municipal operator, or other public agency operating or contracting for the operation of transit, commuter rail, or intercity rail services, to create one or more special benefit districts within the service area of the operator relative to the issuance of bonds to be repaid through special assessments levied on property within the special benefit district, or zones within the special benefit district. An operator other than a transit district or municipal operator would be authorized to implement these provisions only if the action is consistent with the general or specific plans of the city or county within which the special benefit district is to be created. The proceeds of the bonds would be required to be used for eligible transit projects, including transit stations and rail facilities, as defined. The eligible transit projects would be required to provide special benefits to parcels of land,

and improvements on those parcels, within the vicinity of transit stations. The bill would require the area included in a benefit district established under these provisions to lie not more than ½ mile from the center point of a transit station. The bill would require the special benefit assessments authorized by the bill to be levied and collected by the applicable county and would thereby impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. Chapter 1 (commencing with Section 99000) of Part 11 of Division 10 of the Public Utilities Code is repealed.

SEC. 2. Chapter 1 (commencing with Section 99000) is added to Part 11 of Division 10 of the Public Utilities Code, to read:

CHAPTER 1. BENEFIT ASSESSMENT DISTRICTS

99000. As used in this chapter, the following terms have the following meanings:

(a) “Benefit district” means a special benefit assessment district established pursuant to this chapter, the area of which shall lie not more than one-half mile from the center point of any transit station or proposed transit station.

(b) “Board” means the governing board of the operator.

(c) “Eligible transit project” means transit stations and rail facilities and associated services, but excludes operating costs of rail or transit services.

(d) (1) For purposes of this chapter, “legal representative” means an official of a corporation owning real property in the benefit district.

(2) For purposes of this chapter, “legal representative” also means a guardian, conservator, executor, or administrator of the estate of the holder of title to real property in the benefit district who is all of the following:

(A) The person is appointed under the laws of this state.

(B) The person is entitled to the possession of the estate's real property.

(C) The person is authorized by the appointing court to exercise the particular right, privilege, or immunity which he or she seeks to exercise.

(e) "Operator" means a transit district, municipal operator, or other public agency operating or contracting for the operation of transit, commuter rail, or intercity rail services.

(f) "Rail" means rail transit, commuter rail, or intercity rail.

(g) "Rail facilities" means land, buildings, and equipment, or any interest therein, whether or not the operation thereof produces revenue, which has, as its primary purpose, the operation of the rail system or the providing of services to the passengers of the rail system, but does not mean any land, buildings, or equipment, or interest therein, which is used primarily for the production of revenue not arising from the operation of the rail system.

(h) "Transit station" means a rail station, or a ferry terminal, or a bus transfer station as defined in paragraph (2) of subdivision (b) of Section 65460.1 of the Government Code.

99001. The Legislature finds and declares that:

(a) It is necessary and in the best interest of the citizens of the state to authorize operators to levy special benefit assessments for needed eligible transit projects on the property that benefits from those transit projects.

(b) The eligible transit projects provide special benefits to parcels of land, and improvements thereon, in the vicinity of transit stations, and provide general benefits to the community at large. The board of the operator shall be the conclusive judge of the proportion of special and general benefits produced by the eligible transit projects and of the distribution of the special benefits among parcels of property within the benefit assessment district.

99002. (a) Whenever the board finds that property adjacent to, or in the vicinity of, one or more transit stations, or proposed transit stations, of the operator receives or will receive special benefit by reason of the location or operation of one or more of those transit stations, the board may, by resolution adopted by a two-thirds vote of its members, provide for notice and hearing on its intention to establish one or more special benefit districts and levy a special benefit assessment on real property therein for the

purpose of financing, in whole or in part, the acquisition, construction, development, joint development, operation, maintenance, or repair of one or more eligible transit projects located within the benefit district.

(b) In connection with the levy of a special benefit assessment, the board shall comply with the notice, protest, and hearing procedures set forth in Section 53753 of the Government Code.

(c) The resolution may provide that the proposed benefit district will contain separate zones, which may consist of either contiguous or noncontiguous areas of land within the service area of the operator. The proposed benefit district and each proposed zone, if any, therein shall be an area adjacent to, or in the vicinity of, one or more transit stations or proposed transit stations. The boundaries of the benefit district and of each zone, if any, therein shall be drawn so as to reflect, as accurately as possible, the areas in which special benefits are conferred by reason of the proximity and operation of one or more transit stations.

(d) A notice stating the time and place of the hearing, and setting forth the boundaries and purpose of the proposed benefit district, shall be published prior to the time fixed for the hearing pursuant to Section 6066 of the Government Code.

(e) An operator other than a transit district, city, or county may implement a special benefit district under this chapter only if the action is consistent with the general or specific plans of the city or county within which the special benefit district is to be created.

99003. (a) The resolution shall state, as appropriate, the maximum and minimum rate of assessment, the amount of the special benefit assessment and the purposes for which it is to be levied, the estimated cost of accomplishing the purposes, and the dates or approximate intervals at which the assessment shall be levied. The resolution shall also state that the exterior boundaries of the benefit district are set forth on a map on file with the operator, which map shall govern for all purposes as to the extent of the benefit district and zones, if any, therein and that the area set forth on the map shall thereupon constitute and be known as “Benefit District No. ____ of the [insert name of operator],” or as “Benefit Zone ____ of the Benefit District No. ____ of the [insert name of operator],” as designated by the board.

(b) A copy of the resolution shall be included with the notice given pursuant to Section 53753 of the Government Code.

99004. (a) In determining the amount of a special benefit assessment, the board shall measure the benefit to real property in the benefit district or zones therein according to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution.

(b) The special benefit assessment constitutes a charge imposed on particular real property for an eligible transit project of direct benefit to that property, and does not constitute an ad valorem tax or any other form of general tax levy applying a given rate to the assessed valuation of all taxable property within the service area of the operator.

(c) The operator shall possess all powers necessary for, incidental to, or convenient for, the collection, enforcement, administration, or distribution of the special benefit assessment in accordance with California law.

(d) The revenue from a special benefit assessment, which is imposed pursuant to this chapter, or from bonds secured by such a special benefit assessment, for the purpose of financing an eligible transit project located within the benefit district, shall be used only for financing of the project for which it was levied, and that revenue shall not be used for any other purpose or the payment of any other expense of the operator, including, but not limited to, a transit, transportation, or operating expense.

99005. (a) Where any parcel in the benefit district is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of that parcel may designate in writing which one of the owners shall be deemed the owner of the parcel for purposes of submitting an assessment ballot pursuant to Section 53753 of the Government Code. In the absence of a designation, paragraph (3) of subdivision (e) of Section 53753 of the Government Code shall apply.

(b) The legal representative of a corporation or an estate owning real property in the benefit district may act on behalf of the corporation or the estate.

99006. If a majority does not protest the imposition of an assessment, the board may levy the assessment in accordance with the resolution adopted pursuant to Section 99002.

99007. (a) Any owner or owners of real property, which is, in whole or in part, within the benefit district, or their legal representatives, may jointly or severally file with the board a

petition requesting that the real property owned by them or for which they are the legal representative be excluded from the benefit district on the ground that the real property sought to be excluded is not benefited or that the assessment be reduced on the ground that the assessment exceeds the benefit to that real property.

(b) The real property sought to be excluded or upon which the assessment is sought to be reduced shall be described by its legal description and shall be accompanied by a map depicting its location in relation to the benefit district.

(c) The petition shall contain a statement of facts in support of the petition and shall be acknowledged by the owner or the legal representative filing the petition.

99008. Notice of each hearing upon the petition for exclusion or reduction shall be given in accordance with subdivision (d) of Section 99002. Notice shall also be mailed at least 30 days prior to the hearing to all record owners of each identified parcel within the boundaries of the benefit district or zone.

99009. At the time and place provided in the notice or at any time and place to which the hearing is adjourned, the board or its appointed hearing officer shall hear all of the following:

(a) The petition for exclusion or reduction.

(b) All evidence or proof that may be introduced by or on behalf of the petitioners.

(c) All objections to the petition that may be presented in writing by any person, including the authority.

(d) All evidence or proof that may be introduced in support of objections to the petition.

99010. The expenses of giving the notice provided for herein and of the hearing on the exclusion or reduction petition shall be paid by the persons filing the petition.

99011. Upon the hearing on an exclusion or reduction petition by the board, or upon the record of hearing by a hearing officer, the board shall order the petition be denied if the petitioner has not shown by a preponderance of the evidence that in an exclusion petition the real property is not benefited or in a reduction petition that the assessment exceeds the benefit to the property.

99012. The board, after the hearing on an exclusion or reduction petition, shall order one of the following by resolution:

(a) In the case of an exclusion petition, order the exclusion of all or any part of the real property described in the petition upon

its finding that the property will not be benefited by the operations of the operator in the vicinity of the benefit district.

(b) In the case of a reduction petition, order a change in the benefit assessment to all or any portion of the real property described in the petition to provide that it not exceed the amount of benefit derived by the operations of the operator in the vicinity of the benefit district.

(c) Confirm the assessment on the real property subject to the petition as correctly reflecting the amount of benefit to the real property.

99013. (a) Following formation of the benefit district or concurrently therewith, if the board deems it necessary to incur a bonded indebtedness for the acquisition, construction, development, joint development, completion, operation, maintenance, or repair of one or more eligible transit facilities located within the benefit district, the board may provide, by resolution, that the bonded indebtedness shall be payable from special benefit assessments levied within the benefit district. The resolution shall be adopted by a two-thirds vote of the members of the board, and shall declare and state all of the following:

(1) That the board intends to incur an indebtedness, by the issuance of bonds of the operator, for the benefit district which the board has formed, or intends to form, within a portion of the service area of the operator.

(2) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs necessary or convenient for, incidental to, or connected with, the accomplishment of the purposes, including, without limitation, engineering, inspection, legal, fiscal agent, financial consultant, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period, if any, and for a period not exceeding three years thereafter, and the expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(3) The estimated cost of accomplishing the purposes and the amount of the principal of the indebtedness to be incurred.

(4) That a general description of the benefit district and of each zone, if any, therein and maps showing the exterior boundaries thereof are on file with the operator and available for inspection by any interested person.

(5) That special benefit assessments for the payment of the bonds, and the interest thereon, have been, or are proposed to be levied in the benefit district or zones therein in accordance with the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution.

(6) The extent to which, if at all, all or a portion of the revenues of the operator are to be used to pay the principal of, interest on, and sinking fund payments for, the bonds, including the establishment and maintenance of any reserve fund therefor.

(7) The time and place set for hearing on the proposed issuance of the bonds.

(8) That, prior to levying a special benefit assessment, the board shall comply with the notice, protest, and hearing procedures set forth in Section 53753 of the Government Code.

(9) The maximum term the proposed bonds shall run before maturity, which shall not exceed 40 years from the date of the bonds or any series thereof.

(10) The maximum rate or rates of interest to be paid, which shall not exceed 12 percent per annum.

(11) That the pledge of special benefit assessment revenues to the bonds authorized by this section has priority over the use of any of those revenues for pay-as-you-go financing, except to the extent that this priority is expressly restricted by any of the operator's agreements with bondholders.

(b) The notice stating the time and place of the hearing on the proposed issuance of bonds shall be published prior to the time fixed for the hearing pursuant to Section 6066 of the Government Code.

99014. At the time and place fixed for the hearing on the issuance of bonds payable from special benefit assessments levied under this chapter, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing. Interested persons may appear at the hearing and present matters material to the questions set forth in the resolution. At the conclusion of the hearing on the proposed issuance of bonds, the board shall, by resolution adopted by a two-thirds vote of the members, determine whether to incur the bonded indebtedness.

The resolution shall state the amount of the proposed debt, the purposes for which it is to be incurred, and the estimated cost of

accomplishing the purposes. The determinations made in the resolution are final and conclusive.

99015. Special benefit assessments for the payment of the principal of, and interest on, bonds issued for a benefit district or zone shall be levied in the benefit district or zone at rates that are sufficient in the aggregate, together with revenues already collected and available, to pay the principal of, and interest on, all bonds the authority issued for the benefit district or zone. Other revenues of the operator shall be used for the payment of the principal of, and interest on, the bonds only to the extent set forth in any agreement of the authority for the benefit of bondholders.

Special benefit assessments in the benefit district and zones, if any, therein shall be calculated in accordance with the requirements set forth in Section 4 of Article XIII D of the California Constitution.

99016. The bonds issued pursuant to this chapter shall bear interest at a rate or rates not exceeding 12 percent per annum, payable semiannually, except that the first interest payable on the bonds or any series thereof may be for any period not to exceed one year as determined by the board.

In the resolution or resolutions providing for the issuance of bonds, the board may also provide for call and redemption of the bonds prior to maturity at times and prices and upon any other terms that it may specify. However, no bond is subject to call or redemption prior to maturity unless the bond contains a recital to that effect. The denomination or denominations of bonds shall be stated in the resolution providing for their issuance, but shall not be less than five thousand dollars (\$5,000). The principal of, and interest on, the bonds shall be payable in lawful money of the United States at the office of the treasurer of the authority or at any other place or places that may be designated by the board, or at either place or places at the option of the holders of the bonds. The bonds shall be dated, numbered consecutively, signed by the board chairperson and chief financial officer, and countersigned by the secretary and shall have the official seal of the authority attached. The interest coupons of the bonds shall be signed by the chief financial officer. The seal and all signatures and countersignatures may be printed, lithographed, or mechanically reproduced, except that one signature or countersignature shall be manually affixed.

If an officer, whose signature or countersignature appears on the bonds or coupons, leaves office for any reason prior to the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

99017. The bonds issued pursuant to this chapter may be sold as the board determines by resolution. The board may sell the bonds at a price below par.

If the board determines by resolution that the bonds shall be sold by competitive bid, the board, before selling the bonds, or any part thereof, shall give notice inviting sealed bids in the manner that it prescribes. If satisfactory bids are received, the bonds offered shall be awarded to the highest responsible bidder. If no bids are received, or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale or by negotiation, or by other lawful means.

If the board determines by resolution that the bonds shall not be sold by competitive bid, the board may sell the bonds at public or private sale, by negotiation, or by other lawful means.

99018. Delivery of any bonds issued under this chapter may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

99019. All accrued interest and premiums received on the sale of bonds issued by the operator pursuant to this chapter shall be placed in the fund to be used for the payment of principal of, and interest on, those bonds. The remainder of the proceeds received on the sale of the bonds shall be placed in the treasury to secure those bonds or for the purposes for which the debt was incurred.

When the purposes for which the debt was incurred have been accomplished, any money remaining shall be either (a) transferred to the fund to be used for the payment of principal of, and interest on, the bonds or (b) placed in a fund to be used for the purchase of those outstanding bonds of the operator, from time to time, in the open market at the prices and in the manner, either at public or private sale or otherwise, that the board determines. Bonds so purchased shall be canceled immediately.

99020. The board may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the operator under this chapter upon the terms, at the times, and

in the manner that it determines. Refunding bonds may be issued in a principal amount sufficient to pay all, or any part, of the principal of the outstanding bonds issued under this chapter, the interest thereon, and the premiums, if any, due upon call and redemption thereof prior to maturity and all expenses of the refunding.

The provisions of this chapter, for the issuance and sale of bonds apply to the issuance and sale of refunding bonds, except that, when refunding bonds are to be exchanged for outstanding bonds, the method of exchange shall be as determined by the board.

99021. Any bonds issued under this chapter are legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; for state school funds; and, whenever any money or funds may, by any law now or hereafter enacted, be invested in bonds of cities, counties, school districts, or other districts within this state, the money or funds may be invested in the bonds issued under this chapter.

Whenever bonds of cities, counties, school districts, or other districts within this state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money, bonds issued under this chapter may be so used.

The provisions of this chapter are in addition to all other laws relating to legal investments and are controlling as the latest expression of the Legislature with respect thereto.

99022. The board may change the purposes for which any proposed debt is to be incurred, the estimated cost, the amount of bonded debt to be incurred, or the boundaries of the benefit district or zones, if any, therein or one or all of those matters, except that the board shall not change the boundaries to include any territory which will not, in its judgment, be benefited by the action of the operator.

99023. (a) The board shall not change the purposes, the estimated cost, the boundaries of the benefit district or zones, if any, therein, or the amount of bonded debt to be incurred until after it gives notice of its intention to do so, stating each proposed change in the purpose and stating, if applicable, that the exterior boundaries proposed to be changed are set forth on a map on file with the operator. The notice shall also specify the time and the place set for hearing.

(b) The notice shall be published prior to the time set for the hearing pursuant to Section 6066 of the Government Code.

(c) The notice shall also be mailed at least 30 days prior to the hearing to all owners of real property affected by the proposed change whose names and addresses appear on the last equalized assessment roll or are otherwise known to the board of supervisors of the county in which the benefit district is located or to the operator. However, any proposed increases to a special benefit assessment may not be made unless all notice, protest, and hearing procedures set forth in Section 53753 of the Government Code have been followed.

99024. At the time and place fixed for a hearing on changes, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing, interested persons may appear and present matters material to the changes set forth in the notice.

At the conclusion of the hearing, the board shall, by resolution, determine whether to make any or all of the changes set forth in the notice. The determinations made in the resolution are conclusive and final.

99025. All decisions and determinations of the board, upon notice and hearing, are final and conclusive upon all persons entitled to appeal to the board as to all errors, informalities, and irregularities which the board might have avoided or remedied during the progress of the proceedings or which it can, at that time, remedy.

Any objection, appeal, or protest not made at the time of any hearing is deemed to be waived voluntarily by any person who might have made the appeal, protest, or objection, and the person is deemed to have consented to the action taken following the hearing and any other matter on which objection, protest, or appeal could have been made.

99026. Any action or proceeding which contests, questions, or denies the validity or legality of the formation of any benefit district or zone, the issuance of any bonds therefor pursuant to this chapter, or any proceedings relating thereto, shall be commenced within six months from the date of the formation, or the formation of the benefit district or zone, the issuance of the bonds, and all proceedings relating thereto shall be held to be in every respect valid, legal, and incontestable.

99027. When the board has imposed a special benefit assessment, the secretary shall so certify to the assessor of the county in which the territory of any benefit district is located and deliver to the assessor copies of all maps and diagrams of the benefit district and zones, if any, therein, indicating the amount of the special benefit assessment to be levied within the benefit district and zones, if any, therein.

Special benefit assessments authorized by this chapter shall be levied and collected by the county at the same time and in the same manner as taxes are levied and collected. The county may deduct its reasonable expenses of collection and shall transmit the balance of the assessments to the operator.

99028. In the event of conflict with any other law, this chapter shall prevail with respect to benefit districts within the service area of the operator.

99029. Notwithstanding any other provision of this chapter, the operator shall not pledge any portion of its general fund revenues to pay any part of any bonded indebtedness incurred under this chapter unless required by the California Constitution.

99030. This chapter shall be repealed on January 1, 2021.

SEC. 3. Chapter 2 (commencing with Section 99100) of Part 11 of Division 10 of the Public Utilities Code is repealed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

Approved _____, 2013

Governor