

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 10, 2013

**SENATE BILL**

**No. 692**

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**Introduced by Senator Hancock**

February 22, 2013

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An act to amend Sections 6588, 53313, 53316.2, 53317, 53328.1, 53340, 53350, and 53363.9 *of*, and to add Section 53357.1 to, of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 692, as amended, Hancock. Local government: community facilities districts.

(1) The Mello-Roos Community Facilities Act of 1982 authorizes the legislative bodies of 2 or more local agencies, at any time prior to the adoption of the resolution of formation creating a community facilities district or a resolution of change to alter a district, or a resolution or resolutions authorizing issuance of bonds, to enter into a joint community facilities agreement or into a joint exercise of powers agreement, pursuant to the Joint Exercise of Powers Act, to exercise any power authorized by the Mello-Roos Community Facilities Act of 1982 with respect to the community facilities district being created or changed if the legislative body of each entity adopts a resolution declaring that the joint agreement would be beneficial to the residents of that entity.

This bill would specify that this authorization is not intended to limit the ability of a joint powers authority created pursuant to the Joint Exercise of Powers Act to exercise powers authorized by the Marks-Roos Local Bond Pooling Act of 1985.

(2) Under the Mello-Roos Community Facilities Act of 1982, after a community facilities district has been created and authorized to levy specified special taxes, the legislative body may, by ordinance, levy the special taxes at the rate and apportion them in the manner specified in the resolution forming the community facilities district. The act also authorizes the annexation of territory to the community facilities district by unanimous approval of the owner or owners following the formation of that district.

This bill would authorize the legislative body, in the case of a community facilities district that includes property proposed to be annexed to the district at a future date by unanimous approval, to, by ordinance, provide for the imposition of special taxes on that property, as specified.

(3) The Mello-Roos Community Facilities Act of 1982 authorizes the legislative body to, by resolution, designate a portion or portions of the district as one or more improvement areas for purposes of the financing of, or contributing to the financing of, specified public facilities, as specified, and following the designation, authorizes all proceedings for purposes of a bond election and for the purpose of levying special taxes for payment of the bonds, or for any other change, to apply only to the improvement area for those specified facilities.

This bill would authorize the legislative body ~~to~~, to designate a parcel or parcels of property included in a community facilities district by unanimous approval, as specified, as an improvement area without additional hearings or procedures, as specified. The bill would specify that following the designation, all proceedings for approval of the appropriations limit, the rate and method of apportionment and manner of collection of special taxes, and the authorization to incur bonded indebtedness for the parcel or parcels applies only within the improvement area.

(4) The Mello-Roos Community Facilities Act of 1982 authorizes the legislative body to incur bonded indebtedness, as specified, and authorizes any refunding bonds issued to be exchanged for the bonds to be refunded on such basis as the legislative body determines is for the benefit of the district. The legislative body is also authorized to sell the refunding bonds at public or private sale, and to place the proceeds of any sale of refunding bonds for cash in the “refunding fund” in the treasury of the local agency. The funds in the “revolving account” are required to be secured and may be invested in accordance with any other laws applicable to the funds of the local agency. Existing law

requires the proceeds and investments in the “refunding fund” at the time of issuance of the refunding bonds, as certified by a certified public accountant, to be in an amount sufficient to pay the principal, interest, and redemption premiums, if any, on the refunded bonds as they become due or at designated dates prior to maturity and the designated costs of issuance of the refunding bonds, or to pay the principal, interest, and redemption premiums, if any, on the refunding bonds prior to the maturity of the bonds to be refunded or prior to a designated date or dates before the maturity of the bonds to be refunded, the principal and any redemption premiums due on the refunded bonds at maturity or upon that designated date or dates, and the designated costs of issuance of the refunding bonds.

This bill would, with regard to the proceeds and any other cash in the “refunding fund,” require those funds to be held uninvested or invested in noncallable obligations of, or obligations guaranteed as to principal and interest by, the United States of America or any agency or instrumentality thereof, when those obligations are backed by the full faith and credit of the United States of America, and requires those proceeds to be in an amount sufficient to pay the principal, interest, and redemption premiums, if any, on the refunded bonds as they become due or at designated dates prior to maturity, in which case certification of a certified public accountant is not required. The bill would authorize a local agency to execute and record in the office of the county ~~recorder~~, *recorder* of the county in which a community facilities district is located, a notice of the owner’s agreement to disclose certain information and a notice of termination of that obligation, as specified. The bill would subject a subsequent transferee of the property to the disclosure obligation.

(5) The Joint Exercise of Powers Act authorizes the legislative or other governing bodies of 2 or more public agencies to jointly exercise by agreement any power common to the contracting parties, as specified, and authorizes that joint powers authority to exercise various powers, including, among others, the power to take title to, and sell by installment sale or otherwise, lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands that are located within the state that the authority determines are necessary or convenient for the financing of public capital improvements, or any portion thereof.

This bill would additionally authorize the joint powers authority to lease lands, structures, real or personal property, rights, rights-of-way,

franchises, easements, and other interests in lands that are located within the state that the authority determines are necessary or convenient for the financing of public capital improvements, or any portion thereof.

(6) The Mello-Roos Community Facilities Act of 1982 authorizes a community facilities district to finance various services, including, but not limited to, police protection services and maintenance and lighting of parks, parkways, streets, roads, and open space.

This bill would also authorize the financing of the maintenance and operation of any real property or other tangible property, with an estimated useful life of five years or more, that is owned by the local agency or by another local agency, as specified.

(7) Existing law specifies the requirements for the establishment of a community facilities district, including, among other things, a petition, a hearing, the establishment of the boundaries of the community facilities district, and an election on the question of establishment. Existing law authorizes a separate procedure for establishing a community facilities district where, with the unanimous approval of parcel owners, the district initially consists solely of territory proposed for annexation to the community facilities district in the future, as specified, and, for a district so established, provides for an alternate procedure for establishing a district appropriations limit, applying special taxes, and incurring bonded indebtedness.

This bill would also exclude a legislative body from being obligated to specify in the resolution of intention the conditions under which the obligation to pay the specified special tax may be prepaid and permanently satisfied, and would instead authorize a prepayment provision to be included in the unanimous approval, as specified. The bill would authorize, as an alternate and independent procedure for making changes to authorized facilities and services, the unanimous approval of the owner or owners of the parcel or parcels that will be affected by the change together with the written consent of the local agency, as specified.

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 6588 of the Government Code is amended  
2 to read:

1 6588. In addition to other powers specified in an agreement  
2 pursuant to Article 1 (commencing with Section 6500) and Article  
3 2 (commencing with Section 6540), the authority may do any or  
4 all of the following:

5 (a) Adopt bylaws for the regulation of its affairs and the conduct  
6 of its business.

7 (b) Sue and be sued in its own name.

8 (c) Issue bonds, including, at the option of the authority, bonds  
9 bearing interest, to pay the cost of any public capital improvement,  
10 working capital, or liability or other insurance program. In addition,  
11 for any purpose for which an authority may execute and deliver  
12 or cause to be executed and delivered certificates of participation  
13 in a lease or installment sale agreement with any public or private  
14 entity, the authority, at its option, may issue or cause to be issued  
15 bonds, rather than certificates of participation, and enter into a  
16 loan agreement with the public or private entity.

17 (d) Engage the services of private consultants to render  
18 professional and technical assistance and advice in carrying out  
19 the purposes of this article.

20 (e) As provided by applicable law, employ and compensate  
21 bond counsel, financial consultants, and other advisers determined  
22 necessary by the authority in connection with the issuance and sale  
23 of any bonds.

24 (f) Contract for engineering, architectural, accounting, or other  
25 services determined necessary by the authority for the successful  
26 development of a public capital improvement.

27 (g) Pay the reasonable costs of consulting engineers, architects,  
28 accountants, and construction, land-use, recreation, and  
29 environmental experts employed by any sponsor or participant if  
30 the authority determines those services are necessary for the  
31 successful development of public capital improvements.

32 (h) Take title to, sell by installment sale or otherwise, or lease  
33 lands, structures, real or personal property, rights, rights-of-way,  
34 franchises, easements, and other interests in lands that are located  
35 within the state that the authority determines are necessary or  
36 convenient for the financing of public capital improvements, or  
37 any portion thereof.

38 (i) Receive and accept from any source, loans, contributions,  
39 or grants, in either money, property, labor, or other things of value,  
40 for, or in aid of, the construction financing, or refinancing of public

1 capital improvement, or any portion thereof or for the financing  
2 of working capital or insurance programs, or for the payment of  
3 the principal of and interest on bonds if the proceeds of those bonds  
4 are used for one or more of the purposes specified in this section.

5 (j) Make secured or unsecured loans to any local agency in  
6 connection with the financing of capital improvement projects,  
7 working capital or insurance programs in accordance with an  
8 agreement between the authority and the local agency. However,  
9 no loan shall exceed the total cost of the public capital  
10 improvements, working capital or insurance needs of the local  
11 agency as determined by the local agency and by the authority.

12 (k) Make secured or unsecured loans to any local agency in  
13 accordance with an agreement between the authority and the local  
14 agency to refinance indebtedness incurred by the local agency in  
15 connection with public capital improvements undertaken and  
16 completed.

17 (l) Mortgage all or any portion of its interest in public capital  
18 improvements and the property on which any project is located,  
19 whether owned or thereafter acquired, including the granting of a  
20 security interest in any property, tangible or intangible.

21 (m) Assign or pledge all or any portion of its interests in  
22 mortgages, deeds of trust, indentures of mortgage or trust, or  
23 similar instruments, notes, and security interests in property,  
24 tangible or intangible, of a local agency to which the authority has  
25 made loans, and the revenues therefrom, including payment or  
26 income from any interest owned or held by the authority, for the  
27 benefit of the holders of bonds issued to finance public capital  
28 improvements. The pledge of moneys, revenues, accounts, contract  
29 rights, or rights to payment of any kind made by or to the authority  
30 pursuant to the authority granted in this part shall be valid and  
31 binding from the time the pledge is made for the benefit of the  
32 pledgees and successors thereto, against all parties irrespective of  
33 whether the parties have notice of the claim.

34 (n) Lease the public capital improvements being financed to a  
35 local agency, upon terms and conditions that the authority deems  
36 proper; charge and collect rents therefor; terminate any lease upon  
37 the failure of the lessee to comply with any of the obligations of  
38 the lease; include in any lease provisions that the lessee shall have  
39 options to renew the lease for a period or periods, and at rents as  
40 determined by the authority; purchase or sell by an installment

1 agreement or otherwise any or all of the public capital  
2 improvements; or, upon payment of all the indebtedness incurred  
3 by the authority for the financing or refinancing of the public  
4 capital improvements, the authority may convey any or all of the  
5 project to the lessee or lessees.

6 (o) Charge and apportion to local agencies that benefit from its  
7 services the administrative costs and expenses incurred in the  
8 exercise of the powers authorized by this article. These fees shall  
9 be set at a rate sufficient to recover, but not exceed, the authority's  
10 costs of issuance and administration. The fee charged to each local  
11 obligation acquired by the pool shall not exceed that obligation's  
12 proportionate share of those costs. The level of these fees shall be  
13 disclosed to the California Debt and Investment Advisory  
14 Commission pursuant to Section 6599.1.

15 (p) Issue, obtain, or aid in obtaining, from any department or  
16 agency of the United States or of the state, or any private company,  
17 any insurance or guarantee to, or for, the payment or repayment  
18 of interest or principal, or both, or any part thereof, on any loan,  
19 lease, or obligation or any instrument evidencing or securing the  
20 same, made or entered into pursuant to this article.

21 (q) Notwithstanding any other provision of this article, enter  
22 into any agreement, contract, or any other instrument with respect  
23 to any insurance or guarantee; accept payment in the manner and  
24 form as provided therein in the event of default by a local agency;  
25 and assign any insurance or guarantee that acts as security for the  
26 authority's bonds.

27 (r) Enter into any agreement or contract, execute any instrument,  
28 and perform any act or thing necessary, convenient, or desirable  
29 to carry out any power authorized by this article.

30 (s) Invest any moneys held in reserve or sinking funds, or any  
31 moneys not required for immediate use or disbursement, in  
32 obligations that are authorized by law for the investment of trust  
33 funds.

34 (t) At the request of affected local agencies, combine and pledge  
35 revenues to public capital improvements for repayment of one or  
36 more series of bonds issued pursuant to this article.

37 (u) Delegate to any of its individual parties or other responsible  
38 individuals the power to act on its behalf subject to its general  
39 direction, guidelines, and oversight.

1 (v) Purchase, with the proceeds of its bonds or its revenue, bonds  
2 issued by any local agency at public or negotiated sale. Bonds  
3 purchased pursuant to this subdivision may be held by the authority  
4 or sold to public or private purchasers at public or negotiated sale,  
5 in whole or in part, separately or together with other bonds issued  
6 by the authority.

7 (w) Purchase, with the proceeds of its bonds or its revenue, VLF  
8 receivables sold to the authority pursuant to Section 6588.5. VLF  
9 receivables so purchased may be pledged to the payment of bonds  
10 issued by the authority or may be resold to public or private  
11 purchasers at public or negotiated sale, in whole or in part,  
12 separately or together with other VLF receivables purchased by  
13 the authority.

14 (x) (1) Purchase, with the proceeds of its bonds or its revenue,  
15 Proposition 1A receivables pursuant to Section 6588.6. Proposition  
16 1A receivables so purchased may be pledged to the payment of  
17 bonds issued by the authority or may be resold to public or private  
18 purchasers at public or negotiated sales, in whole or in part,  
19 separately or together with other Proposition 1A receivables  
20 purchased by the authority.

21 (2) (A) All entities subject to a reduction of ad valorem property  
22 tax revenues required under Section 100.06 of the Revenue and  
23 Taxation Code pursuant to the suspension set forth in Section  
24 100.05 of the Revenue and Taxation Code shall be afforded the  
25 opportunity to sell their Proposition 1A receivables to the authority.

26 (B) If these entities offer Proposition 1A receivables to the  
27 authority for purchase and duly authorize the sale of the Proposition  
28 1A receivable pursuant to documentation approved by the  
29 authority, the authority shall purchase all Proposition 1A  
30 receivables so offered to the extent it can sell bonds therefor. If  
31 the authority does not purchase all Proposition 1A receivables  
32 offered, it shall purchase a pro rata share of each entity's offered  
33 Proposition 1A receivables.

34 (C) The authority may establish a deadline, no earlier than  
35 November 3, 2009, by which these entities shall offer their  
36 Proposition 1A receivables for sale to the authority and complete  
37 the application required by the authority.

38 (3) For purposes of meeting costs incurred in performing its  
39 duties relative to the purchase and sale of Proposition 1A  
40 receivables, the authority shall be authorized to charge a fee to

1 each entity from which it purchases a Proposition 1A receivable.  
2 The fee shall be computed based on the percentage value of the  
3 Proposition 1A receivable purchased from each entity, in relation  
4 to the value of all Proposition 1A receivables purchased by the  
5 authority. The amount of the fee shall be paid from the proceeds  
6 of the bonds and shall be included in the principal amount of the  
7 bonds.

8 (4) Terms and conditions of any and all fees and expenses  
9 charged by the authority, or those it contracts with, and the terms  
10 and conditions of sales of Proposition 1A receivables and bonds  
11 issued pursuant to this subdivision, including the terms of optional  
12 early redemption provisions, if any, shall be approved by the  
13 Treasurer and the Director of Finance, who shall not unreasonably  
14 withhold their approval. The aggregate principal amount of all  
15 bonds issued pursuant to this subdivision shall not exceed two  
16 billion two hundred fifty million dollars (\$2,250,000,000), and the  
17 rate of interest paid on those bonds shall not exceed 8 percent per  
18 annum. The authority shall exercise its best efforts to obtain the  
19 lowest cost financing possible. Any and all premium obtained shall  
20 be used for either of the following:

- 21 (A) Applied to pay the costs of issuance of the bonds.
- 22 (B) Deposited in a trust account that is pledged to bondholders  
23 and used solely for the payment of interest on, or for repayment  
24 of, the bonds.

25 (5) (A) In connection with any financing backed by Proposition  
26 1A receivables, the Treasurer may retain financial advisors, legal  
27 counsel, and other consultants to assist in performing the duties  
28 required by this chapter and related to that financing.

29 (B) Notwithstanding any other law, none of the following shall  
30 apply to any agreements entered into by the Treasurer pursuant to  
31 subparagraph (A) in connection with any Proposition 1A financing:

- 32 (i) Section 11040 of the Government Code.
- 33 (ii) Section 10295 of the Public Contract Code.
- 34 (iii) Article 3 (commencing with Section 10300) and Article 4  
35 (commencing with Section 10335) of, Chapter 2 of Part 2 of  
36 Division 2 of the Public Contract Code, except for the authority  
37 of the Department of Finance under Section 10336 of the Public  
38 Contract Code to direct a state agency to transmit to it a contract  
39 for review, and except for Section 10348.5 of the Public Contract  
40 Code.

1 (C) Any costs incurred by the Treasurer in connection with any  
2 Proposition 1A financing shall be reimbursed out of the proceeds  
3 of the financing.

4 (y) Set any other terms and conditions on any purchase or sale  
5 pursuant to this section as it deems by resolution to be necessary,  
6 appropriate, and in the public interest, in furtherance of the  
7 purposes of this article.

8 SEC. 2. Section 53313 of the Government Code is amended  
9 to read:

10 53313. A community facilities district may be established under  
11 this chapter to finance any one or more of the following types of  
12 services within an area:

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

17 (b) Fire protection and suppression services, and ambulance  
18 and paramedic services.

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

29 (d) Maintenance and lighting of parks, parkways, streets, roads,  
30 and open space.

31 (e) Flood and storm protection services, including, but not  
32 limited to, the operation and maintenance of storm drainage  
33 systems, plowing and removal of snow, and sandstorm protection  
34 systems.

35 (f) Services with respect to removal or remedial action for the  
36 cleanup of any hazardous substance released or threatened to be  
37 released into the environment. As used in this subdivision, the  
38 terms “remedial action” and “removal” shall have the meanings  
39 set forth in Sections 25322 and 25323, respectively, of the Health  
40 and Safety Code, and the term “hazardous substance” shall have

1 the meaning set forth in Section 25281 of the Health and Safety  
2 Code. Community facilities districts shall provide the State  
3 Department of Health Services and local health and building  
4 departments with notification of any cleanup activity pursuant to  
5 this subdivision at least 30 days prior to commencement of the  
6 activity.

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

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

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

21 SEC. 3. Section 53316.2 of the Government Code is amended  
22 to read:

23 53316.2. (a) A community facilities district may finance  
24 facilities to be owned or operated by a public agency other than  
25 the agency that created the district, or services to be provided by  
26 a public agency other than the agency that created the district, or  
27 any combination, only pursuant to a joint community facilities  
28 agreement or a joint exercise of powers agreement adopted pursuant  
29 to this section. A joint community facilities agreement or a joint  
30 exercise of powers agreement with a state or federal agency shall  
31 not be required if the local agency that created the district is the  
32 agency that would, in the absence of the district, enter into an  
33 agreement with the state or federal agency for the provision of the  
34 facilities or services, or if the local agency that created the district  
35 enters into a joint agreement with the public agency that would,  
36 in the absence of the district, enter into an agreement with the state  
37 or federal agency for the provision of the facilities or services.

38 (b) At any time prior to the adoption of the resolution of  
39 formation creating a community facilities district or a resolution  
40 of change to alter a district, or a resolution or resolutions

1 authorizing issuance of bonds pursuant to Section 53356, the  
2 legislative bodies of two or more local agencies may enter into a  
3 joint community facilities agreement pursuant to this section and  
4 Sections 53316.4 and 53316.6 or into a joint exercise of powers  
5 agreement pursuant to the Joint Exercise of Powers Act (Chapter  
6 5 (commencing with Section 6500) of Division 7 of Title 1) to  
7 exercise any power authorized by this chapter with respect to the  
8 community facilities district being created or changed if the  
9 legislative body of each entity adopts a resolution declaring that  
10 the joint agreement would be beneficial to the residents of that  
11 entity. This subdivision shall not be construed to limit the ability  
12 of a joint powers authority created pursuant to the Joint Exercise  
13 of Powers Act to exercise the powers authorized by the Joint  
14 Exercise of Powers Act.

15 (c) Notwithstanding the Joint Exercise of Powers Act, a  
16 contracting party may use the proceeds of any special tax or charge  
17 levied pursuant to this chapter or, in the case of facilities, of any  
18 bonds or other indebtedness issued pursuant to this chapter to  
19 provide facilities or services which that contracting party is  
20 otherwise authorized by law to provide, even though another  
21 contracting party does not have the power to provide those facilities  
22 or services.

23 (d) Notwithstanding subdivision (b), nothing in this section  
24 shall prevent entry into or amendment of a joint community  
25 facilities agreement or a joint exercise of powers agreement at any  
26 time, if the new agreement or amendment is necessary, as  
27 determined by the legislative body, for either of the following  
28 reasons:

29 (1) To allow an orderly transition of governmental facilities and  
30 finances in the case of any change in governmental organization  
31 approved pursuant to the Cortese-Knox-Hertzberg Local  
32 Government Reorganization Act of 2000 (Division 3 (commencing  
33 with Section 56000) of Title 5) or other law governing the  
34 reorganization of any agency that is a party to the agreement.

35 (2) To allow participation in the agreement by a state or federal  
36 agency, including, but not limited to, the California Department  
37 of Transportation. Participation in an agreement by a state or  
38 federal agency is purely optional.

39 (e) Notwithstanding any other provision of this chapter, no local  
40 agency that is party to a joint exercise of powers agreement or

1 joint community facilities agreement shall have primary  
2 responsibility for formation of a district, or for an extension of  
3 authorized facilities and services or a change in special taxes  
4 pursuant to Article 3 (commencing with Section 53330), unless  
5 that local agency is one or more of the following:

6 (1) A city, a county, or a city and county.

7 (2) An agency created pursuant to a joint powers agreement that  
8 is separate from the parties to the agreement, is responsible for the  
9 administration of the agreement, and is subject to the notification  
10 requirement of Section 6503.5.

11 (3) An agency that is reasonably expected to have responsibility  
12 for providing facilities or services to be financed by a larger share  
13 of the proceeds of special taxes and bonds of the district or districts  
14 created or changed pursuant to the joint exercise of powers  
15 agreement or the joint community facilities agreement than any  
16 other local agency.

17 SEC. 4. Section 53317 of the Government Code is amended  
18 to read:

19 53317. Unless the context otherwise requires, the definitions  
20 contained in this article shall govern the construction of this  
21 chapter.

22 (a) “Clerk” means the clerk of the legislative body of a local  
23 agency.

24 (b) “Community facilities district” means a legally constituted  
25 governmental entity established pursuant to this chapter for the  
26 sole purpose of financing facilities and services.

27 (c) “Cost” means the expense of constructing or purchasing the  
28 public facility and of related land, right-of-way, easements,  
29 including incidental expenses, and the cost of providing authorized  
30 services, including incidental expenses.

31 (d) “Debt” means any binding obligation to pay or repay a sum  
32 of money, including obligations in the form of bonds, certificates  
33 of participation, long-term leases, loans from government agencies,  
34 or loans from banks, other financial institutions, private businesses,  
35 or individuals, or long-term contracts.

36 (e) “Incidental expense” includes all of the following:

37 (1) The cost of planning and designing public facilities to be  
38 financed pursuant to this chapter, including the cost of  
39 environmental evaluations of those facilities.

1 (2) The costs associated with the creation of the district, issuance  
2 of bonds, determination of the amount of taxes, collection of taxes,  
3 payment of taxes, or costs otherwise incurred in order to carry out  
4 the authorized purposes of the district.

5 (3) Any other expenses incidental to the construction,  
6 completion, and inspection of the authorized work.

7 (f) “Landowner” or “owner of land” means any person shown  
8 as the owner of land on the last equalized assessment roll or  
9 otherwise known to be the owner of the land by the legislative  
10 body. The legislative body has no obligation to obtain other  
11 information as to the ownership of the land, and its determination  
12 of ownership shall be final and conclusive for the purposes of this  
13 chapter. A public agency is not a landowner or owner of land for  
14 purposes of this chapter, unless one of the following exists:

15 (1) The land owned by a public agency would be subject to a  
16 special tax pursuant to Section 53340.1.

17 (2) The public agency has acquired the property by purchase or  
18 negotiation in connection with foreclosure of a special tax lien and  
19 it is intended that the property will be transferred to private  
20 ownership.

21 (3) The public agency states in the proceedings that its land is  
22 intended to be transferred to private ownership and provides in the  
23 proceedings that its land will be subject to the special tax on the  
24 same basis as private property within the district and affirmatively  
25 waives any defense based on the fact of public ownership, to any  
26 action to foreclose on the property in the event of nonpayment of  
27 the special tax.

28 (4) The land owned by a public agency is within the territory  
29 of a military base that is closed or is being closed.

30 (g) “Legislative body” means the legislative body or governing  
31 board of any local agency.

32 (h) “Local agency” means any city or county, whether general  
33 law or chartered, special district, school district, joint powers entity  
34 created pursuant to Chapter 5 (commencing with Section 6500)  
35 of Division 7 of Title 1, redevelopment agency, or any other  
36 municipal corporation, district, or political subdivision of the state.

37 (i) “Rate” means a single rate of tax or a schedule of rates.

38 (j) “Services” means the provision of categories of services  
39 identified in Section 53313. “Services” includes the performance  
40 by employees of functions, operations, maintenance, and repair

1 activities. “Services” does not include activities or facilities  
2 identified in Section 53313.5. “Maintenance” shall include  
3 replacement, and the creation and funding of a reserve fund to pay  
4 for a replacement.

5 SEC. 5. Section 53328.1 of the Government Code is amended  
6 to read:

7 53328.1. (a) As an alternate and independent procedure for  
8 forming a community facilities district, the legislative body may  
9 form a community facilities district that initially consists solely  
10 of territory proposed for annexation to the community facilities  
11 district in the future, with the condition that a parcel or parcels  
12 within that territory may be annexed to the community facilities  
13 district and subjected to the special tax only with the unanimous  
14 approval of the owner or owners of the parcel or parcels at the  
15 time that the parcel or parcels are annexed. In that case, the  
16 legislative body shall follow the procedures set forth in this article  
17 for the formation of a community facilities district, with the  
18 following exceptions:

19 (1) The legislative body shall not be obligated to specify the  
20 rate or rates of special tax in the resolution of intention or the  
21 resolution of formation, provided that both of the following are  
22 met:

23 (A) The resolution of intention and the resolution of formation  
24 include a statement that the rate shall be established in an amount  
25 required to finance or refinance the authorized improvements and  
26 to pay the district’s administrative expenses.

27 (B) The maximum rate of special tax applicable to a parcel or  
28 parcels shall be specified in the unanimous approval described in  
29 this section relating to the parcel or parcels.

30 (2) The legislative body shall not be obligated to specify in the  
31 resolution of intention the conditions under which the obligation  
32 to pay the specified special tax may be prepaid and permanently  
33 satisfied. Instead, a prepayment provision may be included in the  
34 unanimous approval of the owner or owners of each parcel or  
35 parcels at the time that the parcel or parcels are annexed to the  
36 community facilities district.

37 (3) In lieu of approval pursuant to an election held in accordance  
38 with the procedures set forth in Sections 53326, 53327, 53327.5,  
39 and 53328, the appropriations limit for the community facilities  
40 district, the applicable rate of the special tax and the method of

1 apportionment and manner of collection of that tax, and the  
2 authorization to incur bonded indebtedness for the community  
3 facilities district shall be specified and be approved by the  
4 unanimous approval of the owner or owners of each parcel or  
5 parcels at the time that the parcel or parcels are annexed to the  
6 community facilities district. No additional hearings or procedures  
7 are required, and the unanimous approval shall be deemed to  
8 constitute a unanimous vote in favor of the appropriations limit  
9 for the community facilities district, the authorization to levy the  
10 special tax on the parcel or parcels, and the authorization to incur  
11 bonded indebtedness for the community facilities district.

12 (4) Notwithstanding Section 53324, this paragraph establishes  
13 the applicable protest provisions in the event a local agency forms  
14 a community facilities district pursuant to the procedures set forth  
15 in this section. If 50 percent or more of the registered voters, or  
16 six registered voters, whichever is more, residing within the  
17 territory proposed to be annexed to the community facilities district  
18 in the future, or if the owners of one-half or more of the area of  
19 land proposed to be annexed in the future and not exempt from  
20 the special tax, file written protests against establishment of the  
21 community facilities district, and protests are not withdrawn so as  
22 to reduce the protests to less than a majority, no further proceedings  
23 to form the community facilities district shall be undertaken for a  
24 period of one year from the date of decision of the legislative body  
25 on the issues discussed at the hearing. If the majority protests of  
26 the registered voters or of the landowners are only against the  
27 furnishing of a specified type or types of facilities or services  
28 within the district, or against levying a specified special tax, those  
29 types of facilities or services or the specified special tax shall be  
30 eliminated from the resolution of formation.

31 (5) The legislative body shall not record a notice of special tax  
32 lien against any parcel or parcels in the community facilities district  
33 until the owner or owners of the parcel or parcels have given their  
34 unanimous approval of the parcel's or parcels' annexation to the  
35 community facilities district, at which time the notice of special  
36 tax lien shall be recorded against the parcel or parcels as set forth  
37 in Section 53328.3.

38 (b) Notwithstanding the provisions of Section 53340, after  
39 adoption of the resolution of formation for a community facilities  
40 district described in subdivision (a), the legislative body may, by

1 ordinance, provide for the levy of the special taxes on parcels that  
2 will annex to the community facilities district at the rate or rates  
3 to be approved unanimously by the owner or owners of each parcel  
4 or parcels to be annexed to the community facilities district and  
5 for apportionment and collection of the special taxes in the manner  
6 specified in the resolution of formation. No further ordinance shall  
7 be required even though no parcels may then have annexed to the  
8 community facilities district.

9 (c) The local agency may bring an action to determine the  
10 validity of any special taxes levied pursuant to this chapter and  
11 authorized pursuant to the procedures set forth in this section  
12 pursuant to Chapter 9 (commencing with Section 860) of Title 10  
13 of Part 2 of the Code of Civil Procedure. Notwithstanding Section  
14 53359, if an action is brought by an interested person pursuant to  
15 Section 863 of the Code of Civil Procedure to determine the  
16 validity of any special taxes levied against a parcel pursuant to  
17 this chapter and authorized pursuant to the procedures set forth in  
18 this section, the action shall be brought pursuant to Chapter 9  
19 (commencing with Section 860) of Title 10 of Part 2 of the Code  
20 of Civil Procedure, but shall, notwithstanding the time limits  
21 specified in Section 860 of the Code of Civil Procedure, be  
22 commenced within 15 days after the date on which the notice of  
23 special tax lien is recorded against the parcel. Any appeal from a  
24 judgment in any action or proceeding described in this subdivision  
25 shall be commenced within 30 days after entry of judgment.

26 (d) A community facilities district formed pursuant to this  
27 section may only finance facilities pursuant to subdivision (l) of  
28 Section 53313.5.

29 (e) In connection with formation of a community facilities  
30 district and annexation of a parcel or parcels to the community  
31 facilities district pursuant to this section, and the conduct of an  
32 election on the proposition to authorize bonded indebtedness  
33 pursuant to the alternate procedures set forth in Section 53355.5,  
34 the local agency may, without additional hearings or procedures,  
35 designate a parcel or parcels as an improvement area within the  
36 community facilities district. After the designation of a parcel or  
37 parcels as an improvement area, all proceedings for approval of  
38 the appropriations limit, the rate and method of apportionment and  
39 manner of collection of special tax and the authorization to incur

1 bonded indebtedness for the parcel or parcels shall apply only to  
2 the improvement area.

3 (f) In connection with a community facilities district formed  
4 under this section, as an alternate and independent procedure for  
5 making the changes described in Section 53330.7, the changes  
6 may be made with the unanimous approval of the owner or owners  
7 of the parcel or parcels that will be affected by the change and  
8 with the written consent of the local agency. No additional hearings  
9 or procedures are required, and the unanimous approval shall be  
10 deemed to constitute a unanimous vote in favor of the proposed  
11 changes. If the proceeds of a special tax are being used to retire  
12 any debt incurred pursuant to this chapter and the unanimous  
13 approval relates to the reduction of the special tax rate, the  
14 unanimous approval shall recite that the reduction or termination  
15 of the special tax will not interfere with the timely retirement of  
16 that debt.

17 SEC. 6. Section 53340 of the Government Code is amended  
18 to read:

19 53340. (a) After a community facilities district has been  
20 created and authorized to levy specified special taxes pursuant to  
21 Article 2 (commencing with Section 53318), Article 3  
22 (commencing with Section 53330), or Article 3.5 (commencing  
23 with Section 53339), the legislative body may, by ordinance, levy  
24 the special taxes at the rate and apportion them in the manner  
25 specified in the resolution adopted pursuant to Article 2  
26 (commencing with Section 53318), Article 3 (commencing with  
27 Section 53330), or Article 3.5 (commencing with Section 53339).  
28 After creation of a community facilities district that includes  
29 territory proposed for annexation in the future by unanimous  
30 approval as described in subdivision (b) of Section 53339.3, the  
31 legislative body may, by ordinance, provide for the levy of special  
32 taxes on parcels that will be annexed to the community facilities  
33 district at the rate or rates to be approved unanimously by the  
34 owner or owners of each parcel or parcels to be annexed to the  
35 community facilities district and for apportionment and collection  
36 of the special taxes in the manner specified in the resolution of  
37 formation.

38 (b) The legislative body may provide, by resolution, for the levy  
39 of the special tax in the current tax year or future tax years at the  
40 same rate or at a lower rate than the rate provided by the ordinance,

1 if the resolution is adopted and a certified list of all parcels subject  
2 to the special tax levy including the amount of the tax to be levied  
3 on each parcel for the applicable tax year, is filed by the clerk or  
4 other official designated by the legislative body with the county  
5 auditor on or before the 10th day of August of that tax year. The  
6 clerk or other official designated by the legislative body may file  
7 the certified list after the 10th of August but not later than the 21st  
8 of August if the clerk or other official obtains prior written consent  
9 of the county auditor.

10 (c) Properties or entities of the state, federal, or local  
11 governments shall, except for properties that a local agency is a  
12 landowner of within the meaning of subdivision (f) of Section  
13 53317, or except as otherwise provided in Section 53317.3, be  
14 exempt from the special tax. No other properties or entities are  
15 exempt from the special tax unless the properties or entities are  
16 expressly exempted in the resolution of formation to establish a  
17 district adopted pursuant to Section 53325.1 or in a resolution of  
18 consideration to levy a new special tax or special taxes or to alter  
19 the rate or method of apportionment of an existing special tax as  
20 provided in Section 53334.

21 (d) The proceeds of any special tax may only be used to pay,  
22 in whole or part, the cost of providing public facilities, services,  
23 and incidental expenses pursuant to this chapter.

24 (e) The special tax shall be collected in the same manner as  
25 ordinary ad valorem property taxes are collected and shall be  
26 subject to the same penalties and the same procedure, sale, and  
27 lien priority in case of delinquency as is provided for ad valorem  
28 taxes, unless another procedure has been authorized in the  
29 resolution of formation establishing the district and adopted by  
30 the legislative body.

31 (f) (1) Notwithstanding subdivision (e), the legislative body of  
32 the district may waive all or any specified portion of the  
33 delinquency penalties and redemption penalties if it makes all of  
34 the following determinations:

35 (A) The waivers shall apply only to parcels delinquent at the  
36 time of the determination.

37 (B) The waivers shall be available only with respect to parcels  
38 for which all past due and currently due special taxes and all other  
39 costs due are paid in full within a limited period of time specified  
40 in the determination.

1 (C) The waivers shall be available only with respect to parcels  
2 sold or otherwise transferred to new owners unrelated to the owner  
3 responsible for the delinquency.

4 (D) The waivers are in the best interest of the debtholders.

5 (2) The charges with penalties to be waived shall be removed  
6 from the tax roll pursuant to Section 53356.2 and local  
7 administrative procedures, and any distributions made to the district  
8 prior to collection pursuant to Chapter 3 (commencing with Section  
9 4701) of Part 8 of Division 1 of the Revenue and Taxation Code  
10 shall be repaid by the district prior to granting the waiver.

11 (g) The tax collector may collect the special tax at intervals as  
12 specified in the resolution of formation, including intervals  
13 different from the intervals determining when the ordinary ad  
14 valorem property taxes are collected. The tax collector may deduct  
15 the reasonable administrative costs incurred in collecting the special  
16 tax.

17 (h) All special taxes levied by a community facilities district  
18 shall be secured by the lien imposed pursuant to Section 3115.5  
19 of the Streets and Highways Code. This lien shall be a continuing  
20 lien and shall secure each levy of special taxes. The lien of the  
21 special tax shall continue in force and effect until the special tax  
22 obligation is prepaid, permanently satisfied, and canceled in  
23 accordance with Section 53344 or until the special tax ceases to  
24 be levied by the legislative body in the manner provided in Section  
25 53330.5. If any portion of a parcel is encumbered by a lien pursuant  
26 to this chapter, the entirety of the parcel shall be encumbered by  
27 that lien.

28 SEC. 7. Section 53350 of the Government Code is amended  
29 to read:

30 53350. (a) For purposes of financing of, or contributing to the  
31 financing of, specified public facilities, the legislative body may  
32 by resolution designate a portion or portions of the district as one  
33 or more improvement areas. An area shall be known as  
34 “Improvement Area No. \_\_\_\_” of “Community Facilities District  
35 \_\_\_\_.” After the designation of an improvement area, all  
36 proceedings for purposes of a bond election and for the purpose  
37 of levying special taxes for payment of the bonds, or for any other  
38 change pursuant to Article 3 (commencing with Section 53330),  
39 shall apply only to the improvement area for those specified  
40 facilities.

1 (b) In connection with the annexation by unanimous approval  
2 to a community facilities district of a parcel that was included in  
3 territory proposed for annexation in the future to the community  
4 facilities district, as described in Section 53329.6, the local agency  
5 ~~may, without additional hearings or procedures, may~~ designate a  
6 parcel or parcels as an improvement area within the community  
7 facilities district. *The designation of a parcel or parcels as an*  
8 *improvement area shall be specified and approved by the*  
9 *unanimous approval of the owner or owners of each parcel or*  
10 *parcels at the time that the parcel or parcels are annexed to the*  
11 *community facilities district. No additional hearings or procedures*  
12 *are required.* After the designation of a parcel or parcels as an  
13 improvement area, all proceedings for approval of the  
14 appropriations limit, the rate and method of apportionment and  
15 manner of collection of special taxes, and the authorization to incur  
16 bonded indebtedness for the parcel or parcels shall apply only to  
17 the improvement area.

18 SEC. 8. Section 53357.1 is added to the Government Code, to  
19 read:

20 53357.1. (a) In connection with the issuance of bonds in which  
21 a property owner agrees, by written consent, to disclose certain  
22 information on a continuous basis through the Municipal Securities  
23 Rulemaking Board's Electronic Municipal Market Access, or  
24 successor information depository, the local agency may execute  
25 and record in the office of the county recorder, in which the  
26 community facilities district is located, a notice of the owner's  
27 disclosure agreement for the purpose of providing notice to a  
28 subsequent transferee. The owner's written consent shall be  
29 attached to the notice. The county recorder's office shall accept  
30 the notice.

31 (b) A subsequent transferee of the property shall be subject to  
32 the disclosure obligation. Upon the termination of the disclosure  
33 obligation, the local agency may cause a notice of termination to  
34 be recorded with the office of the county recorder in which the  
35 original notice was recorded. The county recorder's office shall  
36 accept the notice of termination.

37 SEC. 9. Section 53363.9 of the Government Code is amended  
38 to read:

39 53363.9. (a) The proceeds and investments in the "refunding  
40 fund" shall be in an amount sufficient to meet either the

1 requirements of paragraph (1) or paragraph (2) at the time of  
2 issuance of the refunding bonds, as certified by a certified public  
3 accountant licensed to practice in this state.

4 (1) The proceeds and investments, together with any interest or  
5 other gain to be derived from any such investment, shall be in an  
6 amount sufficient to pay the principal, interest, and redemption  
7 premiums, if any, on the refunded bonds as they become due or  
8 at designated dates prior to maturity and the designated costs of  
9 issuance of the refunding bonds.

10 (2) The proceeds and investments, together with any interest or  
11 other gain to be derived from any such investment, shall be in an  
12 amount sufficient to pay the principal, interest, and redemption  
13 premiums, if any, on the refunding bonds prior to the maturity of  
14 the bonds to be refunded or prior to a designated date or dates  
15 before the maturity of the bonds to be refunded, the principal and  
16 any redemption premiums due on the refunded bonds at maturity  
17 or upon that designated date or dates, and the designated costs of  
18 issuance of the refunding bonds.

19 (b) The proceeds and any other cash in the “refunding fund”  
20 shall be held uninvested or shall be invested in noncallable  
21 obligations of, or obligations guaranteed as to principal and interest  
22 by, the United States of America or any agency or instrumentality  
23 thereof, when those obligations are backed by the full faith and  
24 credit of the United States of America, and shall be in an amount  
25 sufficient to pay the principal, interest, and redemption premiums,  
26 if any, on the refunded bonds as they become due or at designated  
27 dates prior to maturity, in which case certification of a certified  
28 public accountant licensed to practice in this state shall not be  
29 required.