

AMENDED IN ASSEMBLY AUGUST 12, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 10, 2013

SENATE BILL

No. 692

Introduced by Senator Hancock

February 22, 2013

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, 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 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 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:

3 6588. In addition to other powers specified in an agreement
4 pursuant to Article 1 (commencing with Section 6500) and Article
5 2 (commencing with Section 6540), the authority may do any or
6 all of the following:

7 (a) Adopt bylaws for the regulation of its affairs and the conduct
8 of its business.

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

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

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

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

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

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

34 (h) Take title to, sell by installment sale or otherwise, or lease
35 lands, structures, real or personal property, rights, rights-of-way,
36 franchises, easements, and other interests in lands that are located
37 within the state that the authority determines are necessary or

1 convenient for the financing of public capital improvements, or
2 any portion thereof.

3 (i) Receive and accept from any source, loans, contributions,
4 or grants, in either money, property, labor, or other things of value,
5 for, or in aid of, the construction financing, or refinancing of public
6 capital improvement, or any portion thereof or for the financing
7 of working capital or insurance programs, or for the payment of
8 the principal of and interest on bonds if the proceeds of those bonds
9 are used for one or more of the purposes specified in this section.

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

17 (k) Make secured or unsecured loans to any local agency in
18 accordance with an agreement between the authority and the local
19 agency to refinance indebtedness incurred by the local agency in
20 connection with public capital improvements undertaken and
21 completed.

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

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

39 (n) Lease the public capital improvements being financed to a
40 local agency, upon terms and conditions that the authority deems

1 proper; charge and collect rents therefor; terminate any lease upon
2 the failure of the lessee to comply with any of the obligations of
3 the lease; include in any lease provisions that the lessee shall have
4 options to renew the lease for a period or periods, and at rents as
5 determined by the authority; purchase or sell by an installment
6 agreement or otherwise any or all of the public capital
7 improvements; or, upon payment of all the indebtedness incurred
8 by the authority for the financing or refinancing of the public
9 capital improvements, the authority may convey any or all of the
10 project to the lessee or lessees.

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

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

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

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

35 (s) Invest any moneys held in reserve or sinking funds, or any
36 moneys not required for immediate use or disbursement, in
37 obligations that are authorized by law for the investment of trust
38 funds.

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

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

7 (v) Purchase, with the proceeds of its bonds or its revenue, bonds
8 issued by any local agency at public or negotiated sale. Bonds
9 purchased pursuant to this subdivision may be held by the authority
10 or sold to public or private purchasers at public or negotiated sale,
11 in whole or in part, separately or together with other bonds issued
12 by the authority.

13 (w) Purchase, with the proceeds of its bonds or its revenue, VLF
14 receivables sold to the authority pursuant to Section 6588.5. VLF
15 receivables so purchased may be pledged to the payment of bonds
16 issued by the authority or may be resold to public or private
17 purchasers at public or negotiated sale, in whole or in part,
18 separately or together with other VLF receivables purchased by
19 the authority.

20 (x) (1) Purchase, with the proceeds of its bonds or its revenue,
21 Proposition 1A receivables pursuant to Section 6588.6. Proposition
22 1A receivables so purchased may be pledged to the payment of
23 bonds issued by the authority or may be resold to public or private
24 purchasers at public or negotiated sales, in whole or in part,
25 separately or together with other Proposition 1A receivables
26 purchased by the authority.

27 (2) (A) All entities subject to a reduction of ad valorem property
28 tax revenues required under Section 100.06 of the Revenue and
29 Taxation Code pursuant to the suspension set forth in Section
30 100.05 of the Revenue and Taxation Code shall be afforded the
31 opportunity to sell their Proposition 1A receivables to the authority.

32 (B) If these entities offer Proposition 1A receivables to the
33 authority for purchase and duly authorize the sale of the Proposition
34 1A receivable pursuant to documentation approved by the
35 authority, the authority shall purchase all Proposition 1A
36 receivables so offered to the extent it can sell bonds therefor. If
37 the authority does not purchase all Proposition 1A receivables
38 offered, it shall purchase a pro rata share of each entity's offered
39 Proposition 1A receivables.

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

5 (3) For purposes of meeting costs incurred in performing its
6 duties relative to the purchase and sale of Proposition 1A
7 receivables, the authority shall be authorized to charge a fee to
8 each entity from which it purchases a Proposition 1A receivable.
9 The fee shall be computed based on the percentage value of the
10 Proposition 1A receivable purchased from each entity, in relation
11 to the value of all Proposition 1A receivables purchased by the
12 authority. The amount of the fee shall be paid from the proceeds
13 of the bonds and shall be included in the principal amount of the
14 bonds.

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

28 (A) Applied to pay the costs of issuance of the bonds.

29 (B) Deposited in a trust account that is pledged to bondholders
30 and used solely for the payment of interest on, or for repayment
31 of, the bonds.

32 (5) (A) In connection with any financing backed by Proposition
33 1A receivables, the Treasurer may retain financial advisors, legal
34 counsel, and other consultants to assist in performing the duties
35 required by this chapter and related to that financing.

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

39 (i) Section 11040 of the Government Code.

40 (ii) Section 10295 of the Public Contract Code.

1 (iii) Article 3 (commencing with Section 10300) and Article 4
2 (commencing with Section 10335) of, Chapter 2 of Part 2 of
3 Division 2 of the Public Contract Code, except for the authority
4 of the Department of Finance under Section 10336 of the Public
5 Contract Code to direct a state agency to transmit to it a contract
6 for review, and except for Section 10348.5 of the Public Contract
7 Code.

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

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

15 SEC. 2. Section 53313 of the Government Code is amended
16 to read:

17 53313. A community facilities district may be established under
18 this chapter to finance any one or more of the following types of
19 services within an area:

20 (a) Police protection services, including, but not limited to,
21 criminal justice services. However, criminal justice services shall
22 be limited to providing services for jails, detention facilities, and
23 juvenile halls.

24 (b) Fire protection and suppression services, and ambulance
25 and paramedic services.

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

36 (d) Maintenance and lighting of parks, parkways, streets, roads,
37 and open space.

38 (e) Flood and storm protection services, including, but not
39 limited to, the operation and maintenance of storm drainage

1 systems, plowing and removal of snow, and sandstorm protection
2 systems.

3 (f) Services with respect to removal or remedial action for the
4 cleanup of any hazardous substance released or threatened to be
5 released into the environment. As used in this subdivision, the
6 terms “remedial action” and “removal” shall have the meanings
7 set forth in Sections 25322 and 25323, respectively, of the Health
8 and Safety Code, and the term “hazardous substance” shall have
9 the meaning set forth in Section 25281 of the Health and Safety
10 Code. Community facilities districts shall provide the State
11 Department of Health Services and local health and building
12 departments with notification of any cleanup activity pursuant to
13 this subdivision at least 30 days prior to commencement of the
14 activity.

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

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

25 Bonds shall not be issued pursuant to this chapter to fund any
26 of the services specified in this section, although bonds may be
27 issued to fund capital facilities to be used in providing these
28 services.

29 SEC. 3. Section 53316.2 of the Government Code is amended
30 to read:

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

1 agreement with the state or federal agency for the provision of the
2 facilities or services, or if the local agency that created the district
3 enters into a joint agreement with the public agency that would,
4 in the absence of the district, enter into an agreement with the state
5 or federal agency for the provision of the facilities or services.

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

23 (c) Notwithstanding the Joint Exercise of Powers Act, a
24 contracting party may use the proceeds of any special tax or charge
25 levied pursuant to this chapter or, in the case of facilities, of any
26 bonds or other indebtedness issued pursuant to this chapter to
27 provide facilities or services which that contracting party is
28 otherwise authorized by law to provide, even though another
29 contracting party does not have the power to provide those facilities
30 or services.

31 (d) Notwithstanding subdivision (b), nothing in this section
32 shall prevent entry into or amendment of a joint community
33 facilities agreement or a joint exercise of powers agreement at any
34 time, if the new agreement or amendment is necessary, as
35 determined by the legislative body, for either of the following
36 reasons:

37 (1) To allow an orderly transition of governmental facilities and
38 finances in the case of any change in governmental organization
39 approved pursuant to the Cortese-Knox-Hertzberg Local
40 Government Reorganization Act of 2000 (Division 3 (commencing

1 with Section 56000) of Title 5) or other law governing the
2 reorganization of any agency that is a party to the agreement.

3 (2) To allow participation in the agreement by a state or federal
4 agency, including, but not limited to, the California Department
5 of Transportation. Participation in an agreement by a state or
6 federal agency is purely optional.

7 (e) Notwithstanding any other provision of this chapter, no local
8 agency that is party to a joint exercise of powers agreement or
9 joint community facilities agreement shall have primary
10 responsibility for formation of a district, or for an extension of
11 authorized facilities and services or a change in special taxes
12 pursuant to Article 3 (commencing with Section 53330), unless
13 that local agency is one or more of the following:

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

15 (2) An agency created pursuant to a joint powers agreement that
16 is separate from the parties to the agreement, is responsible for the
17 administration of the agreement, and is subject to the notification
18 requirement of Section 6503.5.

19 (3) An agency that is reasonably expected to have responsibility
20 for providing facilities or services to be financed by a larger share
21 of the proceeds of special taxes and bonds of the district or districts
22 created or changed pursuant to the joint exercise of powers
23 agreement or the joint community facilities agreement than any
24 other local agency.

25 SEC. 4. Section 53317 of the Government Code is amended
26 to read:

27 53317. Unless the context otherwise requires, the definitions
28 contained in this article shall govern the construction of this
29 chapter.

30 (a) “Clerk” means the clerk of the legislative body of a local
31 agency.

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

35 (c) “Cost” means the expense of constructing or purchasing the
36 public facility and of related land, right-of-way, easements,
37 including incidental expenses, and the cost of providing authorized
38 services, including incidental expenses.

39 (d) “Debt” means any binding obligation to pay or repay a sum
40 of money, including obligations in the form of bonds, certificates

1 of participation, long-term leases, loans from government agencies,
2 or loans from banks, other financial institutions, private businesses,
3 or individuals, or long-term contracts.

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

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

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

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

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

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

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

28 (3) The public agency states in the proceedings that its land is
29 intended to be transferred to private ownership and provides in the
30 proceedings that its land will be subject to the special tax on the
31 same basis as private property within the district and affirmatively
32 waives any defense based on the fact of public ownership, to any
33 action to foreclose on the property in the event of nonpayment of
34 the special tax.

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

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

39 (h) “Local agency” means any city or county, whether general
40 law or chartered, special district, school district, joint powers entity

1 created pursuant to Chapter 5 (commencing with Section 6500)
2 of Division 7 of Title 1, redevelopment agency, or any other
3 municipal corporation, district, or political subdivision of the state.

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

5 (j) “Services” means the provision of categories of services
6 identified in Section 53313. “Services” includes the performance
7 by employees of functions, operations, maintenance, and repair
8 activities. “Services” does not include activities or facilities
9 identified in Section 53313.5. “Maintenance” shall include
10 replacement, and the creation and funding of a reserve fund to pay
11 for a replacement.

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

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

26 (1) The legislative body shall not be obligated to specify the
27 rate or rates of special tax in the resolution of intention or the
28 resolution of formation, provided that both of the following are
29 met:

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

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

37 (2) The legislative body shall not be obligated to specify in the
38 resolution of intention the conditions under which the obligation
39 to pay the specified special tax may be prepaid and permanently
40 satisfied. Instead, a prepayment provision may be included in the

1 unanimous approval of the owner or owners of each parcel or
2 parcels at the time that the parcel or parcels are annexed to the
3 community facilities district.

4 (3) In lieu of approval pursuant to an election held in accordance
5 with the procedures set forth in Sections 53326, 53327, 53327.5,
6 and 53328, the appropriations limit for the community facilities
7 district, the applicable rate of the special tax and the method of
8 apportionment and manner of collection of that tax, and the
9 authorization to incur bonded indebtedness for the community
10 facilities district shall be specified and be approved by the
11 unanimous approval of the owner or owners of each parcel or
12 parcels at the time that the parcel or parcels are annexed to the
13 community facilities district. No additional hearings or procedures
14 are required, and the unanimous approval shall be deemed to
15 constitute a unanimous vote in favor of the appropriations limit
16 for the community facilities district, the authorization to levy the
17 special tax on the parcel or parcels, and the authorization to incur
18 bonded indebtedness for the community facilities district.

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

38 (5) The legislative body shall not record a notice of special tax
39 lien against any parcel or parcels in the community facilities district
40 until the owner or owners of the parcel or parcels have given their

1 unanimous approval of the parcel's or parcels' annexation to the
2 community facilities district, at which time the notice of special
3 tax lien shall be recorded against the parcel or parcels as set forth
4 in Section 53328.3.

5 (b) Notwithstanding the provisions of Section 53340, after
6 adoption of the resolution of formation for a community facilities
7 district described in subdivision (a), the legislative body may, by
8 ordinance, provide for the levy of the special taxes on parcels that
9 will annex to the community facilities district at the rate or rates
10 to be approved unanimously by the owner or owners of each parcel
11 or parcels to be annexed to the community facilities district and
12 for apportionment and collection of the special taxes in the manner
13 specified in the resolution of formation. No further ordinance shall
14 be required even though no parcels may then have annexed to the
15 community facilities district.

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

33 (d) A community facilities district formed pursuant to this
34 section may only finance facilities pursuant to subdivision (l) of
35 Section 53313.5.

36 (e) In connection with formation of a community facilities
37 district and annexation of a parcel or parcels to the community
38 facilities district pursuant to this section, and the conduct of an
39 election on the proposition to authorize bonded indebtedness
40 pursuant to the alternate procedures set forth in Section 53355.5,

1 the local agency may, without additional hearings or procedures,
2 designate a parcel or parcels as an improvement area within the
3 community facilities district. After the designation of a parcel or
4 parcels as an improvement area, all proceedings for approval of
5 the appropriations limit, the rate and method of apportionment and
6 manner of collection of special tax and the authorization to incur
7 bonded indebtedness for the parcel or parcels shall apply only to
8 the improvement area.

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

23 SEC. 6. Section 53340 of the Government Code is amended
24 to read:

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

1 community facilities district and for apportionment and collection
2 of the special taxes in the manner specified in the resolution of
3 formation.

4 (b) The legislative body may provide, by resolution, for the levy
5 of the special tax in the current tax year or future tax years at the
6 same rate or at a lower rate than the rate provided by the ordinance,
7 if the resolution is adopted and a certified list of all parcels subject
8 to the special tax levy including the amount of the tax to be levied
9 on each parcel for the applicable tax year, is filed by the clerk or
10 other official designated by the legislative body with the county
11 auditor on or before the 10th day of August of that tax year. The
12 clerk or other official designated by the legislative body may file
13 the certified list after the 10th of August but not later than the 21st
14 of August if the clerk or other official obtains prior written consent
15 of the county auditor.

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

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

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

37 (f) (1) Notwithstanding subdivision (e), the legislative body of
38 the district may waive all or any specified portion of the
39 delinquency penalties and redemption penalties if it makes all of
40 the following determinations:

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

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

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

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

11 (2) The charges with penalties to be waived shall be removed
12 from the tax roll pursuant to Section 53356.2 and local
13 administrative procedures, and any distributions made to the district
14 prior to collection pursuant to Chapter 3 (commencing with Section
15 4701) of Part 8 of Division 1 of the Revenue and Taxation Code
16 shall be repaid by the district prior to granting the waiver.

17 (g) The tax collector may collect the special tax at intervals as
18 specified in the resolution of formation, including intervals
19 different from the intervals determining when the ordinary ad
20 valorem property taxes are collected. The tax collector may deduct
21 the reasonable administrative costs incurred in collecting the special
22 tax.

23 (h) All special taxes levied by a community facilities district
24 shall be secured by the lien imposed pursuant to Section 3115.5
25 of the Streets and Highways Code. This lien shall be a continuing
26 lien and shall secure each levy of special taxes. The lien of the
27 special tax shall continue in force and effect until the special tax
28 obligation is prepaid, permanently satisfied, and canceled in
29 accordance with Section 53344 or until the special tax ceases to
30 be levied by the legislative body in the manner provided in Section
31 53330.5. If any portion of a parcel is encumbered by a lien pursuant
32 to this chapter, the entirety of the parcel shall be encumbered by
33 that lien.

34 SEC. 7. Section 53350 of the Government Code is amended
35 to read:

36 53350. (a) For purposes of financing of, or contributing to the
37 financing of, specified public facilities, the legislative body may
38 by resolution designate a portion or portions of the district as one
39 or more improvement areas. An area shall be known as
40 “Improvement Area No. ____” of “Community Facilities District

1 ____.” After the designation of an improvement area, all
2 proceedings for purposes of a bond election and for the purpose
3 of levying special taxes for payment of the bonds, or for any other
4 change pursuant to Article 3 (commencing with Section 53330),
5 shall apply only to the improvement area for those specified
6 facilities.

7 (b) In connection with the annexation by unanimous approval
8 to a community facilities district of a parcel that was included in
9 territory proposed for annexation in the future to the community
10 facilities district, as described in Section 53329.6, the local agency
11 may designate a parcel or parcels as an improvement area within
12 the community facilities district. The designation of a parcel or
13 parcels as an improvement area shall be specified and approved
14 by the unanimous approval of the owner or owners of each parcel
15 or parcels at the time that the parcel or parcels are annexed to the
16 community facilities district. No additional hearings or procedures
17 are required. After the designation of a parcel or parcels as an
18 improvement area, all proceedings for approval of the
19 appropriations limit, the rate and method of apportionment and
20 manner of collection of special taxes, and the authorization to incur
21 bonded indebtedness for the parcel or parcels shall apply only to
22 the improvement area.

23 SEC. 8. Section 53357.1 is added to the Government Code, to
24 read:

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

36 (b) A subsequent transferee of the property shall be subject to
37 the disclosure obligation. Upon the termination of the disclosure
38 obligation, the local agency may cause a notice of termination to
39 be recorded with the office of the county recorder in which the

1 original notice was recorded. ~~The county recorder’s office shall~~
2 ~~accept the notice of termination.~~

3 (c) *Notwithstanding Sections 6103 and 27383, the county*
4 *recorder may charge an appropriate fee for the expense incurred*
5 *in recording the notices provided for in this section.*

6 SEC. 9. Section 53363.9 of the Government Code is amended
7 to read:

8 53363.9. (a) The proceeds and investments in the “refunding
9 fund” shall be in an amount sufficient to meet either the
10 requirements of paragraph (1) or paragraph (2) at the time of
11 issuance of the refunding bonds, as certified by a certified public
12 accountant licensed to practice in this state.

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

19 (2) The proceeds and investments, together with any interest or
20 other gain to be derived from any such investment, shall be in an
21 amount sufficient to pay the principal, interest, and redemption
22 premiums, if any, on the refunding bonds prior to the maturity of
23 the bonds to be refunded or prior to a designated date or dates
24 before the maturity of the bonds to be refunded, the principal and
25 any redemption premiums due on the refunded bonds at maturity
26 or upon that designated date or dates, and the designated costs of
27 issuance of the refunding bonds.

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

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