

Senate Bill No. 692

Passed the Senate August 22, 2013

Secretary of the Senate

Passed the Assembly August 19, 2013

Chief Clerk of the Assembly

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

Private Secretary of the Governor

CHAPTER _____

An act to 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, 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 5 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.

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

SECTION 1. Section 6588 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

(h) Take title to, sell by installment sale or otherwise, or 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.

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

(j) Make secured or unsecured loans to any local agency in connection with the financing of capital improvement projects,

working capital or insurance programs in accordance with an agreement between the authority and the local agency. However, no loan shall exceed the total cost of the public capital improvements, working capital or insurance needs of the local agency as determined by the local agency and by the authority.

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

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

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

(n) Lease the public capital improvements being financed to a local agency, upon terms and conditions that the authority deems proper; charge and collect rents therefor; terminate any lease upon the failure of the lessee to comply with any of the obligations of the lease; include in any lease provisions that the lessee shall have options to renew the lease for a period or periods, and at rents as determined by the authority; purchase or sell by an installment agreement or otherwise any or all of the public capital improvements; or, upon payment of all the indebtedness incurred by the authority for the financing or refinancing of the public capital improvements, the authority may convey any or all of the project to the lessee or lessees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of the bonds and shall be included in the principal amount of the bonds.

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

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

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

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

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

(i) Section 11040 of the Government Code.

(ii) Section 10295 of the Public Contract Code.

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

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

(y) Set any other terms and conditions on any purchase or sale pursuant to this section as it deems by resolution to be necessary,

appropriate, and in the public interest, in furtherance of the purposes of this article.

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

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

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

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

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

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

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

(f) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment. As used in this subdivision, the terms “remedial action” and “removal” shall have the meanings set forth in Sections 25322 and 25323, respectively, of the Health and Safety Code, and the term “hazardous substance” shall have the meaning set forth in Section 25281 of the Health and Safety Code. Community facilities districts shall provide the State Department of Health Services and local health and building departments with notification of any cleanup activity pursuant to

this subdivision at least 30 days prior to commencement of the activity.

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

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

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

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

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

(b) 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 pursuant to Section 53356, the legislative bodies of two or more local agencies may enter into a joint community facilities agreement pursuant to this section and Sections 53316.4 and 53316.6 or into a joint exercise of powers

agreement pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) to exercise any power authorized by this chapter 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 subdivision shall not be construed to limit the ability of a joint powers authority created pursuant to the Joint Exercise of Powers Act to exercise the powers authorized by the Joint Exercise of Powers Act.

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

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

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

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

(e) Notwithstanding any other provision of this chapter, no local agency that is party to a joint exercise of powers agreement or joint community facilities agreement shall have primary responsibility for formation of a district, or for an extension of authorized facilities and services or a change in special taxes

pursuant to Article 3 (commencing with Section 53330), unless that local agency is one or more of the following:

- (1) A city, a county, or a city and county.
- (2) An agency created pursuant to a joint powers agreement that is separate from the parties to the agreement, is responsible for the administration of the agreement, and is subject to the notification requirement of Section 6503.5.
- (3) An agency that is reasonably expected to have responsibility for providing facilities or services to be financed by a larger share of the proceeds of special taxes and bonds of the district or districts created or changed pursuant to the joint exercise of powers agreement or the joint community facilities agreement than any other local agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The legislative body shall not be 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. Instead, a prepayment provision may be included in the unanimous approval of the owner or owners of each parcel or parcels at the time that the parcel or parcels are annexed to the community facilities district.

(3) In lieu of approval pursuant to an election held in accordance with the procedures set forth in Sections 53326, 53327, 53327.5, and 53328, the appropriations limit for the community facilities district, the applicable rate of the special tax and the method of apportionment and manner of collection of that tax, and the authorization to incur bonded indebtedness for the community facilities district shall be specified and be approved by the unanimous approval of the owner or owners of each parcel or

parcels at the time that the parcel or parcels are annexed to the community facilities district. No additional hearings or procedures are required, and the unanimous approval shall be deemed to constitute a unanimous vote in favor of the appropriations limit for the community facilities district, the authorization to levy the special tax on the parcel or parcels, and the authorization to incur bonded indebtedness for the community facilities district.

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

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

(b) Notwithstanding the provisions of Section 53340, after adoption of the resolution of formation for a community facilities district described in subdivision (a), the legislative body may, by ordinance, provide for the levy of the special taxes on parcels that will annex to the community facilities district at the rate or rates to be approved unanimously by the owner or owners of each parcel or parcels to be annexed to the community facilities district and

for apportionment and collection of the special taxes in the manner specified in the resolution of formation. No further ordinance shall be required even though no parcels may then have annexed to the community facilities district.

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

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

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

(f) In connection with a community facilities district formed under this section, as an alternate and independent procedure for making the changes described in Section 53330.7, the changes

may be made with the unanimous approval of the owner or owners of the parcel or parcels that will be affected by the change and with the written consent of the local agency. No additional hearings or procedures are required, and the unanimous approval shall be deemed to constitute a unanimous vote in favor of the proposed changes. If the proceeds of a special tax are being used to retire any debt incurred pursuant to this chapter and the unanimous approval relates to the reduction of the special tax rate, the unanimous approval shall recite that the reduction or termination of the special tax will not interfere with the timely retirement of that debt.

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

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

(b) The legislative body may provide, by resolution, for the levy of the special tax in the current tax year or future tax years at the same rate or at a lower rate than the rate provided by the ordinance, if the resolution is adopted and a certified list of all parcels subject to the special tax levy including the amount of the tax to be levied on each parcel for the applicable tax year, is filed by the clerk or other official designated by the legislative body with the county auditor on or before the 10th day of August of that tax year. The

clerk or other official designated by the legislative body may file the certified list after the 10th of August but not later than the 21st of August if the clerk or other official obtains prior written consent of the county auditor.

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

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

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

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

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

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

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

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

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

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

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

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

53350. (a) For purposes of financing of, or contributing to the financing of, specified public facilities, the legislative body may by resolution designate a portion or portions of the district as one or more improvement areas. An area shall be known as “Improvement Area No. ____” of “Community Facilities District ____.” After the designation of an improvement area, 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 pursuant to Article 3 (commencing with Section 53330), shall apply only to the improvement area for those specified facilities.

(b) In connection with the annexation by unanimous approval to a community facilities district of a parcel that was included in territory proposed for annexation in the future to the community facilities district, as described in Section 53329.6, the local agency

may designate a parcel or parcels as an improvement area within the community facilities district. The designation of a parcel or parcels as an improvement area shall be specified and approved by the unanimous approval of the owner or owners of each parcel or parcels at the time that the parcel or parcels are annexed to the community facilities district. No additional hearings or procedures are required. After the designation of a parcel or parcels as an improvement area, 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 shall apply only to the improvement area.

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

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

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

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

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

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

(1) The proceeds and investments, together with any interest or other gain to be derived from any such investment, shall 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.

(2) The proceeds and investments, together with any interest or other gain to be derived from any such investment, shall be in an amount sufficient 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.

(b) The proceeds and any other cash in the “refunding fund” shall be held uninvested or shall be 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 shall 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 licensed to practice in this state shall not be required.

Approved _____, 2013

Governor