

ASSEMBLY BILL

No. 2618

Introduced by Assembly Member Nazarian

February 19, 2016

An act to amend Section 53328.1 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2618, as introduced, Nazarian. community facilities districts.

The Mello-Roos Community Facilities Act of 1982 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. Existing law authorizes an alternative procedure for establishing a community facilities district under which the district initially consists solely of territory proposed for annexation to the community facilities district in the future, and territory is annexed and subjected to special taxes only upon unanimous approval of the owners.

This bill would make nonsubstantive changes to those provisions.

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 53328.1 of the Government Code is
2 amended to read:
3 53328.1. (a) As an alternate and independent procedure for
4 forming a community facilities district, the legislative body may
5 form a community facilities district that initially consists solely

1 of territory proposed for annexation to the community facilities
 2 district in the future, with the condition that a parcel or parcels
 3 within that territory may be annexed to the community facilities
 4 district and subjected to the special tax only with the unanimous
 5 approval of the owner or owners of the parcel or parcels at the
 6 time that the parcel or parcels are annexed. In that case, the
 7 legislative body shall follow the procedures set forth in this article
 8 for the formation of a community facilities district, with the
 9 following exceptions:

10 (1) The legislative body ~~shall not be obligated~~ *is not required*
 11 to specify the rate or rates of special tax in the resolution of
 12 intention or the resolution of formation, provided that both of the
 13 following are met:

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

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

21 (2) The legislative body ~~shall not be obligated~~ *is not required*
 22 to specify in the resolution of intention the conditions under which
 23 the obligation to pay the specified special tax may be prepaid and
 24 permanently satisfied. Instead, a prepayment provision may be
 25 included in the unanimous approval of the owner or owners of
 26 each parcel or parcels at the time that the parcel or parcels are
 27 annexed to the community facilities district.

28 (3) In lieu of approval pursuant to an election held in accordance
 29 with the procedures set forth in Sections 53326, 53327, 53327.5,
 30 and 53328, the appropriations limit for the community facilities
 31 district, the applicable rate of the special tax and the method of
 32 apportionment and manner of collection of that tax, and the
 33 authorization to incur bonded indebtedness for the community
 34 facilities district shall be specified and be approved by the
 35 unanimous approval of the owner or owners of each parcel or
 36 parcels at the time that the parcel or parcels are annexed to the
 37 community facilities district. No additional hearings or procedures
 38 are required, and the unanimous approval shall be deemed to
 39 constitute a unanimous vote in favor of the appropriations limit
 40 for the community facilities district, the authorization to levy the

1 special tax on the parcel or parcels, and the authorization to incur
2 bonded indebtedness for the community facilities district.

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

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

29 (b) Notwithstanding the provisions of Section 53340, after
30 adoption of the resolution of formation for a community facilities
31 district described in subdivision (a), the legislative body may, by
32 ordinance, provide for the levy of the special taxes on parcels that
33 will annex to the community facilities district at the rate or rates
34 to be approved unanimously by the owner or owners of each parcel
35 or parcels to be annexed to the community facilities district and
36 for apportionment and collection of the special taxes in the manner
37 specified in the resolution of formation. No further ordinance shall
38 be required even though no parcels may then have annexed to the
39 community facilities district.

1 (c) The local agency may bring an action to determine the
2 validity of any special taxes levied pursuant to this chapter and
3 authorized pursuant to the procedures set forth in this section
4 pursuant to Chapter 9 (commencing with Section 860) of Title 10
5 of Part 2 of the Code of Civil Procedure. Notwithstanding Section
6 53359, if an action is brought by an interested person pursuant to
7 Section 863 of the Code of Civil Procedure to determine the
8 validity of any special taxes levied against a parcel pursuant to
9 this chapter and authorized pursuant to the procedures set forth in
10 this section, the action shall be brought pursuant to Chapter 9
11 (commencing with Section 860) of Title 10 of Part 2 of the Code
12 of Civil Procedure, but shall, notwithstanding the time limits
13 specified in Section 860 of the Code of Civil Procedure, be
14 commenced within 15 days after the date on which the notice of
15 special tax lien is recorded against the parcel. Any appeal from a
16 judgment in any action or proceeding described in this subdivision
17 shall be commenced within 30 days after entry of judgment.

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

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

34 (f) In connection with a community facilities district formed
35 under this section, as an alternate and independent procedure for
36 making the changes described in Section 53330.7, the changes
37 may be made with the unanimous approval of the owner or owners
38 of the parcel or parcels that will be affected by the change and
39 with the written consent of the local agency. No additional hearings
40 or procedures are required, and the unanimous approval shall be

1 deemed to constitute a unanimous vote in favor of the proposed
2 changes. If the proceeds of a special tax are being used to retire
3 any debt incurred pursuant to this chapter and the unanimous
4 approval relates to the reduction of the special tax rate, the
5 unanimous approval shall recite that the reduction or termination
6 of the special tax will not interfere with the timely retirement of
7 that debt.

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