

Introduced by Senator MonningFebruary 27, 2015

An act to amend Section 10089.38 of the Insurance Code, and to amend Sections 5899, 8503, 10003, 10100.2, and 10104 of the Streets and Highways Code, relating to seismic safety, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 602, as introduced, Monning. Seismic safety: California Earthquake Authority.

Existing law establishes the California Earthquake Authority, which is authorized to transact insurance in the state as necessary to sell policies of basic residential earthquake insurance, as provided. Existing law provides that a public purpose will be served by a voluntary contractual assessment program that provides the legislative body of a public agency with the authority to finance the installation of seismic strengthening improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property. For purposes of financing the installation of seismic strengthening improvements, "public agency" means a city, county, or city and county.

This bill would include the California Earthquake Authority as part of the definition of "public agency" for this purpose.

The Improvement Bond Act of 1915, provides authority for the legislative body of any city to determine that bonds may be issued to pay for specified works of improvement. The Municipal Improvement Act of 1913 authorizes the legislative body of a municipality to pay or make funds available to enable the owners of lots or parcels of real property to pay for work deemed necessary to bring real property or

buildings into compliance with seismic safety standards or regulations, as provided.

This bill would include the California Earthquake Authority as part of the definition of “city” or “municipality” for purposes of these acts.

Existing law authorizes the Earthquake Loss Mitigation Fund, a continuously appropriated fund, to be applied to supply grants and loans or loan guarantees to dwelling owners who wish to retrofit their homes to protect against earthquake damage.

This bill would also authorize the money in the fund to be used to fund seismic strengthening improvements permanently fixed to residential, commercial, industrial, agricultural, or other real property, and to acquire debt obligations issued to fund these improvements, thereby making an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 10089.38 of the Insurance Code is
2 amended to read:

3 10089.38. (a) Upon the development and implementation of
4 an economical system satisfactory to the board and the
5 commissioner to prevent misapplication of mitigation funds, the
6 Earthquake Loss Mitigation Fund may be applied to supply grants
7 and loans or loan guarantees to dwelling owners who wish to
8 retrofit their homes to protect against earthquake damage.

9 (b) *Money in the Earthquake Loss Mitigation Fund may also*
10 *be used for either of the following purposes:*

11 (1) *To fund seismic strengthening improvements authorized*
12 *pursuant to Section 5899 of the Streets and Highways Code.*

13 (2) *To acquire debt obligations issued to fund improvements*
14 *described in paragraph (1).*

15 SEC. 2. Section 5899 of the Streets and Highways Code is
16 amended to read:

17 5899. (a) The Legislature finds and declares all of the
18 following:

19 (1) It is the intent of the Legislature to address seismic safety
20 needs throughout this state by permitting voluntary individual
21 efforts to improve the seismic safety of homes and buildings. The
22 Legislature further intends that this chapter should be used to

1 finance the installation of seismic strengthening improvements
2 that are permanently fixed to residential, commercial, industrial,
3 agricultural, or other real property, including, but not limited to,
4 the seismic strengthening of cripple walls and sill plate anchorage
5 of light, wood-framed buildings.

6 (2) The upfront cost of making residential, commercial,
7 industrial, agricultural, or other real property more seismically
8 safe prevents many property owners from making those
9 improvements. To make those improvements more affordable and
10 to promote the installation of those strengthening improvements,
11 it is necessary to authorize an alternative procedure for authorizing
12 assessments to finance the cost of seismic strengthening
13 improvements.

14 (3) A public purpose will be served by a voluntary contractual
15 assessment program that provides the legislative body of any public
16 agency with the authority to finance the installation of seismic
17 strengthening improvements that are permanently fixed to
18 residential, commercial, industrial, agricultural, or other real
19 property.

20 (b) For purposes of this section, the following terms shall have
21 the following meanings:

22 (1) For the purpose of financing the installation of seismic
23 strengthening improvements, “public agency” means a city, county,
24 or city and county, *or the California Earthquake Authority*. The
25 definition of “city” in Section 5005 shall not apply to this
26 paragraph.

27 (2) “Seismic strengthening improvements” means permanent
28 seismic safety improvements fixed to residential, commercial,
29 industrial, agricultural, or other real property.

30 (c) The legislative body of ~~any~~ a public agency may designate
31 an area, in the manner provided pursuant to Section 5898.20, within
32 which authorized public agency officials and property owners may
33 enter into voluntary contractual assessments to finance the
34 installation of seismic strengthening improvements that are
35 permanently fixed to real property pursuant to this chapter.

36 (d) For purposes of establishing a voluntary contractual
37 assessment program relating to seismic strengthening
38 improvements, the legislative body shall make the determinations
39 required pursuant to Section 5898.20 by adopting a resolution
40 indicating its intention to do so. The resolution of intention shall

1 identify the kinds of seismic strengthening improvements that may
2 be financed and shall include all of the information that is required
3 pursuant to subdivision (b) of Section 5898.20, including, but not
4 limited to, directing an appropriate public agency official to prepare
5 a report pursuant to Section 5898.22.

6 (e) For purposes of the report required pursuant to Section
7 5898.22, relating to a voluntary contractual assessment program
8 for seismic strengthening improvements, the designated public
9 agency official shall satisfy the requirements of paragraph (1) of
10 subdivision (c) of Section 5898.22 by identifying the types of
11 seismic strengthening improvements that may be financed through
12 the use of contractual assessments.

13 (f) Notwithstanding any other provision of this chapter, upon
14 the written consent of an authorized public agency official, the
15 proposed arrangements for financing the program pertaining to
16 the installation of seismic strengthening improvements that are
17 permanently fixed to real property may authorize the property
18 owner to purchase directly the related equipment and materials for
19 the installation of seismic strengthening improvements and to
20 contract directly for the installation of seismic strengthening
21 improvements that are permanently fixed to the property owner's
22 residential, commercial, industrial, agricultural, or other real
23 property.

24 (g) *Subdivisions (c) and (d) do not apply to the California*
25 *Earthquake Authority.*

26 SEC. 3. Section 8503 of the Streets and Highways Code is
27 amended to read:

28 8503. "City" includes counties, cities and counties and public
29 corporations, districts and agencies, *and the California Earthquake*
30 *Authority.*

31 SEC. 4. Section 10003 of the Streets and Highways Code is
32 amended to read:

33 10003. "Municipality" and "city" include every city, city and
34 county, or county, or other entity, public corporation, or agency
35 authorized to operate under this division, including any joint
36 powers entity created pursuant to Chapter 5 (commencing with
37 Section 6500) of Division 7 of Title 1 of the Government Code
38 and any special district organized for the purpose of aiding in the
39 development or improvement of navigation or commerce to, or
40 within, the district, *and the California Earthquake Authority.*

1 SEC. 5. Section 10100.2 of the Streets and Highways Code is
2 amended to read:

3 10100.2. (a) (1) ~~Whenever~~*When* the public interest or
4 convenience requires, the legislative body may use the powers of
5 this division to pay, or make funds available to enable the owners
6 of lots or parcels of real property within the district to pay, for
7 either of the following:

8 (A) (i) Work deemed necessary to bring real property or
9 buildings, including privately owned real property or buildings,
10 into compliance with seismic safety standards or regulations. The
11 legislative body shall declare that public loans or funds provided
12 to owners of private buildings for seismic strengthening of
13 unreinforced buildings or other buildings, or real property, pursuant
14 to this section constitute a public purpose resulting in a public
15 benefit. Only work certified as necessary to comply with seismic
16 safety standards or regulations by local building officials may be
17 financed. No project involving the dismantling of an existing
18 building and its replacement by a new building or the construction
19 of a new or substantially new building may be financed pursuant
20 to this section, except as otherwise provided in subparagraph (B).
21 Work on qualified historical buildings or structures shall be done
22 in accordance with the State Historical Building Code (Part 2.7
23 (commencing with Section 18950) of Division 13 of the Health
24 and Safety Code). Any financing for seismic strengthening of a
25 residential structure containing units rented by households specified
26 in Section 50079.5 of the Health and Safety Code before
27 strengthening shall be subject to a regulatory agreement that will
28 ensure that the number of those units in the structure will not be
29 reduced and will remain available at affordable rents pursuant to
30 Section 50053 of the Health and Safety Code as long as any
31 assessments levied pursuant to this section on the parcel on which
32 the structure is located remain unpaid.

33 ~~No~~

34 (ii) A lot, parcel, or building shall *not* be included in the district
35 without the owner's consent.

36 (B) ~~Within any~~ *an* area that has been designated by the Governor
37 as a disaster area or for which the Governor has proclaimed the
38 existence of a state of emergency because of earthquake damage,
39 work deemed necessary to repair any damage to real property
40 directly or indirectly caused by the occurrence of an earthquake

1 cited in the Governor's designation or proclamation, or by
2 aftershocks associated with that earthquake, including work to
3 reconstruct, repair, shore up, or replace any real property or
4 building damaged or destroyed by the earthquake or by its
5 aftershocks. Work may be financed pursuant to this subparagraph
6 only on real property or buildings identified in a resolution of
7 intention to establish a district adopted within seven years of the
8 date that the Governor designates the area as a disaster area or
9 proclaims a state of emergency in the area.

10 (2) ~~Any~~ A district created to finance seismic safety work on
11 privately owned buildings, including repair, reconstruction, or
12 replacement of privately owned buildings pursuant to this section,
13 shall consist only of lots or parcels on which the legislative body
14 finds that the buildings to be worked on, repaired, reconstructed,
15 or replaced pursuant to this section, are located or were located
16 before being damaged or destroyed by the earthquake that is the
17 subject of the Governor's designation or proclamation pursuant to
18 subparagraph (B) of paragraph (1), or by the aftershocks of that
19 earthquake. *Notwithstanding Division 7 (commencing with Section*
20 *5000) or this division, this paragraph shall not apply to any district*
21 *created by the California Earthquake Authority.*

22 (3) The Legislature hereby declares that the use of public funds
23 pursuant to this section for seismic strengthening, repair, or
24 reconstruction of privately owned real property or buildings
25 constitutes a public purpose resulting in a public benefit. The use
26 of funds pursuant to this section shall not be construed to be gifts
27 of public funds in violation of Section 6 of Article XVI of the
28 California Constitution.

29 (4) A loan or expenditure of funds made by a district pursuant
30 to this section and secured by a tax assessment or a lien, or both
31 that assessment and lien, on private property shall not, when
32 combined with existing liens on the property, exceed 80 percent
33 of the current appraised value of the property, as determined by
34 an independent, certified appraiser, unless existing lienholders
35 consent in writing to a higher loan-to-value ratio. Notice of the
36 creation of a district or the authorization for the loan or expenditure
37 of funds for the purposes set forth in this section shall be given to
38 lienholders of record on the property included in the district at
39 least 30 days prior to any vote of the governing body authorizing

1 the creation of the district or the loan or expenditure of funds that
2 could create a lien on the property.

3 (b) A district created to finance seismic safety or repair work
4 pursuant to this section may include areas of territory that are not
5 contiguous.

6 (c) At any time after the passage of the resolution provided for
7 in subdivision (a) of Section 10312, the legislative body may make
8 changes in or modify the improvements or reduce the assessment
9 with respect to a particular lot or parcel within an assessment
10 district created for the purposes of this section with the written
11 consent of the owner of that lot or parcel.

12 (d) Any changes made within an assessment district created
13 for the purposes of this section shall be made after notice and
14 hearing, as provided in this division, except that changes may be
15 made under any of the following circumstances:

16 (1) At the hearing on the report, changes that do any of the
17 following:

18 (A) Eliminate a portion of the assessment district without
19 increasing the amount of any assessment or substantially affecting
20 the distribution of benefits from the improvements.

21 (B) Exclude territory that will not be benefited by the remaining
22 improvements without increasing the amount of any assessment.

23 (C) Modify the improvements or the assessment with respect
24 to a particular lot or parcel within the assessment district with the
25 written consent of the owner and without increasing the
26 assessments on any other real property.

27 (2) At any time after the improvements are ordered and during
28 the pendency of the proceedings to establish the assessment district.

29 (3) At any time after the adoption of the resolution provided for
30 in subdivision (a) of Section 10312, to modify the improvements
31 or reduce the assessment with respect to a particular lot or parcel
32 within the assessment district with the written consent of the owner.

33 (e) An action to determine the validity of any assessments,
34 bonds, bond anticipation notes, contracts, or improvements for the
35 purposes of this section may be brought by the legislative body,
36 or by any person designated by the legislative body, pursuant to
37 Chapter 9 (commencing with Section 860) of Title 10 of the Code
38 of Civil Procedure. For this purpose, an improvement shall be
39 deemed to be in existence upon its authorization and an assessment
40 upon its confirmation.

1 (f) It is the intent of the Legislature that the powers conferred
2 by this section shall be in addition and supplemental to, and not
3 exclusive of, the powers conferred by any other law.

4 SEC. 6. Section 10104 of the Streets and Highways Code is
5 amended to read:

6 10104. (a) When~~any~~ a proceeding is initiated under this
7 division by a legislative body other than that of a city or county,
8 and before the resolution of intention is adopted, the proposed
9 resolution, together with a plat or map which shall indicate by a
10 boundary line the extent of territory included in the proposed
11 district, shall be submitted for approval of the legislative body of
12 the city, where the land to be assessed lies within the corporate
13 limits of any city, or of the county, where the land to be assessed
14 lies within an unincorporated territory. When~~such~~ *the* approval
15 has been secured, the resolution of intention may be adopted and
16 the legislative body initiating the proceeding may thereafter take
17 each and every step required for or suitable for the consummation
18 of the work and the levying, collecting and enforcement of the
19 assessments to cover the expenses thereof and the issuance and
20 enforcement of bonds to represent unpaid assessments.

21 (b) *Notwithstanding Division 7 (commencing with Section 5000)*
22 *or this division, this section shall not apply to any district created*
23 *by the California Earthquake Authority.*