

ASSEMBLY BILL

No. 1755

Introduced by Assembly Member Swanson

February 8, 2010

An act to amend Sections 5898.12, 5898.14, 5898.20, 5898.21, and 5898.22 of the Streets and Highways Code, relating to contractual assessments.

LEGISLATIVE COUNSEL'S DIGEST

AB 1755, as introduced, Swanson. Contractual assessments: seismic safety improvements.

Existing law, the Improvement Act of 1911, authorizes the legislative body of any public agency, as defined, to determine that it would be convenient, advantageous, and in the public interest to designate an area within the public agency, as specified, within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to real property, as specified. Existing law requires the legislative body to make these determinations by adopting a resolution indicating its intention to do so and requires that the resolution include specified information and directs an appropriate public agency official to prepare a prescribed report.

This bill would expand these provisions to also apply to contractual assessments to finance the installation of seismic strengthening improvements, as defined, that are permanently fixed to real property, as specified. The bill would also declare the intent of the Legislature in regard to these 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 5898.12 of the Streets and Highways
2 Code is amended to read:
3 5898.12. (a) It is the intent of the Legislature that this chapter
4 should be used to finance public improvements to lots or parcels
5 which are developed and where the costs and time delays involved
6 in creating an assessment district pursuant to other provisions of
7 this division or any other law would be prohibitively large relative
8 to the cost of the public improvements to be financed.
9 (b) It is also the intent of the Legislature that this chapter should
10 be used to finance the installation of distributed generation
11 renewable energy sources or energy efficiency improvements that
12 are permanently fixed to residential, commercial, industrial,
13 agricultural, or other real property.
14 (c) It is also the intent of the Legislature to address chronic
15 water needs throughout California by permitting voluntary
16 individual efforts to improve water efficiency. The Legislature
17 further intends that this chapter should be used to finance the
18 installation of water efficiency improvements that are permanently
19 fixed to residential, commercial, industrial, agricultural, or other
20 real property, including, but not limited to, recycled water
21 connections, synthetic turf, cisterns for stormwater recovery, and
22 permeable pavement.
23 (d) *It is also the intent of the Legislature to address seismic*
24 *safety needs throughout California by permitting voluntary*
25 *individual efforts to improve the seismic safety of homes and*
26 *buildings. The Legislature further intends that this chapter should*
27 *be used to finance the installation of seismic strengthening*
28 *improvements that are permanently fixed to residential,*
29 *commercial, industrial, agricultural, or other real property,*
30 *including, but not limited to, the seismic strengthening of cripple*
31 *walls and sill plate anchorage of light, wood framed buildings.*
32 ~~(d)~~
33 (e) It is also the intent of the Legislature that a public agency
34 in the process of establishing an assessment program, to the extent
35 feasible, use a good faith effort to provide advance notice of the

1 proposed program to water and electric service providers in the
2 relevant service area, as set forth in Section 5898.24, to allow the
3 most efficient coordination and collaboration between the public
4 agency and water and electric service providers.

5 ~~(e)~~

6 *(f)* This chapter shall not be used to finance facilities for parcels
7 which are undergoing development.

8 ~~(f)~~

9 *(g)* This chapter shall not be used to finance the purchase or
10 installation of appliances that are not permanently fixed to
11 residential, commercial, industrial, agricultural, or other real
12 property.

13 ~~(g)~~

14 *(h)* Assessments may be levied pursuant to this chapter only
15 with the free and willing consent of the owner of each lot or parcel
16 on which an assessment is levied at the time the assessment is
17 levied.

18 SEC. 2. Section 5898.14 of the Streets and Highways Code is
19 amended to read:

20 5898.14. (a) The Legislature finds all of the following:

21 (1) Energy and water conservation efforts, including the
22 promotion of energy efficiency improvements to residential,
23 commercial, industrial, agricultural, or other real property are
24 necessary to address the issue of global climate change.

25 (2) The upfront cost of making residential, commercial,
26 industrial, agricultural, or other real property more energy and
27 water efficient prevents many property owners from making those
28 improvements. To make those improvements more affordable and
29 to promote the installation of those improvements, it is necessary
30 to authorize an alternative procedure for authorizing assessments
31 to finance the cost of energy and water efficiency improvements.

32 *(3) The upfront cost of making residential, commercial,*
33 *industrial, agricultural, or other real property more seismically*
34 *safe prevents many property owners from making those*
35 *improvements. To make those improvements more affordable and*
36 *to promote the installation of those strengthening improvements,*
37 *it is necessary to authorize an alternative procedure for authorizing*
38 *assessments to finance the cost of seismic strengthening*
39 *improvements.*

(b) The Legislature declares that a public purpose will be served by a voluntary contractual assessment program that provides the legislative body of any public agency with the authority to finance the installation of distributed generation renewable energy sources ~~and~~, energy or water efficiency improvements, *or seismic strengthening improvements* that are permanently fixed to residential, commercial, industrial, agricultural, or other real property.

SEC. 3. Section 5898.20 of the Streets and Highways Code is amended to read:

5898.20. (a) (1) The legislative body of any public agency may determine that it would be convenient and advantageous to designate an area within the public agency, which may encompass the entire public agency or a lesser portion, within which authorized public agency officials and property owners may enter into voluntary contractual assessments for public improvements and to make financing arrangements pursuant to this chapter.

(2) The legislative body of any public agency may also determine that it would be convenient, advantageous, and in the public interest to designate an area within the public agency, which may encompass the entire public agency or a lesser portion, within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources ~~or~~, energy or water efficiency improvements, *or seismic strengthening improvements* that are permanently fixed to real property pursuant to this chapter.

(b) The legislative body shall make these determinations by adopting a resolution indicating its intention to do so. The resolution of intention shall include a statement that the public agency proposes to make voluntary contractual assessment financing available to property owners, shall identify the kinds of public works, distributed generation renewable energy sources, ~~or~~ energy or water efficiency improvements, *or seismic strengthening improvements* that may be financed, shall describe the boundaries of the area within which voluntary contractual assessments may be entered into, and shall briefly describe the proposed arrangements for financing the program, including a brief description of criteria for determining the creditworthiness of a property owner. The resolution of intention shall state that it is in

the public interest to finance the installation of distributed generation renewable energy sources ~~or~~, energy or water efficiency improvements, ~~or both~~ *seismic strengthening improvements*, or *any combination thereof*, pursuant to paragraph (2) of subdivision (a), if applicable. The resolution shall state that a public hearing should be held at which interested persons may object to or inquire about the proposed program or any of its particulars, and shall state the time and place of the hearing. The resolution shall direct an appropriate public agency official to prepare a report pursuant to Section 5898.22 and to enter into consultations with the county auditor's office or county controller's office in order to reach agreement on what additional fees, if any, will be charged to the city or county for incorporating the proposed voluntary contractual assessments into the assessments of the general taxes of the city or county on real property.

(c) As used in this chapter, each of the following terms shall have the following meaning:

(1) "Efficiency improvements" means permanent improvements fixed to residential, commercial, industrial, agricultural, or other real property.

(2) "Legislative body" means the governing body of a public agency.

(3) (A) For the purpose of financing the installation of water efficiency improvements, "public agency" means a city, county, city and county, municipal utility district, community services district, sanitary district, sanitation district, or water district, as defined in Section 20200 of the Water Code. The definition of "city" in Section 5005 shall not apply to this subparagraph.

(B) For the purpose of financing the installation of distributed generation renewable energy sources or energy efficiency improvements, "public agency" means a county, city, city and county, or a municipal utility district, an irrigation district, or public utility district that owns and operates an electric distribution system. The definition of "city" in Section 5005 shall not apply to this subparagraph.

(C) For the purpose of financing the public improvements, "public agency" means a city as defined in Section 5005.

(4) "*Seismic strengthening improvements*" means *permanent improvements fixed to residential, commercial, industrial, agricultural, or other real property*.

SEC. 4. Section 5898.21 of the Streets and Highways Code is amended to read:

5898.21. Notwithstanding any other provision of this chapter, upon the written consent of an authorized public agency official, the proposed arrangements for financing the program pertaining to the installation of distributed generation renewable energy sources~~—or~~, energy or water efficiency improvements, *or seismic strengthening improvements* that are permanently fixed to real property may authorize the property owner to purchase directly the related equipment and materials for the installation of distributed generation renewable energy sources~~—or~~, energy or water efficiency improvements, *or seismic strengthening improvements* and to contract directly for the installation of distributed generation renewable energy sources~~—or~~, energy or water efficiency improvements, *or seismic strengthening improvements* that are permanently fixed to the property owner's residential, commercial, industrial, agricultural, or other real property.

SEC. 5. Section 5898.22 of the Streets and Highways Code is amended to read:

5898.22. The report shall contain all of the following:

(a) A map showing the boundaries of the territory within which voluntary contractual assessments are proposed to be offered.

(b) A draft contract specifying the terms and conditions that would be agreed to by a property owner within the voluntary contractual assessment area and the public agency.

(c) A statement of public agency policies concerning voluntary contractual assessments including all of the following:

(1) Identification of types of facilities, distributed generation renewable energy sources,~~—or~~ energy or water efficiency improvements, *or seismic strengthening improvements* that may be financed through the use of contractual assessments.

(2) Identification of a public agency official authorized to enter into voluntary contractual assessments on behalf of the public agency.

(3) A maximum aggregate dollar amount of voluntary contractual assessments.

(4) A method for setting requests from property owners for financing through voluntary contractual assessments in priority

1 order in the event that requests appear likely to exceed the
2 authorization amount.

3 (d) A plan for raising a capital amount required to pay for work
4 performed pursuant to voluntary contractual assessments. The plan
5 may include amounts to be advanced by the public agency through
6 funds available to it from any source. The plan may include the
7 sale of a bond or bonds or other financing relationship pursuant
8 to Section 5898.28. The plan shall include a statement of or method
9 for determining the interest rate and time period during which
10 contracting property owners would pay any assessment. The plan
11 shall provide for any reserve fund or funds. The plan shall provide
12 for the apportionment of all or any portion of the costs incidental
13 to financing, administration, and collection of the voluntary
14 contractual assessment program among the consenting property
15 owners and the public agency.

16 (e) A report on the results of the consultations with the county
17 auditor's office or county controller's office concerning the
18 additional fees, if any, that will be charged to the city or county
19 for incorporating the proposed voluntary contractual assessments
20 into the assessments of the general taxes of the city or county on
21 real property, and a plan for financing the payment of those fees.