

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1755**

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**Introduced by Assembly Member Swanson**

February 8, 2010

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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 amended, Swanson. ~~Contractual assessments; seismic safety improvements.~~ *Seismic Safety Finance Act.*

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 *enact the Seismic Safety Finance Act, which 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. This act shall be known as the Seismic Safety*  
2     *Finance Act.*

3     ~~SECTION 1.~~

4     *SEC. 2.* Section 5898.12 of the Streets and Highways Code is  
5     amended to read:

6     5898.12. (a) It is the intent of the Legislature that this chapter  
7     should be used to finance public improvements to lots or parcels  
8     which are developed and where the costs and time delays involved  
9     in creating an assessment district pursuant to other provisions of  
10    this division or any other law would be prohibitively large relative  
11    to the cost of the public improvements to be financed.

12    (b) It is also the intent of the Legislature that this chapter should  
13    be used to finance the installation of distributed generation  
14    renewable energy sources or energy efficiency improvements that  
15    are permanently fixed to residential, commercial, industrial,  
16    agricultural, or other real property.

17    (c) It is also the intent of the Legislature to address chronic  
18    water needs throughout California by permitting voluntary  
19    individual efforts to improve water efficiency. The Legislature  
20    further intends that this chapter should be used to finance the  
21    installation of water efficiency improvements that are permanently  
22    fixed to residential, commercial, industrial, agricultural, or other  
23    real property, including, but not limited to, recycled water  
24    connections, synthetic turf, cisterns for stormwater recovery, and  
25    permeable pavement.

26    (d) It is also the intent of the Legislature to address seismic  
27    safety needs throughout California by permitting voluntary  
28    individual efforts to improve the seismic safety of homes and  
29    buildings. The Legislature further intends that this chapter should  
30    be used to finance the installation of seismic strengthening  
31    improvements that are permanently fixed to residential,  
32    commercial, industrial, agricultural, or other real property,

1 including, but not limited to, the seismic strengthening of cripple  
2 walls and sill plate anchorage of light, wood framed buildings.

3 (e) It is also the intent of the Legislature that a public agency  
4 in the process of establishing an assessment program, to the extent  
5 feasible, use a good faith effort to provide advance notice of the  
6 proposed program to water and electric service providers in the  
7 relevant service area, as set forth in Section 5898.24, to allow the  
8 most efficient coordination and collaboration between the public  
9 agency and water and electric service providers.

10 (f) This chapter shall not be used to finance facilities for parcels  
11 which are undergoing development.

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

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

20 ~~SEC. 2:~~

21 *SEC. 3.* Section 5898.14 of the Streets and Highways Code is  
22 amended to read:

23 5898.14. (a) The Legislature finds all of the following:

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

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

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

1 assessments to finance the cost of seismic strengthening  
2 improvements.

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

10 ~~SEC. 3.~~

11 *SEC. 4.* Section 5898.20 of the Streets and Highways Code is  
12 amended to read:

13 5898.20. (a) (1) The legislative body of any public agency  
14 may determine that it would be convenient and advantageous to  
15 designate an area within the public agency, which may encompass  
16 the entire public agency or a lesser portion, within which authorized  
17 public agency officials and property owners may enter into  
18 voluntary contractual assessments for public improvements and  
19 to make financing arrangements pursuant to this chapter.

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

30 (b) The legislative body shall make these determinations by  
31 adopting a resolution indicating its intention to do so. The  
32 resolution of intention shall include a statement that the public  
33 agency proposes to make voluntary contractual assessment  
34 financing available to property owners, shall identify the kinds of  
35 public works, distributed generation renewable energy sources,  
36 energy or water efficiency improvements, or seismic strengthening  
37 improvements that may be financed, shall describe the boundaries  
38 of the area within which voluntary contractual assessments may  
39 be entered into, and shall briefly describe the proposed  
40 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, energy or water efficiency improvements, 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.

1 (4) “Seismic strengthening improvements” means permanent  
2 improvements fixed to residential, commercial, industrial,  
3 agricultural, or other real property.

4 ~~SEC. 4.~~

5 *SEC. 5.* Section 5898.21 of the Streets and Highways Code is  
6 amended to read:

7 5898.21. Notwithstanding any other provision of this chapter,  
8 upon the written consent of an authorized public agency official,  
9 the proposed arrangements for financing the program pertaining  
10 to the installation of distributed generation renewable energy  
11 sources, energy or water efficiency improvements, or seismic  
12 strengthening improvements that are permanently fixed to real  
13 property may authorize the property owner to purchase directly  
14 the related equipment and materials for the installation of  
15 distributed generation renewable energy sources, energy or water  
16 efficiency improvements, or seismic strengthening improvements  
17 and to contract directly for the installation of distributed generation  
18 renewable energy sources, energy or water efficiency  
19 improvements, or seismic strengthening improvements that are  
20 permanently fixed to the property owner’s residential, commercial,  
21 industrial, agricultural, or other real property.

22 ~~SEC. 5.~~

23 *SEC. 6.* Section 5898.22 of the Streets and Highways Code is  
24 amended to read:

25 5898.22. The report shall contain all of the following:

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

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

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

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

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

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

3 (4) A method for setting requests from property owners for  
4 financing through voluntary contractual assessments in priority  
5 order in the event that requests appear likely to exceed the  
6 authorization amount.

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

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