

AMENDED IN ASSEMBLY MAY 3, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

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 amended, Swanson. 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. The Legislature finds and declares that Assembly*
4 *Bill 1755 of the 2009–10 Regular Session shall be known as the*
5 *Seismic Safety Finance Act.*

6 SEC. 2. Section 5898.12 of the Streets and Highways Code is
7 amended to read:

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

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

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

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

1 commercial, industrial, agricultural, or other real property,
2 including, but not limited to, the seismic strengthening of cripple
3 walls and sill plate anchorage of light, wood framed buildings.

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

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

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

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

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

12 5898.20. (a) (1) The legislative body of any public agency
13 may determine that it would be convenient and advantageous to
14 designate an area within the public agency, which may encompass
15 the entire public agency or a lesser portion, within which authorized
16 public agency officials and property owners may enter into
17 voluntary contractual assessments for public improvements and
18 to make financing arrangements pursuant to this chapter.

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

29 (b) The legislative body shall make these determinations by
30 adopting a resolution indicating its intention to do so. The
31 resolution of intention shall include a statement that the public
32 agency proposes to make voluntary contractual assessment
33 financing available to property owners, shall identify the kinds of
34 public works, distributed generation renewable energy sources,
35 energy or water efficiency improvements, or seismic strengthening
36 improvements that may be financed, shall describe the boundaries
37 of the area within which voluntary contractual assessments may
38 be entered into, and shall briefly describe the proposed
39 arrangements for financing the program, including a brief
40 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. 5. Section 5898.21 of the Streets and Highways Code is
5 amended to read:

6 5898.21. Notwithstanding any other provision of this chapter,
7 upon the written consent of an authorized public agency official,
8 the proposed arrangements for financing the program pertaining
9 to the installation of distributed generation renewable energy
10 sources, energy or water efficiency improvements, or seismic
11 strengthening improvements that are permanently fixed to real
12 property may authorize the property owner to purchase directly
13 the related equipment and materials for the installation of
14 distributed generation renewable energy sources, energy or water
15 efficiency improvements, or seismic strengthening improvements
16 and to contract directly for the installation of distributed generation
17 renewable energy sources, energy or water efficiency
18 improvements, or seismic strengthening improvements that are
19 permanently fixed to the property owner’s residential, commercial,
20 industrial, agricultural, or other real property.

21 SEC. 6. Section 5898.22 of the Streets and Highways Code is
22 amended to read:

23 5898.22. The report shall contain all of the following:

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

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

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

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

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

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

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

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

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