

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JUNE 1, 2010

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 define “public agency,” for purposes of financing the installation of seismic strengthening improvements, to mean a city, county, or city and county. The bill would also declare the intent of the Legislature in regard to these provisions, *and in regard to the total amount of assessments and taxes on a property as a result of participation in the contractual assessment program. The bill would require the preliminary report issued in connection with the contractual assessment program to include criteria for determining the creditworthiness of a property owner, as well as safeguards to be used to limit the total annual property tax and assessments on the property, as specified.*

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. The Legislature finds and declares that Assembly
- 2 Bill 1755 of the 2009–10 Regular Session shall be known as the
- 3 Seismic Safety Finance Act.
- 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

1 installation of water efficiency improvements that are permanently
2 fixed to residential, commercial, industrial, agricultural, or other
3 real property, including, but not limited to, recycled water
4 connections, synthetic turf, cisterns for stormwater recovery, and
5 permeable pavement.

6 (d) It is also the intent of the Legislature to address seismic
7 safety needs throughout California by permitting voluntary
8 individual efforts to improve the seismic safety of homes and
9 buildings. The Legislature further intends that this chapter should
10 be used to finance the installation of seismic strengthening
11 improvements that are permanently fixed to residential,
12 commercial, industrial, agricultural, or other real property,
13 including, but not limited to, the seismic strengthening of cripple
14 walls and sill plate anchorage of light, wood framed buildings.

15 (e) It is also the intent of the Legislature that a public agency
16 in the process of establishing an assessment program, to the extent
17 feasible, use a good faith effort to provide advance notice of the
18 proposed program to water and electric service providers in the
19 relevant service area, as set forth in Section 5898.24, to allow the
20 most efficient coordination and collaboration between the public
21 agency and water and electric service providers.

22 (f) *It is the intent of the Legislature that participation in an*
23 *assessment program will not result in a property owner being*
24 *unable to pay the property taxes and assessments on the property.*
25 *The Legislature further intends that a property owner shall not be*
26 *able to participate in any program established pursuant to this*
27 *chapter if participation would result in the total amount of any*
28 *annual property taxes and assessments to exceed 5 percent of the*
29 *property's appraised market value.*

30 ~~(f)~~

31 (g) This chapter shall not be used to finance facilities for parcels
32 which are undergoing development.

33 ~~(g)~~

34 (h) This chapter shall not be used to finance the purchase or
35 installation of appliances that are not permanently fixed to
36 residential, commercial, industrial, agricultural, or other real
37 property.

38 ~~(h)~~

39 (i) Assessments may be levied pursuant to this chapter only
40 with the free and willing consent of the owner of each lot or parcel

1 on which an assessment is levied at the time the assessment is
2 levied.

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

5 5898.14. (a) The Legislature finds all of the following:

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

10 (2) The upfront cost of making residential, commercial,
11 industrial, agricultural, or other real property more energy and
12 water efficient prevents many property owners from making those
13 improvements. To make those improvements more affordable and
14 to promote the installation of those improvements, it is necessary
15 to authorize an alternative procedure for authorizing assessments
16 to finance the cost of energy and water efficiency improvements.

17 (3) The upfront cost of making residential, commercial,
18 industrial, agricultural, or other real property more seismically
19 safe prevents many property owners from making those
20 improvements. To make those improvements more affordable and
21 to promote the installation of those strengthening improvements,
22 it is necessary to authorize an alternative procedure for authorizing
23 assessments to finance the cost of seismic strengthening
24 improvements.

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

32 SEC. 4. Section 5898.20 of the Streets and Highways Code is
33 amended to read:

34 5898.20. (a) (1) The legislative body of any public agency
35 may determine that it would be convenient and advantageous to
36 designate an area within the public agency, which may encompass
37 the entire public agency or a lesser portion, within which authorized
38 public agency officials and property owners may enter into
39 voluntary contractual assessments for public improvements and
40 to make financing arrangements pursuant to this chapter.

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

11 (b) The legislative body shall make these determinations by
12 adopting a resolution indicating its intention to do so. The
13 resolution of intention shall include a statement that the public
14 agency proposes to make voluntary contractual assessment
15 financing available to property owners, shall identify the kinds of
16 public works, distributed generation renewable energy sources,
17 energy or water efficiency improvements, or seismic strengthening
18 improvements that may be financed, shall describe the boundaries
19 of the area within which voluntary contractual assessments may
20 be entered into, and shall briefly describe the proposed
21 arrangements for financing the program, including a brief
22 description of criteria for determining the creditworthiness of a
23 property owner. The resolution of intention shall state that it is in
24 the public interest to finance the installation of distributed
25 generation renewable energy sources, energy or water efficiency
26 improvements, seismic strengthening improvements, or any
27 combination thereof, pursuant to paragraph (2) of subdivision (a),
28 if applicable. The resolution shall state that a public hearing should
29 be held at which interested persons may object to or inquire about
30 the proposed program or any of its particulars, and shall state the
31 time and place of the hearing. The resolution shall direct an
32 appropriate public agency official to prepare a report pursuant to
33 Section 5898.22 and to enter into consultations with the county
34 auditor's office or county controller's office in order to reach
35 agreement on what additional fees, if any, will be charged to the
36 city or county for incorporating the proposed voluntary contractual
37 assessments into the assessments of the general taxes of the city
38 or county on real property.

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

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

4 (2) “Legislative body” means the governing body of a public
5 agency.

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

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

19 (C) For the purpose of financing the installation of seismic
20 strengthening improvements, “public agency” means a city, county,
21 or city and county. The definition of “city” in Section 5005 shall
22 not apply to this subparagraph.

23 (D) For the purpose of financing the public improvements,
24 “public agency” means a city as defined in Section 5005.

25 (4) “Seismic strengthening improvements” means permanent
26 improvements fixed to residential, commercial, industrial,
27 agricultural, or other real property.

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

30 5898.21. Notwithstanding any other provision of this chapter,
31 upon the written consent of an authorized public agency official,
32 the proposed arrangements for financing the program pertaining
33 to the installation of distributed generation renewable energy
34 sources, energy or water efficiency improvements, or seismic
35 strengthening improvements that are permanently fixed to real
36 property may authorize the property owner to purchase directly
37 the related equipment and materials for the installation of
38 distributed generation renewable energy sources, energy or water
39 efficiency improvements, or seismic strengthening improvements
40 and to contract directly for the installation of distributed generation

1 renewable energy sources, energy or water efficiency
2 improvements, or seismic strengthening improvements that are
3 permanently fixed to the property owner's residential, commercial,
4 industrial, agricultural, or other real property.

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

7 5898.22. The report shall contain all of the following:

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

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

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

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

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

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

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

28 (5) *A brief description of criteria for determining the*
29 *creditworthiness of a property owner, as well as safeguards that*
30 *will be used to ensure that the total annual property tax and*
31 *assessments on the property will not exceed 5 percent of the*
32 *property's appraised market value.*

33 (d) A plan for raising a capital amount required to pay for work
34 performed pursuant to voluntary contractual assessments. The plan
35 may include amounts to be advanced by the public agency through
36 funds available to it from any source. The plan may include the
37 sale of a bond or bonds or other financing relationship pursuant
38 to Section 5898.28. The plan shall include a statement of or method
39 for determining the interest rate and time period during which
40 contracting property owners would pay any assessment. The plan

1 shall provide for any reserve fund or funds. The plan shall provide
2 for the apportionment of all or any portion of the costs incidental
3 to financing, administration, and collection of the voluntary
4 contractual assessment program among the consenting property
5 owners and the public agency.
6 (e) A report on the results of the consultations with the county
7 auditor's office or county controller's office concerning the
8 additional fees, if any, that will be charged to the city or county
9 for incorporating the proposed voluntary contractual assessments
10 into the assessments of the general taxes of the city or county on
11 real property, and a plan for financing the payment of those fees.