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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2182

Introduced by Assembly Member Huffman
(Coauthors: Senators Liu and Pavley)

February 18, 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 2182, as amended, Huffman. Contractual assessments: onsite sewer and septic improvements.

Existing law authorizes a legislative body of a public agency, as defined, to determine that it would be convenient and advantageous to designate an area within which authorized officials and free and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property.

This bill would expand these provisions to include contractual assessments to finance onsite sewer and septic improvements, as defined. The bill would permit onsite sewer and septic improvements to be installed to convert residential, commercial, industrial, agricultural, or other real property from an onsite septic system to community sewer collection service and to modify or replace existing onsite sewer and

septic improvements. The bill would also permit these assessments to be used to replace or upgrade an existing septic system if specified requirements are met. *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. 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 that 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 water quality
- 24 needs throughout California by permitting voluntary individual

1 sewer and septic improvements that provide a public benefit. The
2 Legislature further intends that this chapter should be used to
3 finance the installation of onsite sewer and septic improvements
4 that are permanently fixed to residential, commercial, industrial,
5 agricultural, or other real property, for the installation of
6 improvements to, and replacements of, existing onsite sewer
7 facilities served by a community sewer system, a septic system,
8 and conversion of the property from a septic system to community
9 sewer collection and treatment service.

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

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

25 ~~(f)~~
26 (g) This chapter shall not be used to finance facilities for parcels
27 which are undergoing development.

28 ~~(g)~~
29 (h) This chapter shall not be used to finance the purchase or
30 installation of appliances that are not permanently fixed to
31 residential, commercial, industrial, agricultural, or other real
32 property.

33 ~~(h)~~
34 (i) Assessments may be levied pursuant to this chapter only
35 with the free and willing consent of the owner of each lot or parcel
36 on which an assessment is levied at the time the assessment is
37 levied.

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

40 5898.14. (a) The Legislature finds all of the following:

(1) Energy and water conservation efforts, including the promotion of energy efficiency improvements to residential, commercial, industrial, agricultural, or other real property, are necessary to address the issue of global climate change. To improve the quality of surface water and groundwater, necessary efforts include the promotion of onsite water improvements that provide a public benefit in water quality protection.

(2) The upfront cost of making residential, commercial, industrial, agricultural, or other real property more energy and water efficient, converting from an onsite septic system to sewer collection service, updating an existing septic system, or making needed improvements to, or replacements of, existing sewer laterals, prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation of those improvements, it is necessary to authorize an alternative procedure for authorizing assessments to finance the cost of energy and water efficiency improvements and onsite sewer and septic improvements.

(b) The Legislature declares 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 distributed generation renewable energy sources, onsite sewer and septic improvements, and energy or water efficiency 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 a public agency may determine that it would be convenient and advantageous to designate an area within the public agency, that 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 a public agency may also determine that it would be convenient, advantageous, and in the public interest to designate an area within the public agency, that 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

1 distributed generation renewable energy sources, onsite sewer and
2 septic improvements, or energy or water efficiency improvements
3 that are permanently fixed to real property pursuant to this chapter.

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

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

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

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

39 (3) (A) For the purpose of financing the installation of water
40 efficiency improvements or onsite sewer and septic improvements,

1 “public agency” means a city, county, city and county, municipal
2 utility district, community services district, sanitary district,
3 sanitation district, or water district, as defined in Section 20200
4 of the Water Code. The definition of “city” in Section 5005 shall
5 not apply to this subparagraph.

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

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

15 (4) (A) “Onsite sewer and septic improvements” means
16 permanent sewer and septic improvements fixed to real property
17 that convey sewage from the property’s interior plumbing to the
18 point of discharge into the public agency’s sewer facilities, and
19 may include, but is not limited to, pipes, pumps, other equipment,
20 sewer laterals, septic system abandonment, or one-time charges
21 for sewage treatment capacity associated with the improvements.
22 Onsite sewer and septic improvements may be installed for the
23 following purposes:

24 (i) To convert residential, commercial, industrial, agricultural,
25 or other real property from an onsite septic system to community
26 sewer collection service.

27 (ii) To modify or replace existing onsite sewer improvements.

28 (B) “Onsite sewer and septic improvements” also means the
29 replacement of, or upgrade of, an existing septic system if the all
30 of the following requirements are met:

31 (i) The public agency determines that the building served by
32 the septic system is not within the range of service of an existing
33 or planned public sewer.

34 (ii) The replacement or upgrade of the existing septic system
35 satisfies all local requirements regarding pretreatment, effluent
36 meters or other devices to control solids releases, and emergency
37 capacity and malfunction alarming devices.

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

1 5898.21. Notwithstanding any other provision of this chapter,
2 upon the written consent of an authorized public agency official,
3 the proposed arrangements for financing the program pertaining
4 to the installation of distributed generation renewable energy
5 sources, onsite sewer and septic improvements, or energy or water
6 efficiency improvements that are permanently fixed to real property
7 may authorize the property owner to purchase directly the related
8 equipment and materials for the installation of distributed
9 generation renewable energy sources, onsite sewer and septic
10 improvements, or energy or water efficiency improvements and
11 to contract directly for the installation of distributed generation
12 renewable energy sources, onsite sewer and septic improvements,
13 or energy or water efficiency improvements that are permanently
14 fixed to the property owner's residential, commercial, industrial,
15 agricultural, or other real property.

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

18 5898.22. The report shall contain all of the following:

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

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

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

26 (1) Identification of types of facilities, distributed generation
27 renewable energy sources, onsite sewer and septic improvements,
28 or energy or water efficiency improvements that may be financed
29 through the use of contractual assessments.

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

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

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

39 (5) *A brief description of criteria for determining the*
40 *creditworthiness of a property owner, as well as safeguards that*

1 *will be used to ensure that the total annual property tax and*
2 *assessments on the property will not exceed 5 percent of the*
3 *property's appraised market value.*

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

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