

Assembly Bill No. 2182

Passed the Assembly August 25, 2010

Chief Clerk of the Assembly

Passed the Senate August 24, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 5898.15, 5898.23, and 5899.1 to the Streets and Highways Code, relating to contractual assessments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2182, 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 prohibit a public agency from permitting a property owner to participate in a contractual assessment program if the total amount of assessments and taxes on the property exceeds 5% of the property's market value, as specified. The bill would require the preliminary report issued in connection with the contractual assessment program to include criteria for determining the underwriting requirements, as well as safeguards to be used to limit the total annual property tax and assessments on the property, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 5898.15 is added to the Streets and Highways Code, to read:

5898.15. (a) A public agency shall not permit a property owner to participate in any program established pursuant to this chapter if the owner's participation would result in the total amount of any annual property taxes and assessments exceeding 5 percent of the property's market value, as determined at the time of approval of the owner's contractual assessment.

(b) Nothing in this chapter shall be construed to void or otherwise release a property owner from the contractual obligations incurred by a contractual assessment on a property, particularly in the event that the total amount of annual property taxes and assessments exceeds 5 percent of a property's market value after the property owner has entered into a contractual assessment pursuant to this chapter.

SEC. 2. Section 5898.23 is added to the Streets and Highways Code, to read:

5898.23. For purposes of the report required pursuant to Section 5898.22, the statement of public agency policies required pursuant to subdivision (c) of that section shall also include a brief description of criteria for determining the underwriting requirements, as well as safeguards that will be used to ensure that the total annual property tax and assessments on the property will not exceed 5 percent of the property's market value, as determined at the time of approval for the owner's contractual assessment.

SEC. 3. Section 5899.1 is added to the Streets and Highways Code, to read:

5899.1. (a) The Legislature finds and declares all of the following:

(1) It is the intent of the Legislature to address water quality needs throughout California by permitting voluntary individual sewer and septic improvements that provide a public benefit. The Legislature further intends that this chapter should be used to finance the installation of onsite sewer and septic improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property, for the installation of improvements to, and replacements of, existing onsite sewer facilities served by a community sewer system, a septic system,

and conversion of the property from a septic system to community sewer collection and treatment service.

(2) To improve the quality of surface water and groundwater, necessary efforts include the promotion of onsite sewer and septic improvements that provide a public benefit in water quality protection.

(3) The upfront cost of converting residential, commercial, industrial, agricultural, or other real property 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 onsite sewer and septic improvements.

(4) 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 onsite sewer and septic improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property.

(b) For purposes of this section, the following terms shall have the following meanings:

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

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

(B) To modify or replace existing onsite sewer improvements.

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

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

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

(3) For the purpose of financing the installation of onsite sewer and septic 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 paragraph.

(c) The legislative body of any public agency may designate an area, in the manner provided pursuant to Section 5898.20, within which authorized public agency officials and property owners may enter into voluntary contractual assessments to finance the installation of onsite sewer and septic improvements that are permanently fixed to real property pursuant to this chapter.

(d) For purposes of establishing a voluntary contractual assessment program relating to onsite sewer and septic improvements, the legislative body shall make the determinations required pursuant to Section 5898.20 by adopting a resolution indicating its intention to do so. The resolution of intention shall identify the kinds of onsite sewer and septic improvements that may be financed and shall include all of the information that is required pursuant to subdivision (b) of Section 5898.20, including, but not limited to, directing an appropriate public agency official to prepare a report pursuant to Section 5898.22.

(e) For purposes of the report required pursuant to Section 5898.22, relating to a voluntary contractual assessment program for onsite sewer and septic improvements, the designated public agency official shall satisfy the requirements of paragraph (1) of subdivision (c) of Section 5898.22 by identifying the types of onsite sewer and septic improvements that may be financed through the use of contractual assessments.

(f) 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 onsite sewer and septic 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 onsite sewer and septic improvements and to contract directly for the installation of onsite sewer and septic improvements that are permanently fixed to the property owner's residential, commercial, industrial, agricultural, or other real property.

Approved _____, 2010

Governor