

Introduced by Senator DoddJanuary 18, 2022

An act to add Division 6 (commencing with Section 62300) of Title 6 to the Government Code, relating to climate resilience districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 852, as introduced, Dodd. Climate resilience districts: formation: funding mechanisms.

Existing law authorizes certain local agencies to form a community revitalization authority (authority) within a community revitalization and investment area, as defined, to carry out provisions of the Community Redevelopment Law in that area for purposes related to, among other things, infrastructure, affordable housing, and economic revitalization. Existing law provides for the financing of these activities by, among other things, the issuance of bonds serviced by property tax increment revenues, and requires the authority to adopt a community revitalization and investment plan for the community revitalization and investment area that includes elements describing and governing revitalization activities.

This bill would authorize a city, county, city and county, special district, or a combination of any of those entities to form a climate resilience district for the purposes of raising and allocating funding for eligible projects and the operating expenses of eligible projects. The bill would define "eligible project" to mean projects that address sea level rise, extreme heat, extreme cold, the risk of wildfire, drought, and the risk of flooding, as specified. The bill would authorize a district created pursuant to these provisions to have boundaries that are identical to the boundaries of the participating entities or within the boundaries of the participating entities. The bill would authorize specified local

entities to adopt a resolution to provide property tax increment revenues to the district. The bill would also authorize specified local entities to adopt a resolution allocating other tax revenues to the district, subject to certain requirements. The bill would provide for the financing of the activities of the district by, among other things, levying a benefit assessment, special tax, property-related fee, or other service charge or fee consistent with the requirements of the California Constitution. The bill would require each district to prepare an annual expenditure plan and an operating budget and capital improvement budget, which must be adopted by the governing body of the district and subject to review and revision at least annually. By imposing duties on counties in the administration of tax revenues and elections of a climate resilience district, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

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

1 SECTION 1. Division 6 (commencing with Section 62300) is
 2 added to Title 6 of the Government Code, to read:

3

4 DIVISION 6. CLIMATE RESILIENCE DISTRICTS

5

6 62300. This division shall be known, and may be cited, as the
 7 Climate Resilience Districts Act.

8 62301. It is the intent of Legislature in enacting this division
 9 to provide the ability for local governments to create districts for
 10 the purpose of addressing climate change effects and impacts
 11 through activities and actions that include mitigation and
 12 adaptation, as necessary and appropriate, to achieve all of the
 13 following:

14 (a) Providing a sustained and certain level and source of funding
 15 at the local level.

1 (b) Allowing activities and actions on an appropriate geographic
2 basis.

3 (c) Facilitating the receipt and use of federal, state, local, and
4 private funds.

5 62302. For purposes of this division:

6 (a) “District” means a climate resilience district formed pursuant
7 to this division.

8 (b) “Eligible project” means a capital project that is designed
9 and implemented to address climate change mitigation or
10 adaptation, including, but not limited to, all of the following:

11 (1) A project that addresses river, bay, or sea level rise, including
12 sea walls, wetlands restoration, erosion control, and levies.

13 (2) A project that addresses extreme heat, including constructing,
14 improving, or modifying new or existing facilities.

15 (3) A project that addresses extreme cold, rain, or snow,
16 including constructing, improving, or modifying new or existing
17 facilities.

18 (4) A project that addresses the risk of wildfire, including
19 establishing fire breaks, prescribed burning, structure hardening,
20 and vegetation control.

21 (5) A project that addresses drought, including multiuse land
22 repurposing, groundwater replenishment, groundwater storage,
23 and conjunctive use.

24 (6) A project that addresses the risk of flooding, including
25 structure elevation or relocation, wetlands restoration, flood
26 easements, and levees.

27 (c) “Participating entity” means a city, county, or special district
28 within a climate resilience district that adopts a resolution directing
29 the county auditor or auditor-controller to allocate its share of
30 property tax increment within the area covered by the district to
31 the district pursuant to Section 62306.

32 (d) “Property tax increment” means that portion of the ad
33 valorem taxes, as defined under subdivision (a) of Section 1 of
34 Article XIII A of the California Constitution, excluding any ad
35 valorem taxes or assessments levied pursuant to subdivision (b)
36 of Section 1 of Article XIII A of the California Constitution, levied
37 each year in excess of the amount levied by or for a taxing agency
38 upon the total sum of the assessed value of the taxable property in
39 the boundaries of a district as defined in the resolution first
40 establishing the district, as shown upon the assessment roll used

1 in connection with the taxation of that property by the taxing
2 agency as of the last equalized roll prior to either the effective date
3 of the authorizing resolution or, if specified in the authorizing
4 resolution, another fiscal year no more than five years prior to the
5 effective date of the authorizing resolution.

6 62303. (a) (1) A city, county, city and county, special district,
7 or a combination of any of those entities may form a climate
8 resilience district pursuant to this division.

9 (2) The boundaries of the district shall be one of the following:

10 (A) Coterminous with the county, city, or special district forming
11 the district.

12 (B) Within a city or a county forming the district.

13 (C) Across two or more counties, cities, or special districts that
14 are forming the district.

15 (b) (1) A district shall be formed for the purpose of raising and
16 allocating funding for eligible projects and the operating expenses
17 of eligible projects.

18 (2) Operating expenses may include any of the following:

19 (A) The expenses of operating the district.

20 (B) The planning of eligible projects.

21 (C) The operational expenses of any eligible project.

22 (c) A district shall be deemed to be an “agency” described in
23 subdivision (b) of Section 16 of Article XVI of the California
24 Constitution only for purposes of receiving property tax increment
25 revenues.

26 62304. Proceedings for the establishment of a district shall be
27 instituted by the adoption of a resolution of intention to establish
28 the proposed district and shall do all of the following:

29 (a) State that a district is proposed to be established pursuant to
30 this division and describe the boundaries of the proposed district,
31 which may be accomplished by reference to a map on file in the
32 office of the clerk of the city or in the office of the recorder of the
33 county, as applicable.

34 (b) State the type of eligible projects proposed to be financed
35 or assisted by the district.

36 (c) State the need for the district and the goals the district
37 proposes to achieve.

38 (d) (1) State that any property tax increment revenue from some
39 or all affected taxing entities within the district, if approved by

1 resolution pursuant to Section 62306, may be used to finance these
2 activities.

3 (2) The city, county, city and county, or special district shall
4 not enact a resolution proposing formation of a district and
5 providing for the division of taxes of any participating entity unless
6 a resolution approving the plan has been adopted by the governing
7 body of each participating entity pursuant to Section 62306, which
8 is proposed to be subject to division of taxes and has been filed
9 with the legislative body at or prior to the time of the hearing.

10 62305. (a) A district shall have a membership consisting of
11 one of the following, as appropriate:

12 (1) If a district has only one participating entity the district shall
13 consist of three members of the legislative body of the participating
14 entity, and two members of the public chosen by the legislative
15 body. The legislative body may appoint one of its members to be
16 an alternate member of the legislative body, who may serve and
17 vote in place of a member who is absent or disqualifies themselves
18 from participating in a meeting of the district. The appointment of
19 the public members shall be subject to the provisions of Sections
20 54970 and 54972.

21 (2) If a district has two or more participating entities the district
22 shall consist of a majority of members from the legislative bodies
23 of the participating entities, and a minimum of two members of
24 the public chosen by the legislative bodies of the participating
25 entities. A legislative body of a participating entity may appoint
26 one of its members to be an alternate member of the legislative
27 body, who may serve and vote in place of a member who is absent
28 or disqualifies themselves from participating in a meeting of the
29 district. The appointment of the public members shall be subject
30 to the provisions of Sections 54970 and 54972.

31 (3) If a district has more than three participating entities, the
32 legislative bodies of the entities may, upon agreement by all
33 participating entities, appoint only one member and one alternate
34 member of their respective legislative bodies to the district and a
35 minimum of two members of the public chosen by the legislative
36 bodies of the participating entities. The appointment of the public
37 members shall be subject to the provisions of Sections 54970 and
38 54972.

1 (b) The legislative body shall ensure the district board is
2 established at the same time that it adopts a resolution of intention
3 pursuant to Section 62304.

4 (c) Board members of the district established pursuant to this
5 division shall not receive compensation but may receive
6 reimbursement for actual and necessary expenses incurred in the
7 performance of official duties pursuant to Article 2.3 (commencing
8 with Section 53232) of Chapter 2 of Part 1 of Division 2 of Title
9 5.

10 (d) Board members of the district are subject to Article 2.4
11 (commencing with Section 53234) of Chapter 2 of Part 1 of
12 Division 2 of Title 5.

13 (e) Notwithstanding any other law, any member of the legislative
14 body of a participating entity who serves as a member of the district
15 board pursuant to this section may also serve as a member of the
16 governing body of an agency or entity formed pursuant to an
17 agreement for the joint exercise of power that the participating
18 entity has entered into in accordance with the Joint Exercise of
19 Powers Act (Chapter 5 (commencing with Section 6500) of
20 Division 7 of Title 1).

21 62306. (a) (1) At any time before or after adoption of the
22 resolution establishing the district pursuant to Section 62304, any
23 city, county, or special district, other than a school entity as defined
24 in subdivision (n) of Section 95 of the Revenue and Taxation Code,
25 or a successor agency as defined in subdivision (j) of Section 34171
26 of the Health and Safety Code, that receives ad valorem property
27 taxes from property located within an area may adopt a resolution
28 directing the county auditor or auditor-controller to allocate its
29 share of property tax increment within the area covered by the
30 district to the district. The resolution adopted pursuant to this
31 subdivision may direct the county auditor or auditor-controller to
32 allocate less than the full amount of the property tax increment,
33 and to establish a maximum amount of time in years that the
34 allocation takes place. These amounts shall be allocated to the
35 district and, when collected, shall be held in a separate fund by the
36 district. Before adopting a resolution pursuant to this subdivision,
37 a city, county, or special district shall approve a memorandum of
38 understanding with the district governing the use of property tax
39 increment funds by the district for administrative and overhead
40 expenses.

1 (2) The provision for the receipt of property tax increment shall
2 become effective in the property tax year that begins after the
3 December 1 immediately following the adoption of a resolution
4 pursuant paragraph (1). A resolution adopted pursuant to paragraph
5 (1) shall be provided to the county auditor or auditor-controller no
6 later than the December 1 immediately following its adoption.

7 (3) A resolution adopted pursuant to this subdivision may be
8 repealed and be of no further effect beginning in the fiscal year
9 following the adoption of any repeal, by giving the county auditor
10 or auditor-controller at least 90 days' notice prior to the end of the
11 current fiscal year, provided, however, that the county auditor or
12 auditor-controller shall continue to allocate the participating
13 entity's share of ad valorem property taxes that have been pledged
14 to the repayment of debt issued by the district to the district until
15 that debt has been fully repaid, including by means of a refinancing
16 or refunding, unless otherwise agreed upon by the district and the
17 participating entity. For purposes of determining the annual amount
18 of a participating entity's share of ad valorem property taxes that
19 shall continue to be allocated to a district following a repeal, the
20 annual amount allocated for all years until the debt has been fully
21 repaid shall be the maximum amount required to service the debt
22 for any single annual period as provided in the district's debt
23 service schedule.

24 (4) When the loans, advances, and indebtedness of a district, if
25 any, and interest thereon, have been paid, or the maximum amount
26 of time in years has passed in accordance with a resolution adopted
27 pursuant to this subdivision, all funds thereafter received from
28 taxes upon the taxable property in the district's boundaries shall
29 be paid into the funds of the respective taxing agencies as taxes
30 on all other property are paid.

31 (5) All of the taxes levied and collected upon the taxable
32 property in the boundaries of the district shall be paid into the
33 funds of the respective taxing agencies as though the district had
34 not been created unless the total assessed valuation of the taxable
35 property in the boundaries of a district exceeds the total assessed
36 value of the taxable property in the boundaries as shown by the
37 last equalized assessment roll.

38 (b) (1) At any time before or after the adoption of the resolution
39 establishing the district pursuant to Section 62304, a city, county,
40 or special district, other than a school entity as defined in

1 subdivision (n) of Section 95 of the Revenue and Taxation Code
2 or a successor agency as defined in subdivision (j) of Section 34171
3 of the Health and Safety Code, may adopt a resolution to allocate
4 tax revenues of that entity to the district, including revenues derived
5 from local sales and use taxes imposed pursuant to the
6 Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5
7 (commencing with Section 7200) of Division 2 of the Revenue
8 and Taxation Code) or transactions and use taxes imposed pursuant
9 to the Transactions and Use Tax Law (Part 1.6 (commencing with
10 Section 7251) of Division 2 of the Revenue and Taxation Code),
11 provided that both of the following apply:

12 (A) The use of those revenues by the district for purposes of
13 this division is consistent with the purposes for which that tax was
14 imposed.

15 (B) The boundaries of the district are coterminous with the city
16 or county that established the district.

17 (2) A resolution adopted pursuant to this subdivision may be
18 repealed and be of no further effect, provided, however, that the
19 tax revenues allocated to the district that have been pledged to the
20 repayment of debt issued by the district shall continue to be so
21 allocated until that debt has been fully repaid, including by means
22 of a refinancing or refunding, unless otherwise agreed upon by the
23 district and the participating entity.

24 (c) A minimum of 95 percent of the allocated property tax
25 increment revenues pursuant to subdivision (a), and allocated tax
26 revenues pursuant to subdivision (b), shall be used to fund eligible
27 projects and the operating expenses of eligible projects. Not more
28 than 5 percent of allocated revenues may be used for
29 administration.

30 62307. A district has, and may exercise, all powers, expressed
31 or implied, that are necessary to carry out the intent and purposes
32 of this division, including, but not limited to, the power to do all
33 of the following:

34 (a) (1) Levy a benefit assessment, special tax levied pursuant
35 to Article 3.5 (commencing with Section 50075) of Chapter 1 of
36 Part 1 of Division 1 of Title 5, or property-related fee or other
37 service charge or fee consistent with the requirements of Articles
38 XIII A, XIII C, and XIII D of the California Constitution,
39 including, but not limited to, a benefit assessment levied pursuant
40 to paragraph (2).

- 1 (2) The district may levy a benefit assessment for any of the
2 purposes authorized by this division pursuant to any of the
3 following:
- 4 (A) The Improvement Act of 1911 (Division 7 (commencing
5 with Section 5000) of the Streets and Highways Code).
 - 6 (B) The Improvement Bond Act of 1915 (Division 10
7 (commencing with Section 8500) of the Streets and Highways
8 Code).
 - 9 (C) The Municipal Improvement Act of 1913 (Division 12
10 (commencing with Section 10000) of the Streets and Highways
11 Code).
 - 12 (D) The Landscaping and Lighting Act of 1972 (Part 2
13 (commencing with Section 22500) of Division 15 of the Streets
14 and Highways Code), notwithstanding Section 22501 of the Streets
15 and Highways Code.
 - 16 (E) Any other statutory authorization.
- 17 (b) Apply for and receive grants from federal and state agencies.
 - 18 (c) Solicit and accept gifts, fees, grants, and allocations from
19 public and private entities.
 - 20 (d) Issue revenue bonds for any of the purposes authorized by
21 this division pursuant to the Revenue Bond Law of 1941 (Chapter
22 6 (commencing with Section 54300) of Part 1 of Division 2 of
23 Title 5), subject to any applicable constitutional requirements.
 - 24 (e) Incur general obligation bonded indebtedness for the
25 acquisition or improvement of real property or for funding or
26 refunding of any outstanding indebtedness, subject to any
27 applicable constitutional requirements.
 - 28 (f) Receive and manage a dedicated revenue source.
 - 29 (g) Deposit or invest moneys of the district in banks or financial
30 institutions in the state in accordance with state law.
 - 31 (h) Sue and be sued, except as otherwise provided by law, in
32 all actions and proceedings, in all courts and tribunals of competent
33 jurisdiction.
 - 34 (i) Engage counsel and other professional services.
 - 35 (j) Enter into and perform all necessary contracts.
 - 36 (k) Enter into joint powers agreements pursuant to the Joint
37 Exercise of Powers Act (Chapter 5 (commencing with Section
38 6500) of Division 7 of Title 1).
 - 39 (l) Hire staff, define their qualifications and duties, and provide
40 a schedule of compensation for the performance of their duties.

1 (m) Use interim or temporary staff provided by local agencies
2 that are a members of the district. A person who performs duties
3 as interim or temporary staff shall not be considered an employee
4 of the district.

5 62308. (a) If a district proposes a measure that will generate
6 revenues for the district that requires voter approval pursuant to
7 the California Constitution, the board of supervisors of the county
8 or counties in which the district has determined to place the
9 measure on the ballot shall call a special election on the measure.
10 The special election shall be consolidated with the next regularly
11 scheduled statewide election and the measure shall be submitted
12 to the voters in the appropriate counties, consistent with the
13 requirements of Articles XIII A, XIII C, and XIII, or Article XVI
14 of, the California Constitution, as applicable.

15 (b) A district shall be deemed a district for purposes of Section
16 317 of the Elections Code. A measure proposed by a district that
17 requires voter approval shall be submitted to the voters of within
18 the boundaries of the district in accordance with the provisions of
19 the Elections Code applicable to districts, including the provisions
20 of Chapter 4 (commencing with Section 9300) of Division 9 of
21 the Elections Code.

22 (c) The district shall file with the board of supervisors of each
23 county in which the measure shall appear on the ballot a resolution
24 of the district requesting consolidation, and setting forth the exact
25 form of the ballot question, in accordance with Section 10403 of
26 the Elections Code.

27 (d) The legal counsel for the district shall prepare an impartial
28 analysis of the measure. The impartial analysis prepared by the
29 legal counsel for the district shall be subject to review and revision
30 by the county counsel of the county that contains the largest
31 population, as determined by the most recent federal decennial
32 census, among those counties in which the measure will be
33 submitted to the voters.

34 (e) Each county included in the measure shall use the exact
35 ballot question, impartial analysis, and ballot language provided
36 by the district. If two or more counties included in the measure
37 are required to prepare a translation of ballot materials into the
38 same language other than English, the county that contains the
39 largest population, as determined by the most recent federal
40 decennial census, among those counties that are required to prepare

1 a translation of ballot materials into the same language other than
2 English shall prepare the translation and that translation shall be
3 used by the other county or counties, as applicable.

4 (f) Notwithstanding Section 13116 of the Elections Code, if a
5 measure proposed by a district pursuant to this division is submitted
6 to the voters of the district in two or more counties, the elections
7 officials of those counties shall mutually agree to use the same
8 letter designation for the measure.

9 (g) The county clerk of each county shall report the results of
10 the special election to the authority. If two-thirds of all voters
11 voting on the question at the special election vote affirmatively,
12 or a different approval threshold required by the California
13 Constitution at the time the election is achieved, the measure shall
14 take effect in the counties in which the measure appeared on the
15 ballot within the timeframe specified in the measure.

16 (h) The county clerk of each county shall report the results of
17 the special election to the district.

18 62309. (a) Each district shall prepare an annual expenditure
19 plan that identifies and describes the operations and eligible
20 projects undertaken by the district. The expenditure plan shall be,
21 after public review and hearing, adopted by the governing body
22 of the district and subject to review and revision at least annually.

23 (b) Each district shall also prepare and adopt an annual operating
24 budget and capital improvement budget. The annual operating
25 budget and capital improvement budget shall be, after public review
26 and hearing, adopted by the governing body of the district and
27 subject to review and revision at least annually.

28 62310. (a) A district shall provide for regular audits of its
29 accounts and records, maintain accounting records, and report
30 accounting transactions in accordance with generally accepted
31 accounting principles adopted by the Governmental Accounting
32 Standards Board of the Financial Accounting Foundation for both
33 public reporting purposes and for reporting of activities to the
34 Controller.

35 (b) A district shall provide for annual financial reports and make
36 copies of the annual financial reports available to the public.

37 (c) Commencing in the calendar year in which a district has
38 allocated a cumulative total of more than one million dollars
39 (\$1,000,000) in property tax increment revenues under this division
40 or other revenues pursuant to subdivision (b) of Section 62253,

1 including any proceeds of a debt issuance, and each year thereafter,
2 the district shall contract for an independent audit conducted in
3 accordance with generally accepted governmental auditing
4 standards.

5 62311. (a) All meetings of the district shall be subject to the
6 Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)
7 of Part 1 of Division 2 of Title 5.)

8 (b) All records prepared, owned, used, or retained by the district
9 are public records for purposes of the California Public Records
10 Act (Division 10 (commencing with Section 7920.000) of Title
11 1.)

12 SEC. 2. The Legislature finds and declares that the allocation
13 of revenues derived from a sales and use tax or a transactions and
14 use tax to climate resilience district pursuant to Division 6
15 (commencing with Section 62300) of Title 6 to the Government
16 Code, as added by this act, is not subject to Section 29 of Article
17 XIII of the California Constitution because a district is not a city,
18 county, or city and county within the meaning of that provision,
19 but is rather a separate political entity as described in subdivision
20 (c) of Section 62303 of the Government Code, as added by this
21 act.

22 SEC. 3. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.