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OAKLAND

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CITY OF OAKLAND

BILL ANALYSIS



Bill Number: AB1755

Bill Author: Assembly Member Sandre Swanson

DEPARTMENT INFORMATION

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RECOMMENDED POSITION: (SUPPORT, SUPPORT IF AMENDED, NEUTRAL, WATCH, OPPOSE, NOT RELEVANT)

Support

Summary of the Bill

The bill would amend Sections 5898.12, 5898.20, 5892.21 and 5898.22 of the Streets and Highways Code relating to contractual assessments, so that they would also apply to financing the installation of seismic strengthening improvements to homes and buildings. This would apply to financing the voluntary installation of seismic strengthening improvements that are permanently fixed to residential, commercial, industrial, agricultural or other real property, including, but not limited to, the seismic strengthening of cripple walls and sill plate anchorage of light, wood-framed buildings. The upfront cost of seismic retrofits prevents many property owners from proceeding with these upgrades. To make those improvements more affordable and to provide greater incentive, it is necessary to authorize an alternative procedure for authorizing assessments to finance the cost of seismic strengthening improvements.

Positive Factors for Oakland

- Consistent with Oakland's ongoing efforts to encourage property owners to proactively mitigate disaster damage by seismically strengthening their buildings.
- Provides an alternative funding mechanism to help property owners protect their homes in the event of an earthquake.
- Builds upon existing authority of local agencies.
- Protects public safety and health and wellness of the City.

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- o Reduces, as much a possible, catastrophic damage and helps save lives.

Negative Factors for Oakland

None

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

Critical (top priority for City lobbyist, city position required ASAP)

Very Important (priority for City lobbyist, city position necessary)

Somewhat Important (City position desirable if time and resources are available)

Minimal or **None** (do not review with City Council, position not required)

Known support:

City of Oakland

Known Opposition:

Not that we are aware of

Attach bill text and state/federal legislative committee analysis, if available.

Respectfully Submitted,

Name
Director, _____ Dept/Agency

Approved for Forwarding to

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Rules Committee

Office of City Administrator

Contractual Assessments: Seismic Safety Improvements

Legislative Proposal from the City of Oakland

CURRENT ISSUE

Seismic safety is a serious ongoing concern for much of the State of California; specifically, ensuring that buildings and homes are properly prepared for the next large earthquake. The costs typically associated with seismically retrofitting a house in order to ensure safety can be extremely high. For many homeowners the cost of retrofitting a home serves as the primary barrier to having the needed repairs.

Since California sees such a high level of seismic activity each year and there is a high need for seismic retrofitting of homes, the City of Oakland proposes including seismic retrofit improvements as an eligible use of contractual assessments. By allowing for contractual assessments for seismic safety retrofitting, this proposal will help preserve the State's housing stock in the event of a large earthquake thereby saving residents, local governments, and the State, money in the long run.

BACKGROUND

Current law authorizes all cities and counties in California to designate areas within which willing property owners can enter into contractual assessments to finance the installation of distributed renewable generation, energy efficiency improvements, as well as water efficiency improvements that are permanently fixed to the property owner's residential, commercial, industrial, or other real property. These financing arrangements allow property owners to finance renewable generation, energy efficiency, or water efficiency improvements through low-interest loans that would be repaid as an item on the property owner's property tax bill. The loans are repaid over a period of 20 years. These contractual assessments help to lessen the initial financial burden of making such improvements.

Contractual assessments have already proven to be a popular financing option as many local agencies have already established a program or are in the process of doing so. Currently, the following cities and counties have a contractual assessment program in place: Palm Desert, Berkeley, San Diego, Sonoma County and San Francisco. Other California cities, counties and entities

that are currently working on putting a program in place include: Sacramento, Alameda County, Roseville, Association of Bay Area Governments, Redwood Coast Energy Authority and the Imperial Irrigation District.

Ensuring that homes are seismically retrofitted is of vital importance, particularly in the more seismically active areas of the State. The Association for Bay Area Governments reported in their *2009 Earthquake and Hazards Report* that "In a major (magnitude 7 or so) earthquake on the Hayward Fault, ABAG estimates that 26,000 of the 163,000 housing units in Oakland will become uninhabitable." ABAG also reports that "extensive damage also will lengthen the City's post-disaster recovery, permanently change the architectural characteristic or neighborhoods, and reduce the amount of affordable housing. Apartments and condos most likely to be damaged house those with the fewest resources after earthquakes and thus most likely to need shelter for the longest periods of time. ABAG estimates a demand for 21,500 shelter beds in Oakland, far more than the estimated capacity for fewer than 5,000 beds in ADA-accessible facilities."

PROPOSAL SUMMARY

This proposal would add seismic retrofitting improvements to the list eligible uses for contractual assessments. This proposal builds upon the already existing authority for local agencies to establish a contractual assessment area thereby allow homeowners the option to finance seismic retrofitting using long-term loans repaid through property taxes. The goal of this proposal is to provide homeowners who wish to make seismic improvements to their homes with a financing option that removes much of the upfront expense. By making it easier for homeowners to protect their homes in the event of an earthquake, this proposal will increase public safety in the event of an earthquake, as well as reduce the number of homes that are destroyed in the next big earthquake.

FOR MORE INFORMATION

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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 introduced, Swanson. Contractual assessments: seismic safety improvements.

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 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. 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 which 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 seismic*
24 *safety needs throughout California by permitting voluntary*
25 *individual efforts to improve the seismic safety of homes and*
26 *buildings. The Legislature further intends that this chapter should*
27 *be used to finance the installation of seismic strengthening*
28 *improvements that are permanently fixed to residential,*
29 *commercial, industrial, agricultural, or other real property,*
30 *including, but not limited to, the seismic strengthening of cripple*
31 *walls and sill plate anchorage of light, wood framed buildings.*
32 (d)
33 (e) It is also the intent of the Legislature that a public agency
34 in the process of establishing an assessment program, to the extent
35 feasible, use a good faith effort to provide advance notice of the

1 proposed program to water and electric service providers in the
2 relevant service area, as set forth in Section 5898.24, to allow the
3 most efficient coordination and collaboration between the public
4 agency and water and electric service providers.

5 ~~(e)~~

6 *(f)* This chapter shall not be used to finance facilities for parcels
7 which are undergoing development.

8 ~~(f)~~

9 *(g)* This chapter shall not be used to finance the purchase or
10 installation of appliances that are not permanently fixed to
11 residential, commercial, industrial, agricultural, or other real
12 property.

13 ~~(g)~~

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

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

20 5898.14. (a) The Legislature finds all of the following:

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

25 (2) The upfront cost of making residential, commercial,
26 industrial, agricultural, or other real property more energy and
27 water efficient prevents many property owners from making those
28 improvements. To make those improvements more affordable and
29 to promote the installation of those improvements, it is necessary
30 to authorize an alternative procedure for authorizing assessments
31 to finance the cost of energy and water efficiency improvements.

32 *(3) The upfront cost of making residential, commercial,*
33 *industrial, agricultural, or other real property more seismically*
34 *safe prevents many property owners from making those*
35 *improvements. To make those improvements more affordable and*
36 *to promote the installation of those strengthening improvements,*
37 *it is necessary to authorize an alternative procedure for authorizing*
38 *assessments to finance the cost of seismic strengthening*
39 *improvements.*

1 (b) The Legislature declares that a public purpose will be served
2 by a voluntary contractual assessment program that provides the
3 legislative body of any public agency with the authority to finance
4 the installation of distributed generation renewable energy sources
5 and, energy or water efficiency improvements, *or seismic*
6 *strengthening improvements* that are permanently fixed to
7 residential, commercial, industrial, agricultural, or other real
8 property.

9 SEC. 3. Section 5898.20 of the Streets and Highways Code is
10 amended to read:

11 5898.20. (a) (1) The legislative body of any public agency
12 may determine that it would be convenient and advantageous to
13 designate an area within the public agency, which may encompass
14 the entire public agency or a lesser portion, within which authorized
15 public agency officials and property owners may enter into
16 voluntary contractual assessments for public improvements and
17 to make financing arrangements pursuant to this chapter.

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

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

1 the public interest to finance the installation of distributed
2 generation renewable energy sources or, energy or water efficiency
3 improvements, ~~or both~~ *seismic strengthening improvements, or*
4 *any combination thereof*, pursuant to paragraph (2) of subdivision
5 (a), if applicable. The resolution shall state that a public hearing
6 should be held at which interested persons may object to or inquire
7 about the proposed program or any of its particulars, and shall
8 state the time and place of the hearing. The resolution shall direct
9 an appropriate public agency official to prepare a report pursuant
10 to Section 5898.22 and to enter into consultations with the county
11 auditor's office or county controller's office in order to reach
12 agreement on what additional fees, if any, will be charged to the
13 city or county for incorporating the proposed voluntary contractual
14 assessments into the assessments of the general taxes of the city
15 or county on real property.

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

18 (1) "Efficiency improvements" means permanent improvements
19 fixed to residential, commercial, industrial, agricultural, or other
20 real property.

21 (2) "Legislative body" means the governing body of a public
22 agency.

23 (3) (A) For the purpose of financing the installation of water
24 efficiency improvements, "public agency" means a city, county,
25 city and county, municipal utility district, community services
26 district, sanitary district, sanitation district, or water district, as
27 defined in Section 20200 of the Water Code. The definition of
28 "city" in Section 5005 shall not apply to this subparagraph.

29 (B) For the purpose of financing the installation of distributed
30 generation renewable energy sources or energy efficiency
31 improvements, "public agency" means a county, city, city and
32 county, or a municipal utility district, an irrigation district, or public
33 utility district that owns and operates an electric distribution
34 system. The definition of "city" in Section 5005 shall not apply to
35 this subparagraph.

36 (C) For the purpose of financing the public improvements,
37 "public agency" means a city as defined in Section 5005.

38 (4) "*Seismic strengthening improvements*" means permanent
39 *improvements fixed to residential, commercial, industrial,*
40 *agricultural, or other real property.*

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

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

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

21 5898.22. The report shall contain all of the following:

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

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

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

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

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

36 (3) A maximum aggregate dollar amount of voluntary
37 contractual assessments.

38 (4) A method for setting requests from property owners for
39 financing through voluntary contractual assessments in priority

1 order in the event that requests appear likely to exceed the
2 authorization amount.

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

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