

Date of Hearing: April 22, 2026

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2397 (Ta) – As Amended April 6, 2026

SUBJECT: Local government: community facilities districts: financing.

SUMMARY: Prohibits a local agency from denying, or imposing conditions that would render infeasible, an application for financing through a Community Facilities District (CFD or Mello-Roos district) that is related to specified housing developments unless the local agency makes certain written findings, supported by a preponderance of evidence. Specifically, **this bill:**

- 1) Specifies that a local agency shall not deny or conditionally deny, or impose conditions on in a manner that renders infeasible, an application for financing through a Mello-Roos district that is related to a housing development project that includes units affordable to persons and families of lower income households or moderate income households, unless the local agency makes written findings supported by a preponderance of the evidence in the record as to both of the following:
 - a) The denial or any condition is based on specific, written findings setting forth the reasons for the decision.
 - b) The local agency has established, based on substantial evidence in the record, that the formation of the Mello-Roos district would have a specific, adverse impact upon public health and safety, or would violate applicable state or federal law, and there is no feasible method to satisfactorily mitigate or avoid the adverse impact or comply with applicable state or federal law.
- 2) Provides that this bill shall be construed with the standards set forth in the Housing Accountability Act (HAA), as applicable.
- 3) Defines “lower income household” and “moderate income household” for its purposes.
- 4) Finds and declares that this bill addresses a matter of statewide concern rather than a municipal affair. Therefore, this bill applies to all cities, including charter cities.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Bill Summary.** This bill prohibits a local agency from denying or conditionally denying, or imposing conditions in a manner that renders infeasible, an application for financing through a Mello-Roos District that is related to a housing development that includes affordable units unless the local agency makes certain written findings that are supported by a preponderance of evidence. Such findings include, that the denial be based on specific, written findings regarding the reason for the denial, and that the local agency finds that formation of the Mello-Roos district would have a specific adverse impact on public health and safety or would violate applicable state or federal law. Lastly, this bill would state that it must be construed consistently with the standards in the HAA, as applicable.

This bill is sponsored by the author.

- 2) **Author's Statement.** According to the author, "The Housing Accountability Act, which is current law, lays out strict guidelines for local governments to follow when approving or denying development projects. However, some local jurisdictions are denying projects that meet the goals of the HAA on the grounds that they disapprove of the project's financing. It is not the intent of this bill to require local governments to take on bonded debt, but rather to ensure that all developers get equal treatment when constructing low and moderate-income housing, which is desperately needed."
- 3) **Housing Accountability Act.** In 1982, in response to the housing crisis, which was viewed as threatening the economic, environmental, and social quality of life in California, the Legislature enacted the HAA. The purpose of the HAA is to help ensure that a city does not reject or make infeasible housing development projects that contribute to meeting the housing need determined pursuant to Housing Element Law without a thorough analysis of the economic, social, and environmental effects of the action and without complying with the HAA. The HAA restricts a city's ability to disapprove, or require density reductions in, certain types of residential development proposals, including mixed-use projects. The HAA does not preclude a locality from imposing developer fees necessary to provide public services or from requiring a housing development project to comply with objective standards, conditions, and policies appropriate to the locality's share of the regional housing needs assessment.

If a locality denies approval or imposes conditions that have a substantial adverse effect on the viability or affordability of a housing development for very low-, low, or moderate-income households, and the denial or imposition of conditions is subject to a court challenge, the burden is on the local government to show that its decision is consistent with specified written findings. The Department of Housing and Community Development (HCD) has enforcement authority over the HAA, and HAA violations may be referred to the Attorney General.

- 4) **Mello-Roos.** The Mello-Roos Community Facilities Act allows counties, cities, special districts, and school districts to levy special taxes (parcel taxes), with 2/3rds voter approval, to finance a wide variety of public works, including parks, recreation centers, schools, libraries, child care facilities, and utility infrastructure. A Mello-Roos district issues bonds against these special taxes to finance the public works projects.

In addition to financing public capital facilities, Mello-Roos special taxes can fund a limited list of public services: police services, fire protection, recreation programs, library services, museum operations, park maintenance, flood protection, hazardous waste cleanup, street and road maintenance, lighting of parks, parkways, streets, roads, and open space, plowing and removal of snow, and graffiti management and removal.

To initiate the formation of a Mello-Roos district, one of three things must happen: A written request for the establishment of a district signed by two members of the legislative body, through a petition signed by not less than 10% of the registered voters, or a petition signed by not less than 10% of landowners owning the requisite portion of the area of a proposed district. The written request or petition filed are not required to be acted upon until payment of a specified fee is paid. Within 90 days of either receiving a written request by two members of the legislative body or a petition filed, and the payment of the required fee, a

local agency's legislative body must adopt a resolution of intention to establish the district, which must do all of the following: describe the district's boundaries; describe the facilities and services proposed to be financed; state that a special tax, secured by a lien against real property, will be annually levied; specify, in detail, the rate, method of apportionment, and manner of collections of the special tax; and, fix a time and place for public hearing.

After holding the hearing and considering protests, the legislative body, to establish the Mello-Roos district, must adopt a resolution of formation containing all of the information provided in the resolution of intention; and, if a special tax is to be levied, include additional information about the tax levy that must be approved by registered voters. The local agency may modify the resolution by eliminating proposed facilities or services, by changing the rate or method of apportionment of the proposed special tax in order to reduce the special tax, or by removing territory from the proposed district.

If 50 percent or more registered voters, or the owners of one-half or more of the area of land in the territory proposed to be included in the district, file written protests against the formation of the district, the district cannot be established. The legislative body must submit the levy of any special taxes to the voters of the district. If there are fewer than 12 registered voters in the territory of the Mello-Roos district, the affected landowners vote. In that case, landowners get one vote per acre included in the Mello-Roos district. The special tax imposed by a Mello-Roos district is a lien upon the real property. Should a property owner fail to pay the special tax, the local governmental entity may (and will typically be required to) foreclose upon the real property to collect the special tax.

- 5) **Mello-Roos Controversies.** The Mello-Roos Act has been an important feature of the local fiscal landscape, providing local officials with a key tool for accumulating the public capital needed to pay for the public works projects that make new residential development possible. However, Mello-Roos districts have not existed without controversy. As detailed in the May 24, 1992, "State Panel Seeking Tougher Rules for Mello-Roos Districts : Legislation: The commission is recommending changes aimed at giving home buyers more protection." In the *Los Angeles Time*, "Mello-Roos districts, also called community facilities districts, usually are created when a large chunk of vacant land is owned by only one or two developers.

"The districts then sell bonds to finance public facilities that enable development of the land. Until homes and businesses are built and occupied, the landowners pay the Mello-Roos taxes used to pay off the bonds. But as new homeowners and businesses move in, they assume the cost of repaying the bond debt, which can amount to more than \$1,000 a year on top of their regular property taxes.

"The Times articles detailed several weaknesses and failings of the system. Among them:

* Home buyers often are not aware of the amount of debt their local Mello-Roos district is authorized to accumulate or the projects that can be funded with bond proceeds.

* In some instances, local government officials have quietly imposed Mello-Roos taxes that favor developers at the expense of home buyers.

* Governments in Orange and Riverside counties have entered into deals with developers that were in trouble financially, imperiling the security of the bonds.

* Developers have been allowed to select the appraisers who value the land that is collateral for the bonds.

“For example, Lake Elsinore, a city of 19,200 residents in Riverside County, has authorized the issuance of \$500 million in bonds, to the surprise and concern of both residents and state officials.

“Trouble is brewing in one of the city’s housing developments called Tuscany Hills. Fewer than 200 of the planned 2,000 homes have been built, leaving Tuscany Hills with a \$14.1-million bond debt that can’t be retired because there are not yet enough residents.”¹

Despite past controversies, there are a number of safeguards in Mello-Roos Law to ensure that both the local agency and the residents or landowners approve of the establishment of a Mello-Roos district, including, allowing the local agency to abandon the establishment of the Mello-Roos district, modify the resolution of intention by eliminating proposed facilities or services or by changing the rate or method of apportionment of the proposed special tax, and a protest process and subsequent tax election.

Current State of Mello-Roos. To monitor the use and financial health of Mello-Roos districts, state law requires issuers of Mello-Roos bonds sold on or after January 1, 1993, to file Yearly Fiscal Status Report (YSFR) with the California Debt and Investment Advisory Commission (CDIAC) until the bonds are retired. In CDIAC’s “Mello-Roos Yearly Fiscal Status Report Summary for Reporting Year 2023-24,” for reporting year (RY) 2023-23, a total of 1,200 Mello-Roos districts were required to submit reports for 1,864 debt issues, including 171 new issues that sold during the RY. The original principal issued for the Mello-Roos bonds reported to CDIAC for RY 2023-24 totaled \$20.8 billion. At the end of the RY, the amount of principal outstanding was \$16.3 billion, approximately 78.4% of the original principal amount.

According to CDIAC, “Detailed delinquent parcel and tax information is required to be submitted and summarizes ongoing unpaid amounts that may be cumulative over reporting years. The amount of delinquent taxes reported to CDIAC for RY 2023–24 totaled \$134.9 million, a 49.5% increase over RY 2022–23 (\$90.2 million). The CFD that had the largest volume of delinquencies was Northstar Community Services District CFD No. 1 with approximately \$41.0 million.

“... The total number of delinquent parcels for RY 2023–24 was 16,685 compared to 18,615 for RY 2022–23, a decrease of 10.4%. The top four CFDs with the largest number of delinquent parcels are the same as RY 2022–23. The CFD with the most reported delinquent parcels was South Lake Tahoe Recreation Facilities Joint Powers Authority CFD No. 2000-1 with 2,343.”²

¹ <https://www.latimes.com/archives/la-xpm-1992-05-24-mn-471-story.html>

² <https://www.treasurer.ca.gov/cdiac/reports/M-Roos/2023.pdf>

- 6) **Policy Consideration.** Mello-Roos districts have been a valuable tool for local agencies and developers to finance much needed infrastructure. However, as currently crafted, Mello-Roos District Law places limitations on both the local agencies and the property owners seeking to establish them. Current law provides local agencies with an opportunity to modify the proposed district to either reduce the facilities and services the district will fund and the amount of taxes that would be placed on a property owner. Additionally, it allows for property owners and residents to, first, protest the establishment of a Mello-Roos district and, second, requires a vote on any Mello-Roos taxes.

While affordable housing is undoubtedly needed, these safeguards help ensure that only the facilities and services that are necessary for a community are financed by a Mello-Roos district. Also, ensuring that tax rates are not too high as to diminish affordability is an important consideration. As currently written, this bill would ultimately reduce the ability of a local agency to make these determinations by requiring them to make written findings supported by a preponderance of evidence that the denial is based on specific, written findings *and* that the formation of a Mello-Roos district would have an adverse impact on public health and safety or would violate state or federal law. It is unclear how a local agency would be able to meet these standards and what factors would allow them to deny the proposal for the establishment of a Mello-Roos district. Given these uncertainties, the Committee may wish to consider if additional guardrails need to be placed in this bill.

- 7) **Committee Amendments.** In order to respond to the policy consideration above, the Committee may wish to consider the following amendments:
- a) Remove the contents of the bill.
 - b) Add Government Code Section 53316.8: **(a) For purposes of this section, all of the following definitions apply:**
 - (1) “Critical housing infrastructure district” means a community facilities district that meets all of the following criteria:**
 - (A) The district has been established, or is proposed to be established, solely to finance facilities described in subdivisions (e) and (f) of Section 53313.5 that serve a housing development project that includes units affordable to persons and families of lower income households or moderate income households.**
 - (B) Proceedings for establishment of the district were instituted by petition under subdivision (c) of Section 53318 signed by owners of 100 percent of the area of land proposed to be included within the district.**
 - (C) Any special taxes proposed to be levied by the district are eligible to be approved by the landowners of the proposed district in accordance with subdivision (b) of Section 53326.**
 - (2) “Lower income household” has the same meaning as defined in Section 50079.5 of the Health and Safety Code.**
 - (3) “Moderate income household” has the same meaning as defined in Section 50052.5 of the Health and Safety Code.**
 - (b) The legislative body shall not take any of the following actions with respect to a critical housing infrastructure district unless it makes the findings set forth in subdivision (c):**
 - (1) Abandon the proposed establishment of the district pursuant to Section 53325.**
 - (2) Refuse to adopt an ordinance levying special taxes pursuant to Section 53340.**

(3) Refuse to adopt a resolution necessary to incur bonded indebtedness pursuant to Sections 53345, 53351, or 53356.

(c) Prior to taking any action described in subdivision (b), the legislative body shall make the following findings based upon substantial evidence:

(1) Establishment of the district, levying the special taxes, or incurring bonded indebtedness, as applicable, would have a specific adverse impact upon the public interest.

(2) If the site has been identified in the housing element pursuant to Sections 65583 and 65583.2 as a site to accommodate any portion of the jurisdiction's regional housing need for low-income or very low income households, establishment of the district, levying the special taxes, or incurring bonded indebtedness, as applicable, is not necessary for development of the site at the densities specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(d) This section shall not require or prohibit the legislative body from taking any other action authorized by this chapter with respect to a critical housing infrastructure district, including, without limitation, modifying the resolution of intention pursuant to Section 53325.

8) **Arguments in Support.** None on file.

9) **Arguments in Opposition.** None on file.

10) **Double-referral.** This bill is double referred to the Committee on Housing and Community Development.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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