

Date of Hearing: April 29, 2026

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Matt Haney, Chair

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

SUBJECT: Local government: community facilities districts: financing

SUMMARY: Prohibits a local agency from abandoning or refusing to create a community facilities district (CFD or Mello-Roos district) to finance specified infrastructure for a housing development for low or moderate income households, unless it makes findings based upon substantial evidence, as specified.

- 1) Defines “critical housing infrastructure district” to mean 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 public utilities and flood water protection services [as defined in Government Code Section (GOV) 53313.5 (e) and (f)], 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 describing the boundaries of the territory that is proposed for inclusion in the area and specifying the type or types of facilities and services to be financed by the district, is filed with the clerk of the legislative body signed by owners of 100% 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 vote threshold in the Mello-Roos Act [Gov 53326 (b)].
- 2) Prohibits a legislative body from taking any of the following actions with respect to a critical housing infrastructure district unless it makes specified findings:
 - a) Abandoning the proposed establishment of the district, as specified;
 - b) Refusing to adopt an ordinance levying special taxes, as specified; and
 - c) Refusing to adopt a resolution necessary to incur bonded indebtedness, as specified.
- 3) Requires a legislative body to make the following findings, based upon substantial evidence, before taking the actions described in 2) above:
 - a) Establishment of the district, levying the special taxes, or incurring bonded indebtedness, as applicable, would have a specific adverse impact upon the public interest; and
 - b) If the site has been identified in the housing element as a site to accommodate any portion of the jurisdiction’s regional housing need for low-income or very low income; and 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 Housing Element Law.

- 4) Provides that this bill does not require or prohibit the legislative body from taking any other action authorized by the Mello-Roos Act with respect to a critical housing infrastructure district, including, without limitation, modifying the resolution of intention to create a Mello-Roos district.

EXISTING LAW:

- 1) Establishes the Mello-Roos Act, which allows local agencies to establish CFD as an alternative method of financing certain public capital facilities and services, especially in developing areas and areas undergoing rehabilitation. (GOV 53313.5)
- 2) Specifies how a local agency is allowed to create a CFD, including the formation, voter approval, authority to levy taxes, and the types of public facilities and infrastructure. (GOV 53313.5)
- 3) Specifies a CFD may fund public utility infrastructure and flood and storm protection services, as specified (GOV 53313.5 (e) and (f)).

FISCAL EFFECT: Nonfiscal. This bill was keyed nonfiscal by legislative counsel.

COMMENTS:

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."

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, 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% 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.

Housing Element Inventory: All the state's 540 cities and counties are required to appropriately plan for new housing through the housing element of each community's General Plan, which outlines a long-term plan for meeting the community's existing and projected housing needs. Cities and counties are required to update their housing elements every eight years in most of the high population parts of the state, and five years in areas with smaller populations. Localities must adopt a legally valid housing element by their statutory deadline for adoption. Failure to do so can result in certain escalating penalties, including an accelerated deadline for completing rezoning, exposure to the "builder's remedy," public or private lawsuits, financial penalties, potential loss of permitting authority, or even court receivership. Among other things, the housing element must demonstrate how the community plans to accommodate its share of its region's RHNA, described above. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Sites that are sufficient to accommodate the jurisdictions lower income housing needs must be zoned a specified density, called the Mullin Density, that is sufficient to ensure that there are enough units to make the development financially feasible.

This Bill: This bill would prohibit a local agency from abandoning or refusing to create a Mello-Roos district for critical housing infrastructure district which is created to finance a narrow set of infrastructure costs – public utilities and flood and storm water for low or moderate income housing. To qualify 100% of the property owners must petition for the financing. If a local agency does reverse course on financing this type of project, it would be required to make a finding that establishing the district, levying the special taxes, or incurring bonded indebtedness, as applicable, would have a specific adverse impact upon the public interest and the infrastructure is not needed to support the development of the site as the density required by Housing Element Law. The intent of this bill is to ensure that if a developer is relying upon financing from a Mello-Roos district for infrastructure and has followed the correct process for

petitioning to create one, the local agency cannot abandon the creation of the district except in narrow cases.

Arguments in Support: None on file.

Arguments in Opposition: None on file.

Double-Referred: This bill is double-referred. It was heard in the Assembly Committee on Local Government and passed on a vote of 10-0 on April 22, 2026.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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