SENATE RULES COMMITTEE AB 2397
Office of Senate Floor Analyses
(916) 651-4171

CONSENT

Bill No: AB 2397
Author: Ta (R)
Amended: 7/2/26 in Senate
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 6/10/26
AYES: Durazo, Choi, Arreguín, Ashby, Cervantes, Laird, Seyarto

SENATE HOUSING COMMITTEE: 9-0, 6/30/26
AYES: Arreguín, Seyarto, Cabaldon, Caballero, Cortese, Durazo, Grayson, Ochoa Bogh, Padilla
NO VOTE RECORDED: Gonzalez

ASSEMBLY FLOOR: 66-0, 5/7/26 (Consent) - See last page for vote

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SUBJECT: Local government: community facilities districts: financing

SOURCE: Author

DIGEST: This bill creates a subset of community facilities districts (CFDs) called critical housing infrastructure districts (CHIDs), and prohibits a local agency from taking specified actions with respect to a CHID.

ANALYSIS:

Existing law:

1) Establishes the Mello-Roos Act, which allows local agencies to establish CFDs as an alternative method of financing certain public capital facilities and services, especially in developing areas and areas undergoing rehabilitation.

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.

3) Allows counties, cities, special districts, and school districts to finance public works projects and a limited list of public services by levying special taxes (parcel taxes)

4) Allows a CFD to issue bonds against these special taxes to finance the public works projects. Like all special taxes, Mello-Roos Act special taxes require 2/3 -voter approval. If there are fewer than 12 registered voters, the affected landowners vote.

This bill:

1) Creates a subset of CFDs called critical housing infrastructure districts (CHIDs), and prohibits a local agency from taking any of the following actions with respect to a CHID:

   a) Abandon the proposed establishment of the district;

   b) Refuse to adopt an ordinance levying special taxes; or

   c) Refuse to adopt a resolution necessary to incur bond debt.

2) Provides that a local agency can move forward with one of these actions if it makes at least one of the following findings supported by substantial evidence that:

   a) Establishment of the CFD, levying the special taxes, or incurring bond debt would have a specific adverse impact upon the public interest;

   b) If the local agency has identified the site in its housing element as a site to accommodate low- or very low-income households, the establishment of the CFD, levying the special taxes, or incurring bond debt is not necessary to develop the site at specified densities; or

   c) Establishment of the CFD, levying the special taxes, or incurring bond debt would make units for lower- and moderate-income households unaffordable to those households.

3) Defines a CHID to mean a CFD that:

   a) Has been established solely to finance specified utility, flood, and storm protection services that serve a housing development project that includes units affordable to lower- or moderate-income households;

   b) Has had unanimous landowner approval for the CFD's establishment; and

c) Has had unanimous landowner approval for taxes the CFD would levy.

4) Provides that it does not require or prohibit the local agency from taking any other actions with respect to CHIDs.

Background

Local government finance after Proposition 13. A series of propositions have drastically cut into local revenue sources, requiring local governments to look elsewhere to fund services that the public demands. First, Proposition 13 (1978) capped property tax rates at 1% of assessed value (which only changes upon new construction or when ownership changes) and required 2/3 voter approval for special taxes; as a result local governments turned to general taxes to avoid the higher voter threshold. When Proposition 62 (1986) required majority voter approval of general taxes, local agencies imposed assessments that were more closely tied to the benefit that an individual property owner receives. Subsequently, Proposition 218 (1996) required voter approval of parcel taxes, assessments, and property-related fees.

Since they cannot impose broad-based taxes without great difficulty, cities and counties follow a simple principle: new developments should pay for the impacts they have on the community and the burden they impose on public services.

Mello-Roos Districts. The Mello-Roos Community Facilities Act allows counties, cities, special districts, and school districts to finance public works projects and a limited list of public services by levying special taxes (parcel taxes). A Mello-Roos Community Facilities District (CFD) issues bonds against these special taxes to finance the public works projects. Like all special taxes, Mello-Roos Act special taxes require 2/3 -voter approval. If there are fewer than 12 registered voters, the affected landowners vote.

The Mello-Roos Act is 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. Since 1985, CFDs have issued over $18 billion in long-term bonds, mostly for capital improvements. Without access to Mello-Roos bond funding, many builders would have to pay higher development impact fees and raise housing prices. Based on nearly 30 years of experience, practitioners want the Legislature to adjust several statutory features of the Mello-Roos Community Facilities Act. Local agencies can use CFDs to finance a wide range of projects, including everything from parks, schools, libraries, utility projects, stormwater projects, among others.

Mello-Roos for housing developments. CFDs have become a common tool for developers to finance the infrastructure needed to serve a new development. When a developer is the sole landowner of a project, satisfying the 2/3 vote requirement of affected landowners is an easy threshold to meet. In effect, the developer is agreeing to tax itself until it sells off individual units, and the new landowners become the taxpayers. Repaying the debt the developer incurred to build the infrastructure for the development is on top of regular property tax payments. Concerns over whether new homeowners are aware of these payments have persisted throughout the life of the Mello-Roos Act.

Comments

Purpose of the bill. 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."

Home rule. The initial intent of the Mello-Roos Community Facilities Act was to allow local agencies to finance public works projects and a limited list of public services by levying special taxes (parcel taxes). It was always in the hands of local agencies to determine whether passing on the costs of infrastructure to current or future landowners made sense, or whether financing infrastructure costs through a parcel tax would put too much of a burden on future homeowners. AB 2397 limits the ability for a local agency to make this decision. Specifically, it limits when a local agency can deny formation of a CFD for specified infrastructure projects. Unless a local agency could make specified findings on the need to deny a CFD, AB 2397 forces local agencies to approve a tax on current and future landowners. However, without AB 2397, local agencies can use the CFD approval process to have another bite at the apple to deny a housing project. AB 2397 limits its provisions to CFDs that have been established solely to finance specified utility, flood, and storm protection services that serve a housing development project that includes units affordable to lower- or moderate-income households. That said, AB 2397 represents a rare instance in which the Legislature limits a local agency's authority to tax.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 7/2/26)

None received

OPPOSITION: (Verified 7/2/26)

None received

ASSEMBLY FLOOR: 66-0, 5/7/26
AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Patel, Patterson, Pellerin, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Ward, Wilson, Zbur, Rivas
NO VOTE RECORDED: Arambula, Bonta, Chen, Flora, Gallagher, Hart, Hoover, Irwin, Papan, Petrie-Norris, Celeste Rodriguez, Valencia, Wallis, Wicks

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7/30/26 14:49:26

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