

SENATE THIRD READING

SB 390 (Becker)

As Amended April 30, 2025

Majority vote

SUMMARY

Allows Mello-Roos Community Facilities Districts (CFDs) in San Mateo County to include specified properties with specified easements without landowner consent.

Major Provisions

- 1) Provides that the consent of a landowner owning territory that is dedicated or restricted to agricultural, open-space, or conservation uses, and is located within the regional shoreline of San Mateo County shall not be required in order to include a territory within or annex a territory to a CFD, if, despite the dedication or restriction, the territory meets either of the following conditions:
 - a) A parcel in the territory has existing entitlements for development of commercial, residential, or industrial uses.
 - b) A parcel in the territory is already developed with commercial, residential, or industrial uses.
- 2) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of San Francisco Bay Conservation and Development Commission easements in San Mateo County.

COMMENTS

- 1) *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 CFD issues bonds against these special taxes to finance the public works projects.

In addition to financing public capital facilities, CFD 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 CFD, 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 CFD, 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.

If there are fewer than 12 registered voters in the territory of the CFD, the affected landowners vote. In that case, landowners get one vote per acre included in the CFD.

The Legislature enacted SB 1515 (Machado), Chapter 174, Statutes of 2002, to prevent local officials from levying Mello-Roos taxes for public works when the property owner had restricted their property to open space and agricultural uses through voluntary easements or contractual restrictions under the Williamson Act. SB 1515 excluded from a CFD lands subject to any of those easements or contracts from a CFD that provides facilities or services related to sewers, nonagricultural water, or streets and roads unless the landowner consents.

- 2) *South San Francisco.* The City of South San Francisco, located within the County of San Mateo, fronts the San Francisco Bay. South San Francisco incorporated in 1908 and currently has a population of more than 65,000 residents. Today, South San Francisco is known for its more than 250 biotechnology firms including Genentech. Because of its location on the Bay, the shoreline within South San Francisco is subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission (BCDC), which the Legislature created in 1965 to regulate development in and around the San Francisco Bay. BCDC regulates activities in the Bay, in some connected wetlands and waterways, in the Bay's salt ponds, and in a 100-foot wide strip of land surrounding the Bay (the shoreline band).

State law authorizes BCDC to issue permits for certain actions, including to make any substantial change in use of any water, land or structure in its jurisdiction. Accordingly, development activities, which can range from residential and commercial endeavors to piers and ports, in the shoreline band require a permit from BCDC. To ensure public access, BCDC often requires easements on properties or dedication of land to public uses as a condition of development.

- 3) *South San Francisco Development Plans.* South San Francisco expects to experience rapid growth in employees and residents in its "Eastern Neighborhoods" area near the shoreline: growing from 35,000 employees in 2019 to 45,000 in 2024, with a projected increase to over 100,000 employees and 10,000 residents by 2040.

To support this growth, South San Francisco needs to improve its transportation infrastructure, including to rehabilitate roadways, develop transit corridors, make pedestrian improvements, and establish bikeways and trails. To help fund these activities, South San Francisco wants to establish a CFD. However, there are many properties that have been granted easements to BCDC as a result of BCDC permitting requirements. As a result, CFD Law requires the consent of those property owners to include their parcels in the CFD.

According to the Author

"SB 390 is a targeted bill to fix a loophole affecting infrastructure financing in South San Francisco. Under current law, parcels with conservation easements, even if fully developed, are exempt from being included in a Community Facilities District (CFD) without landowner consent. This has blocked the City from equitably funding critical shoreline infrastructure. SB 390 allows these parcels to be included in a CFD when clear public benefit criteria are met—ensuring all benefiting properties contribute fairly to projects like flood protection and public access, while preserving conservation goals."

Arguments in Support

According to the sponsors, the City of South San Francisco, "The City of South San Francisco's East of 101 area is home to the largest and fastest-growing biotechnology cluster in the world, with over 250 firms and 7.5 million square feet of space under construction or approved for development. In addition, the area hosts one of the most active and diverse hubs of industrial and warehouse activity in the Bay Area. The City anticipates the East of 101 area to see a tripling of employees to approximately 100,000 by 2040.

"To respond to and prepare for this growth, and to ensure that South San Francisco remains a global leader in biotechnology innovation, the City is implementing its transportation improvements that enhance transit, biking, and pedestrian safety, intersection improvements to facilitate a more efficient movement of cars and trucks, and improved access to the Bay Trail and shoreline for residential neighborhoods and the downtown with crossings over Highway 101. The work will be funded by General Fund dollars and the Eastern Neighborhoods CFD, consisting of over 330 property owners and 479 parcels whose biotechnology, office, warehouse, industrial, and hospitality tenants face significant transportation challenges.

"The Mello-Roos Act grants counties, cities, special districts, and school districts the authority to form CFDs, dependent on a supermajority vote of property owners in the proposed district, to finance critical public infrastructure such as transportation, school, and sewer improvements. Under *Government Code Section 53312.8*, the Mello-Roos Act exempts landowners with open-space or conservation easements from being included in a CFD without their express consent. *This enables parcels that are already developed, but have an open space easement, to avoid contributing their fair share to public infrastructure funding.* The conservation easement on these properties accommodates the San Francisco Bay Trail, a 350-mile paved and developed multi-use path that circles the bay. This legislation would in no way impact the existing protections of the Bay Trail. Instead, it would increase access to the trail by providing new connections across Highway 101, which currently acts as a barrier between the western and eastern sides of the City.

"SB 390 seeks to make minor adjustments only as it relates to South San Francisco because properties within the proposed area can evade their financial responsibility to participate in the CFD, even if the public infrastructure funds directly benefit those properties. This loophole arises simply because the property owners previously agreed to restrict development on part of the parcel as a condition for developing the remainder."

Arguments in Opposition

None on file.

FISCAL COMMENTS

None.

VOTES**SENATE FLOOR: 39-0-1**

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Reyes

ASM LOCAL GOVERNMENT: 9-0-1

YES: Carrillo, Hoover, Pacheco, Ramos, Ransom, Blanca Rubio, Stefani, Haney, Wilson

ABS, ABST OR NV: Ta

UPDATED

VERSION: April 30, 2025

CONSULTANT: Jimmy MacDonald / L. GOV. / (916) 319-3958

FN: 0000985