

HOUSE BILL REPORT

HB 2577

As Reported by House Committee On:
Community & Economic Development & Trade

Title: An act relating to creating community facilities districts.

Brief Description: Creating community facilities districts.

Sponsors: Representatives Sullivan, Chase and Kenney.

Brief History:

Committee Activity:

Community & Economic Development & Trade: 1/14/10, 1/28/10 [DPS].

Brief Summary of Substitute Bill

- Authorizes the establishment of community facilities districts and sets out requirements and authorities related to their formation, governance, powers, and finances.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kenney, Chair; Maxwell, Vice Chair; Chase, Liias, Moeller, Parker and Probst.

Minority Report: Do not pass. Signed by 2 members: Representatives Smith, Ranking Minority Member; Orcutt.

Staff: Meg Van Schoorl (786-7105).

Background:

Special Purpose Districts: Special purpose districts are limited purpose local governments separate from a city, town, or county government. Generally they perform a single function, though some perform a broader number of functions. They provide an array of services and facilities including electricity, fire protection, flood control, health, housing, irrigation, parks and recreation, library, water-sewer service and more recently stadiums, convention centers,

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and entertainment facilities that are not otherwise available from city or county governments. Most functions of a special purpose districts are paid for by assessments or fees raised within the district.

Local Improvement Districts: Cities and towns are authorized to form local improvement districts for the purpose of constructing, reconstructing, or repairing a wide range of publicly owned structures, facilities, and infrastructure, including: specified types of public buildings; community facilities for recreation, entertainment, and cultural activities; bridges and trestles; dikes and embankments; parks and playgrounds; street lighting systems; infrastructure for public transportation systems; and water and sewer system infrastructure. The costs of creating a local improvement district are financed, in whole or in part, through special assessments on property that is specially benefited by the improvement.

Impact Fees: Counties, cities, and towns that plan under the major provisions of the Growth Management Act (GMA) are authorized to impose impact fees on development activity as part of the financing of public facilities. Impact fees are payments of money required of developers as a condition of development approval. Local governments must ensure that such fees are used only for system improvements that are reasonably related to the impact of the development on the use of public facilities and that the fees do not exceed a proportionate share of the cost of system improvements made necessary by the development. The types of "public facilities" which may receive funding from impact fees are limited to specified types of capital facilities owned or operated by government entities: public streets and roads; publicly owned parks, open space, and recreation facilities; school facilities; and fire protection facilities in jurisdictions that are not part of a fire district.

Benefit Charges: Fire protection districts are created to provide fire prevention, fire suppression, and emergency medical services within a district's boundaries. The districts finance their activities and facilities by imposing regular property taxes, excess voter-approved property tax levies, and benefit charges. A benefit charge is a charge imposed upon a property owner based upon the measurable benefits to be received. Benefit charges are not based on the value of real property, but are linked to other factors such as insurance savings, water sources, or the distance from fire service facilities.

Summary of Substitute Bill:

Part I — General Provisions: Findings, Intent, and Definitions.

Findings and Intent: Substantial population and employment growth in the next 20 years will require new housing, employment sites, community facilities, and supporting infrastructure. Most areas have insufficient community facilities and infrastructure to support this growth and current public financing options are also inadequate. A flexible financing mechanism known as a community facilities district (CFD) should be available to counties, cities, and towns in order to facilitate voluntary landowner financing of facilities and infrastructure.

Definitions: Definitions are provided for "board of supervisors," "community facilities district," "facility," "legislative authority," "petition," and "special assessment."

Part II — Community Facilities District Formation: Authorization, Petition and Hearing Process.

The establishment of CFDs is authorized. The CFDs may only include land that is within an Urban Growth Area designated under the GMA. The CFD formation includes the following steps:

Petition: A petition executed by 100 percent of all owners of private property located within district boundaries must be presented to the legislative authority of each jurisdiction within the proposed CFD boundaries. The petition must include a designation of the CFD boundaries, a general explanation of the CFD objective and plan, a list of petitioners willing to serve on the Board of Supervisors (Board), and certain declarations, assertions, and obligations. The petitioners must certify that they want to voluntarily submit their land to the CFD's authority and must request that their property be subject to authorized assessments, fees, and charges. The petition may include a proposed assessment along with required information on the proposed amounts and the affected properties and owners. The petition must be filed with the county auditor of each county in which property is included in the CFD boundary. Responsibilities, requirements, and a timeline for lead auditor review, petition amendment, certification of sufficiency, and transmittal to each legislative authority is outlined.

Public Hearing, Notice, Appeals: Thirty to 45 days after a petition is certified as sufficient by the lead auditor, there must be a public hearing in each affected jurisdiction. Hearing requirements related to notice, petition consideration, timelines, ordinances and resolutions, and appeals are provided. In order to approve a petition, the legislative authority of each jurisdiction included within the CFD boundaries must determine that the petitioners will benefit from the CFD, that the CFD formation will be in the best interest of the county, city or town, and that formation of the district is consistent with requirements of the GMA. Two or more legislative authorities may adopt a joint resolution approving the petition.

Part III — Community Facilities District Board of Supervisors.

Appointments, Meetings, and Records: A CFD must be independently governed by a Board appointed through majority vote of the legislative authority. Specific appointment procedures for CFDs with one jurisdiction and those with more than one jurisdiction within a CFD boundary are provided. Board member positions are allocated for specified numbers of legislative authority members and eligible petitioners. Provisions are included for terms, vacancies, quorums, expenses, and chair designation. Board meetings are subject to the Open Public Meetings Act and records are subject to the Public Records Act.

Part IV — Community Facilities District Powers.

A CFD is an independently governed, special purpose district with the corporate authority under Article VII, section 9 of the state Constitution to make local improvements.

Among other powers, a CFD may: acquire, purchase, hold, lease, finance, manage, occupy, construct, and sell real and personal property, facilities, or interests, inside or outside the district boundaries; enter into and perform contracts; levy and enforce collection of special assessments, fees, and charges against the property within the district; and issue revenue bonds payable from district revenues that are legally available to be pledged to secure the bonds, including special assessments. Additional powers and limitations are provided.

Part V — Community Facilities District Finances.

Finance Authorities: A CFD is authorized to use revenues from special assessments, fees and charges to:

- finance the cost of the purchase, finance, lease, sublease, construction, expansion, improvement or rehabilitation of any facility with an estimated life of five years or more, and directly associated planning and design work; sanitary sewage systems; drainage and flood control systems; water systems; highways, streets, roadways, and parking facilities; areas for pedestrian and non-motor vehicle use; pedestrian malls, parks, recreational facilities, and open space facilities; landscaping; public buildings, public safety facilities, and community facilities; publicly owned natural gas, electrical energy, and limited communication facilities, specifically poles, trenches, and conduits for use of any communications provider; street lighting; traffic control systems; mass transportation system facilities; library, education, and cultural facilities; and other similar facilities and improvements;
- construct, finance, lease, invest, or fund any of the activities authorized in this chapter in connection with community facilities within or outside its boundaries. A CFD may also fund activities undertaken by another municipal or quasi-municipal corporation;
- impose special assessments on privately owned real property within the district that is benefited by the facilities provided, and pledge the revenues from the assessments and other authorized sources to payment of revenue bonds. District administrative and operational costs may be proportionally included in the special assessments. A reduction or waiver of special assessments for low-income households may be provided for in the petition forming the district.;
- requirements related to the systems of assessment, the hearing of objections, appeal processes, collection of assessments and notices to property owners are provided; and
- impose, by resolution, on owners of property within the CFD, a benefit charge on personal property, real property, and improvements that are proportional to the benefits provided. Requirements for proportioning, establishing, collecting and otherwise administering the benefit charge are provided.

No bonds issued by the CFD are obligations of any city, town, county, the state or other political subdivision other than the CFD, unless the legislative authority of another entity expressly authorizes otherwise. Duties and authorities of the district treasurer are provided.

Part VI — Impact Fees.

A CFD may not be required to pay impact fees.

Part VII — Miscellaneous Provisions.

Assessments, fees, and charges on the property within the boundaries of an approved CFD are a lien on the property and are superior to any other lien or encumbrance except a lien for general taxes.

Codification instructions and a severability clause are provided.

Substitute Bill Compared to Original Bill:

The substitute bill defines a CFD as an independently governed, special purpose district with the authority to make local public facilities and infrastructure improvements, rather than as a municipal corporation, taxing authority, and taxing district. It clarifies the legislative authority's role. It removes the authority for CFDs to form a local improvement district, levy excess property taxes, issue general obligation bonds, or impose impact fees. It authorizes the CFD to impose special assessments only on property within district boundaries that is benefitting by the facilities provided, and to finance only limited communications facilities, specifically poles, trenches, and conduits, for use of any communications provider. The substitute bill authorizes a CFD to issue revenue bonds. Land included in a CFD must be in a designated Urban Growth Area. County treasurers may impose a fee for collecting special assessments.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Allowing the creation of community facilities districts will fill a critical gap in the tools available to local governments for infrastructure related to economic development. We know of \$20 million to \$40 million in near-term projects that could use this tool. Private capital was exceedingly expensive even before the economic downturn and is even worse now. Creation of such districts will allow developers access to lower-cost capital and longer repayment periods through municipal bonds. A district can be created only with the blessing of a local jurisdiction. A district will act in some ways like a local improvement district, but will be able to address a broader array of large and small infrastructure and public facilities needs. The fiscal note on state and local governments is zero. Creation of the district will not affect local government debt capacity or revenues. In fact, local governments will benefit fiscally from the jobs created by construction and the revenues from the development that occurs. Only property owners within the district will be required to pay a special assessment to repay the debt associated with financing the improvement. There will be a substitute bill offered that will address many of the concerns with the original bill, including removing the authority to levy taxes, form a local improvement district, and issue general obligation bonds.

(Opposed) None.

Persons Testifying: Dave MacDuff, Yarrow Bay Holdings; and John Hempelmann, Cairncross and Hempelman PS.

Persons Signed In To Testify But Not Testifying: None.