



GOVERNMENT CODES 53750-53754

Amended January 1, 2009

Proposition 218 Act Omnibus Implementation Act

- 53750.** For purposes of Article XIIC and Article XIID of the California Constitution and this article:
- (a) "Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIIC of the California Constitution.
 - (b) "Assessment" means any levy or charge by an agency upon real property that is based upon the special benefit conferred upon the real property by a public improvement or service that is imposed to pay the capital cost of the public improvement, the maintenance and operation expenses of the public improvement, or the cost of the service being provided. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," maintenance assessment and special assessment tax
 - (c) "District" means an area that is determined by an agency to contain all of the parcels that will receive a special benefit from a proposed public improvement or service.
 - (d) "Drainage system" means any system of public improvements that is intended to provide for erosion control, landslide abatement, or for other types of water drainage.
 - (e) "Extended," when applied to an existing tax or fee or charge, means a decision by an agency to extend the stated effective period for the tax or fee or charge, including, but not limited to, amendment or removal of a sunset provision or expiration date.
 - (f) "Flood control" means any system of public improvements that is intended to protect property from overflow by water.
 - (g) "Identified parcel" means a parcel of real property that an agency has identified as having a special benefit conferred upon it and upon which a proposed assessment is to be imposed, or a parcel of real property upon which a proposed property-related fee or charge is proposed to be imposed.
 - (h) (1) "Increased," when applied to a tax, assessment, or property-related fee or charge, means a decision by an agency that does either of the following:
 - (A) Increases any applicable rate used to calculate the tax, assessment, fee or charge.
 - (B) Revises the methodology by which the tax, assessment, fee or charge is calculated, if that revision results in an increased amount being levied on any person or parcel.

- (2) A tax, fee, or charge is not deemed to be "increased" by an agency action that does either or both of the following:
 - (A) Adjusts the amount of a tax or fee or charge in accordance with a schedule of adjustments, including a clearly defined formula for inflation adjustment that was adopted by the agency prior to November 6, 1996.
 - (B) Implements or collects a previously approved tax, or fee or charge, so long as the rate is not increased beyond the level previously approved by the agency, and the methodology previously approved by the agency is not revised so as to result in an increase in the amount being levied on any person or parcel.
- (3) A tax, assessment, fee or charge is not deemed to be "increased" in the case in which the actual payments from a person or property are higher than would have resulted when the agency approved the tax, assessment, or fee or charge, if those higher payments are attributable to events other than an increased rate or revised methodology, such as a change in the density, intensity, or nature of the use of land.
- (i) "Notice by mail" means any notice required by Article XIIC or XIID of the California Constitution that is accomplished through a mailing, postage prepaid, deposited in the United States Postal Service and is deemed given when so deposited. Notice by mail may be included in any other mailing to the record owner that otherwise complies with Article XIIC or XIID of the California Constitution and this article, including, but not limited to, the mailing of a bill for the collection of an assessment or a property-related fee or charge.
- (j) "Record owner" means the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the agency.
- (k) "Registered professional engineer" means an engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).
- (l) "Vector control" means any system of public improvements or services that is intended to provide for the surveillance, prevention, abatement, and control of vectors as defined in subdivision (k) of Section 2002 of the Health and Safety Code and a pest as defined in Section 5006 of the Food and Agricultural Code.
- (m) "Water" means any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water.

53752. The Department of General Services shall develop compliance standards in the State Administrative Manual (SAM) to inform owners of state property of their duties and responsibilities pursuant to this article and Articles XIIC and XIID of the California Constitution.

53753. (a) The notice, protest, and hearing requirements imposed by this section supersede any statutory provisions applicable to the levy of a new or increased assessment that is in existence on the effective date of this section, whether or not that provision is in conflict with this article. Any agency that complies with the notice, protest, and hearing requirements of this section shall not be required to comply with any other statutory notice, protest, and hearing requirements that would otherwise be applicable

- to the levy of a new or increased assessment, with the exception of Division 4.5 (commencing with Section 3100) of the Streets and Highways Code. If the requirements of that division apply to the levy of a new or increased assessment, the levying agency shall comply with the notice, protest, and hearing requirements imposed by this section as well as with the requirements of that division.
- (b) Prior to levying a new or increased assessment, or an existing assessment that is subject to the procedures and approval process set forth in Section 4 of Article XIID of the California Constitution, an agency shall give notice by mail to the record owner of each identified parcel. Each notice shall include the total amount of the proposed assessment chargeable to the entire district, the amount chargeable to the record owner's parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, and the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures for the completion, return, and tabulation of the assessment ballots required pursuant to subdivision (c) including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property. An agency shall give notice by mail at least 45 days prior to the date of the public hearing upon the proposed assessment.
 - (c) Each notice given pursuant to subdivision (b) shall contain an assessment ballot that includes the agency's address for receipt of the form and a place where the person returning the assessment ballot may indicate his or her name, a reasonable identification of the parcel, and his or her support or opposition to the proposed assessment. Each assessment ballot shall be in a form that conceals its contents once it is sealed by the person submitting the assessment ballot. Each assessment ballot shall be signed and either mailed or otherwise delivered to the address indicated on the assessment ballot. Regardless of the method of delivery, all assessment ballots shall be received at the address indicated, or the site of the public testimony, in order to be included in the tabulation of a majority protest pursuant to subdivision (e). Assessment ballots shall remain sealed until the tabulation of ballots pursuant to subdivision (e) commences, provided that an assessment ballot may be submitted, or changed, or withdrawn by the person who submitted the ballot prior to the conclusion of the public testimony on the proposed assessment at the hearing required pursuant to subdivision (d). An agency may provide an envelope for the return of the assessment ballot, provided that if the return envelope is opened by the agency prior to the tabulation of ballots pursuant to subdivision (e), the enclosed assessment ballot shall remain sealed as provided in this section.
 - (d) At the time, date, and place stated in the notice mailed pursuant to subdivision (b), the agency shall conduct a public hearing upon the proposed assessment. At the public hearing, the agency shall consider all objections or protests, if any, to the proposed assessment. At the public hearing, any person shall be permitted to present written or oral testimony. The public hearing may be continued from time to time.
 - (e) (1) At the conclusion of the public hearing conducted pursuant to subdivision (d), an impartial person designated by the agency who does not have a vested interest in the outcome of the proposed assessment shall tabulate the assessment ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. In a city, the impartial person may include, but is not limited to, the clerk of the agency. The

impartial person may use technological methods of tabulating the assessment ballots, including, but not limited to, punch card or optically readable (bar-coded) assessment ballots. During and after the tabulation, the assessment ballots shall be treated as disclosable public records, as defined in Section 6252, and equally available for inspection by the proponents and the opponents of the proposed assessment. In the event that more than one of the record owners of an identified parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the identified parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the agency by documentation provided by those record owners.

- (2) A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.
- (3) If there is a majority protest against the imposition of a new assessment, or the extension of an existing assessment, or an increase in an existing assessment, the agency shall not impose, extend, or increase the assessment.
- (4) The majority protest proceedings described in this subdivision shall not constitute an election or voting for purposes of Article II of the California Constitution or of the California Elections Code.

53753.5. (a) If an agency has complied with the notice, protest, and hearing requirements of Section 53753, or if an agency is not required to comply with those requirements because the assessment is exempt from the procedures and approval process set forth in Section 4 of Article XIID of the California Constitution, then those requirements shall not apply in subsequent fiscal years unless the assessment methodology is changed to increase the assessment, or the amount of that assessment is proposed to exceed an assessment formula or range of assessments adopted by an agency in accordance with Article XIID of the California Constitution or Section 53753.

(b) Notwithstanding subdivision (a), the following assessments existing on the effective date of Article XIID of the California Constitution shall be exempt from the procedures and approval process set forth in Section 4 of that article:

- (1) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems, or vector control.
- (2) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed.
- (3) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.
- (4) Any assessment that previously received majority voter approval from the voters voting in an election on the issue of the assessment. Any subsequent increases in an assessment listed in paragraph (1), (2), or (4) shall be subject to the

procedures and approval process set forth in Section 4 of Article XIID of the California Constitution.

- (c) For purposes of this section, the following words and phrases shall have the following meanings:
- (1) "Assessments existing on the effective date of Article XIID of the California Constitution" means assessments levied by the legislative body of the agency on or before November 6, 1996.
 - (2) "Procedures and approval process set forth in Section 4 of Article XIID" means all of the requirements set forth in Section 4 of Article XIID of the California Constitution, including, but not limited to, the requirement to separate general and special benefits and the requirement to assess parcels that are owned or used by an agency, the State of California, or the United States of America.

- 53754.** (a) The legislative body collecting assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) shall designate an office, department, or bureau of the local agency that shall be responsible for annually preparing the current tax roll of assessment installment obligations by assessor's parcel number on property within the assessment district. The designated office, department, or bureau shall be the same office, department, or bureau that prepares the "NOTICE OF SPECIAL TAX" required by Section 53340.2. If notice is required under both these feasible, be combined into a single notice document. The designated office, department, or bureau shall establish procedures to promptly respond to inquiries concerning installments on the current tax roll. Neither the designated office, department, or bureau, nor the legislative body, shall be liable if any estimate of assessment installments on the current tax roll is inaccurate, nor for any failure of any seller to request a Notice of Special Assessment or to provide the notice to a buyer.
- (b) For purposes of enabling sellers of real property subject to the levy of assessments to satisfy the notice requirements of subdivision (b) of Section 1102.6 of the Civil Code, the designated office, department, or bureau shall furnish a Notice of Assessment to any individual requesting the notice or any owner of property subject to an assessment levied by the local agency within five working days of receiving a request for such notice. The local agency may charge a reasonable fee for this service not to exceed ten dollars (\$10).
- (c) The notice shall contain the heading "NOTICE OF SPECIAL ASSESSMENT" in type no smaller than 8-point type, and shall be in substantially the following form. The form may be modified as needed to clearly and accurately present the required information or to consolidate information about two or more assessment districts that collect installments of assessments with respect to the lot, parcel, or unit. The notice shall be completed by the designated office, department, or bureau except for the signatures and date of signing:

NOTICE OF SPECIAL ASSESSMENT

ASSESSMENT DISTRICT NO. _____ OF (CITY) (COUNTY) (SPECIAL DISTRICT), CALIFORNIA
TO: THE PROSPECTIVE PURCHASER OF THE REAL PROPERTY KNOWN AS:

Assessor's Parcel Number: _____
Street Address: _____

THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR PURCHASING THIS PROPERTY.

This property is within the above-named assessment district. The assessment district has issued bonds to finance the acquisition or construction of certain public improvements that are of direct and special benefit to property within the assessment district. The bonds will be repaid from annual assessment installments on property within the assessment district.

This property is subject to annual assessment installments of the assessment district that will appear on your property tax bills, but which are in addition to the regular property taxes and any other charges and levies that will be listed on the property tax bill. If you fail to pay assessment installments when due each year, the property may be foreclosed upon and sold. The annual assessment installment against this property as shown on the most recent tax bill for the _____ - _____ tax year is _____ dollars (\$_____). Assessment installments will be collected each year until the assessment bonds are repaid.

The public facilities that are being paid for by the money received from the sale of bonds that are being repaid by the assessments are:

(LIST)

These facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired. YOU SHOULD TAKE THIS ASSESSMENT AND THE BENEFITS FROM THE PUBLIC FACILITIES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

YOU MAY OBTAIN A COPY OF THE RESOLUTION CONFIRMING ASSESSMENTS THAT SPECIFIES MORE PRECISELY HOW THE ASSESSMENTS ARE APPORTIONED AMONG PROPERTIES IN THE ASSESSMENT DISTRICT FROM THE _____ (name of jurisdiction) BY CALLING _____ (telephone number). THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE ESTIMATED REASONABLE COST OF PROVIDING THE DOCUMENT.

I (WE) ACKNOWLEDGE THAT I (WE) HAVE RECEIVED A COPY OF THIS NOTICE. I (WE) UNDERSTAND THAT I (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT RECEIPT AFTER RECEIVING THIS NOTICE FROM THE OWNER OR AGENT SELLING THE PROPERTY. THE CONTRACT MAY BE TERMINATED WITHIN THREE DAYS IF THE NOTICE WAS RECEIVED IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO THE OWNER OR AGENT SELLING THE PROPERTY.

DATE: _____

Buyer

Buyer

