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GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 1. CITIES AND COUNTIES [50001 - 52203] (Division 1 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES AND COUNTIES [50001 - 51298.5] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 1. General [50001 - 50290] (Chapter 1 added by Stats. 1949, Ch. 81.)

ARTICLE 3.1. Habitat Maintenance Assessment Districts [50060 - 50070] (Article 3.1 added by Stats. 1993, Ch. 1301, Sec. 3.)

[50060.](#) As used in this article:

(a) "District" means a habitat maintenance assessment district formed pursuant to this article.

(b) "Improvement" means one or any combination of the following:

(1) The acquisition, construction, or rehabilitation of any facilities needed to create, restore, enhance, or maintain natural habitat.

(2) The installation or construction of any facilities which are appurtenant to any facilities in paragraph (1) or which are necessary or convenient for the maintenance or servicing thereof, including, but not limited to, grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities.

(3) The installation of habitat improvements, including, but not limited to, any of the following:

(A) Land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks, and drainage.

(B) The maintenance or servicing, or both, of any of the foregoing.

(4) The acquisition of land for habitat maintenance purposes.

(5) The acquisition of any existing improvement otherwise authorized pursuant to this article.

(c) "Incidental expenses" include all of the following:

(1) The costs of preparation of the report, including plans, specifications, estimates, diagrams, and assessment.

(2) The costs of printing, advertising, and the giving of published, posted, and mailed notices.

(3) Compensation payable to the county for collection of assessments.

(4) Compensation of any engineer, scientist, or attorney employed to render services in proceedings pursuant to this article. The compensation shall not exceed the estimated amount required to provide the service.

(5) Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements.

(6) Any expenses incidental to the issuance of bonds or notes pursuant to Section 50068.

(7) The costs of biological monitoring and evaluation of collected data related to the establishment or operation of natural habitat.

(8) The direct costs incurred by the Department of Fish and Game in approving long-term natural habitat maintenance plans pursuant to Section 2901 of the Fish and Game Code.

(d) "Legislative body" means the city council, board of supervisors, or any other governing body of a local agency.

(e) "Local agency" means any city, county, or city and county, whether general law or chartered.

(f) "Maintain" or "maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including, but not limited to, all of the following:

(1) Repair, removal, or replacement of all or any part of any improvement.

(2) Providing for the life, growth, health, and beauty of habitat, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.

(3) The removal of trimmings, rubbish, debris, and other solid waste.

(4) The operation and management of natural habitat, including biological monitoring and evaluation of collected data.

(5) The conduct of biological activities necessary to sustain the species being protected.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)

50060.5. (a) A local agency may, by ordinance or by resolution adopted after notice and hearing, establish a district to provide for the improvement or maintenance of natural habitat. The local agency may perform those functions or contract with the state, another local agency, or a special district to perform those functions. If a local agency establishes a district, it may provide for the levy of assessments for not more than 30 years to pay the cost and incidental expenses of implementing a long-term natural habitat maintenance plan approved by the Department of Fish and Game pursuant to Section 2901 of the Fish and Game Code. Any assessments levied pursuant to this section shall be levied only in accordance with a plan for the conservation of natural habitat approved by the Department of Fish and Game. No plan shall be approved by the Department of Fish and Game unless it contains provisions for the recovery of all costs incurred by the department in its review of the plan for the conservation of natural habitat.

(b) The legislative body of the local agency establishing a district shall serve as the legislative body of the district.

(c) Notwithstanding any other provision of this article, assessments levied pursuant to this article shall not be reduced or terminated if doing so would interfere with the implementation of an approved plan for the conservation of natural habitat.

(d) This article applies only to the implementation of a long-term natural habitat maintenance plan by a district, and does not alter, limit, or otherwise affect any other district that has been, or may be, established pursuant to law, including, but not limited to, any other district relating to wildlife habitat.

(e) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5, does not apply to a district formed pursuant to this article.

(Amended by Stats. 2003, Ch. 296, Sec. 13. Effective January 1, 2004.)

50061. (a) The ordinance or resolution shall establish uniform assessment rates based on the costs of providing the maintenance or improvement by the district. The assessment shall be related to the benefits to the property assessed. The maximum amount that may be assessed for habitat maintenance on any lot or parcel for purposes of paying costs incurred in 1994 for long-term maintenance of natural habitat pursuant to this article shall not exceed twenty-five dollars (\$25). For subsequent years, the maximum amount that may be assessed for this purpose shall not exceed twenty-five dollars (\$25) increased by the percentage increase in the California Consumer Price Index between December 1993 and December of the year prior to the year of the assessment. The total amount assessed shall not exceed the anticipated actual costs of the authorized maintenance of natural habitat.

(b) Notwithstanding subdivision (a), land that is devoted primarily to agricultural, timber, or livestock uses and that is being used for the commercial production of agricultural, timber, or livestock products may be subject to an assessment by a district for the acquisition, construction, or operation and maintenance of natural habitat pursuant to this article only if the legislative body makes both of the following determinations:

(1) The agricultural, timber, or livestock land will be specially benefited by the natural habitat. The determination shall identify the nature of the benefit to the land.

(2) Agricultural, timber, or livestock uses or practices will be eliminated in a manner that will adversely affect the habitat area or the flora or fauna that the natural habitat is intended to protect, or the owner of the land has agreed to the assessment. No land is subject to an assessment until its agricultural, timber, or livestock use is eliminated or until the owner consents to the assessment, whichever occurs first.

(c) Division 4.5 (commencing with Section 3100) of the Streets and Highways Code applies to proceedings in which the legislative body determines to issue bonds or notes pursuant to Section 50068, or to finance a long-term natural habitat maintenance program in a district, and may be applied to any other proceedings pursuant to this article at the discretion of the legislative body.

(Amended by Stats. 2004, Ch. 183, Sec. 172. Effective January 1, 2005.)

50061.5. (a) The legislative body of the local agency shall cause to be prepared and filed with the clerk of the local agency a written report which shall contain all of the following:

- (1) Plans and specifications for the improvements.
- (2) An estimate of the costs of the improvements.
- (3) A diagram of the district and a description of each lot or parcel of property proposed to be subject to the assessment.
- (4) The amount of the assessment for each lot or parcel for the initial fiscal year and the maximum amount of the assessment that may be levied for each lot or parcel during any fiscal year thereafter.
- (5) The duration of the assessment.
- (6) The basis of the assessment.
- (7) The schedule of the assessment.
- (8) A description specifying the requirements for the protest and hearing procedures referred to in Section 50063 necessary for imposing the proposed assessment.

(b) If the report proposes the levy of an assessment for more than one year to pay debt service on bonds or notes, or to pay for the maintenance of natural habitat, the report shall also contain both of the following:

- (1) If bonds or notes will be issued pursuant to Section 50068, an estimate of their principal amount.
- (2) A general description of the habitat maintenance program and a statement of the maximum costs of the maintenance program for each year of its expected duration.

(Amended by Stats. 2000, Ch. 262, Sec. 2. Effective January 1, 2001.)

50062. (a) The assessment shall refer to the fiscal year to which it applies and shall do all of the following:

- (1) State the net amount, determined in accordance with Section 50061, to be assessed upon assessable lands within the district, which shall include an amount sufficient to pay the principal and interest due during the fiscal year from each parcel on any bonds or notes issued pursuant to Section 50068, and shall also include the amount needed to pay for the long-term natural habitat maintenance program of a district.
- (2) Describe each assessable lot or parcel of land within the district.
- (3) Assess the net amount upon all assessable lots or parcels of land within the district by apportioning that amount among the several lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

(b) The assessment may refer to the county assessment roll for a description of the lots or parcels, in which case that roll shall govern for all details concerning the description of the lots or parcels.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)

50062.5. If a district established pursuant to this article levies an assessment under this article to maintain or improve natural habitat, any lot or parcel is presumed to specifically benefit from the natural habitat if one or all of the following occur:

- (a) The past or proposed development or use of that lot or parcel has adversely affected or will adversely affect the habitat area or the flora and fauna which the natural habitat is intended to protect, and the extent to which a parcel benefits from the natural habitat shall be based on the degree to which the past or proposed use of the parcel has adversely affected or will adversely affect the habitat area or the flora or fauna that the natural habitat is intended to protect.
- (b) The lot or parcel otherwise benefits from the maintenance or improvement of the habitat area or the flora or fauna that the natural habitat is intended to protect.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)

50063. After approval of the report, either as filed or as modified, the legislative body shall adopt a resolution of intention. The resolution shall do all of the following:

- (a) Declare the intention of the legislative body to order the formation of a district, to levy and collect assessments, and, if desired, to issue bonds or notes, to provide for the long-term maintenance of natural habitat pursuant to this article.
- (b) Generally describe the improvements.
- (c) Refer to the proposed district by its distinctive designation and indicate the general location of the district.
- (d) Refer to the report on file with the clerk of the local agency for a full and detailed description of the improvements, the boundaries of the district, any bonds or notes to be issued, any provisions for the long-term maintenance of natural habitat, and the proposed assessments upon assessable lots and parcels of land within the district.
- (e) Give notice of, and fix a time and place for, a hearing by the legislative body on, among other things, the question of the formation of the district and the levy of the proposed assessment. The notice, protest, and hearing procedures shall comply with Section 53753.

(Amended by Stats. 2000, Ch. 262, Sec. 3. Effective January 1, 2001.)

50063.5. (a) The legislative body may establish zones or areas of benefit within the district and shall restrict the imposition of assessments to areas lying within those zones or areas of benefit.

(b) The benefit assessment shall be levied on a parcel basis within the boundaries of the district.

(c) The assessment may be levied against any parcel that benefits from habitat maintenance services that may be made available whether or not the service is actually used.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)

50064. The clerk of the local agency shall cause notice of the filing of the report prepared pursuant to Section 50061.5, and of a time, date, and place of hearing pursuant to Section 50063.

(Amended by Stats. 2000, Ch. 262, Sec. 4. Effective January 1, 2001.)

50066. If the local agency is a city, it shall pay the county for costs, if any, incurred by the county in conducting the election. An election called by a legislative body pursuant to this article is subject to all provisions of the Elections Code applicable to elections called by the local agency. The local agency may recover the costs of the election and any other costs of preparing and levying the assessment from the proceeds of the assessment.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)

50067. (a) If no majority protest exists pursuant to Section 53753, the legislative body may adopt a resolution ordering the improvements and the formation of the district and confirming the diagram and assessment, either as originally proposed by the legislative body or as changed by it. Except as provided in subdivision (b) or (c), the adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the assessment.

(b) If bonds or notes are to be issued pursuant to Section 50068, the adoption of the resolution shall constitute the levy of an assessment for a principal amount which may be collected in annual installments. The clerk shall record a notice and map describing the assessment pursuant to Division 4.5 (commencing with Section 3100) of the Streets and Highways Code.

(c) If the district will finance a long-term natural habitat maintenance program, the adoption of the resolution constitutes the levy of a series of annual assessments for each of several years to pay the costs of maintaining natural habitat pursuant to Section 50060.5. The clerk shall record a notice and map describing the assessments pursuant to Division 4.5 (commencing with Section 3100) of the Streets and Highways Code.

(Amended by Stats. 2000, Ch. 262, Sec. 9. Effective January 1, 2001.)

50067.5. The legislative body may provide for the collection of the assessment in the same manner, and subject to the same penalties as, other fees, charges, and taxes fixed and collected by, or on behalf of the local agency. If the assessments are collected by a county on behalf of a city, the county may deduct its reasonable costs incurred for that service before remittance of the balance to the city.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)

50068. (a) The legislative body may, by resolution, determine and declare that bonds shall be issued to finance the estimated cost of the proposed improvements described in Section 50060.5, other than the costs of maintenance and servicing, under either the

Improvement Act of 1911 (Division 7 (commencing with Section 5000), S.& H.C.) or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500), S.& H.C.). Either Part 5 (commencing with Section 6400) of Division 7 or Division 10 (commencing with Section 8500) of the Streets and Highways Code, as the case may be, shall govern all proceedings relating to the issuance of those bonds. The pertinent provisions of that division which apply to the legislative body of a city shall also apply to the legislative body of a district formed pursuant to this article. Alternatively, the legislative body may determine and declare that notes shall be issued for the same purposes for which bonds may be issued. The maximum term to maturity of any notes issued shall not exceed 10 years.

(b) The resolution shall generally describe the proposed improvements specified in Section 50060.5, set forth the estimated cost thereof, specify the number of annual installments and the fiscal years during which they are to be collected, and fix or determine the maximum amount of each annual installment necessary to retire the bonds or notes. The amount of debt service to retire the bonds shall not exceed the amount of revenue estimated to be raised from assessments over 30 years. The amount of debt service to retire the notes shall not exceed the amount of revenue to be raised from the assessments over 10 years.

(c) Notwithstanding any other provision of this article, assessments levied to pay the principal of, and interest on, any bond or note issued pursuant to this section, shall not be reduced or terminated if doing so would interfere with the timely retirement of the debt.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)

50068.5. The legislative body shall provide by resolution each year for the levy and collection of annual assessments to pay for the long-term maintenance of natural habitat pursuant to this article in the amounts previously authorized. The resolution shall include a diagram and assessment against each lot or parcel subject to assessment for those purposes. If the assessments are to be increased above the amount levied for the previous year, notice, protest, and hearing procedures shall comply with Section 53753. The levy and collection of assessments for those purposes may be coordinated with the levy and collection of assessments pursuant to any other provision of law in any manner that the legislative body determines to be necessary or convenient.

(Amended by Stats. 2000, Ch. 262, Sec. 10. Effective January 1, 2001.)

50069. Any resolution providing for the levy of assessments for payment of debt service on bond debt or notes, or for the long-term maintenance of natural habitat, or any hearings upon the formation of a district, or upon the levy of annual assessments after formation of a district shall be concluded and any resolution confirming a diagram and an assessment shall be adopted not later than either of the following dates:

(a) July 1 of the fiscal year during which the assessments are to be collected on the county assessment roll.

(b) A later date, not beyond the third Monday in August, that the county auditor authorizes.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)

50069.5. (a) Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure applies to any judicial action or proceeding to validate, attack, review, set aside, void, or annul an ordinance or resolution levying an assessment or modifying or amending an existing ordinance or resolution.

(b) If an ordinance or resolution provides for an automatic adjustment in an assessment, and the automatic adjustment results in an increase in the amount of an assessment, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 90 days of the effective date of the increase.

(c) Any appeal from a final judgment in the action or proceeding brought pursuant to this section shall be filed within 30 days after entry of the judgment.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)

50070. This article does not limit or prohibit the levy or collection of any other fee, charge, assessment, or tax for habitat maintenance authorized by any other provision of law.

(Added by Stats. 1993, Ch. 1301, Sec. 3. Effective January 1, 1994.)