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

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] (Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 2.5. The Mello-Roos Community Facilities Act of 1982 [53311 - 53368.3] (Chapter 2.5 added by Stats. 1982, Ch. 1451, Sec. 1.)

ARTICLE 1. General Provisions [53311 - 53317.5] (Article 1 added by Stats. 1982, Ch. 1451, Sec. 1.)

53311. This chapter shall be known and may be cited as the "Mello-Roos Community Facilities Act of 1982".

(Added by Stats. 1982, Ch. 1451, Sec. 1.)

53311.5. This chapter provides an alternative method of financing certain public capital facilities and services, especially in developing areas and areas undergoing rehabilitation. The provisions of this chapter shall not affect or limit any other provisions of law authorizing or providing for the furnishing of governmental facilities or services or the raising of revenue for these purposes. A local government may use the provisions of this chapter instead of any other method of financing part or all of the cost of providing the authorized kinds of capital facilities and services.

(Added by Stats. 1982, Ch. 1451, Sec. 1.)

53312. Any provision in this chapter which conflicts with any other provision of law shall prevail over the other provision of law.

(Repealed and added by Stats. 1986, Ch. 1102, Sec. 2. Effective September 24, 1986.)

53312.5. The local agency may take any actions or make any determinations which it determines are necessary or convenient to carry out the purposes of this chapter and which are not otherwise prohibited by law.

(Added by Stats. 1985, Ch. 538, Sec. 1. Effective September 9, 1985.)

53312.7. (a) On and after January 1, 1994, a local agency may initiate proceedings to establish a district pursuant to this chapter only if it has first considered and adopted local goals and policies concerning the use of this chapter. The policies shall include at least the following:

- (1) A statement of the priority that various kinds of public facilities and services shall have for financing through the use of this chapter, including public facilities to be owned and operated by other public agencies, including school districts, and services to be provided by other public agencies.
- (2) A statement concerning the credit quality to be required of bond issues, including criteria to be used in evaluating the credit quality.
- (3) A statement concerning steps to be taken to ensure that prospective property purchasers are fully informed about their taxpaying obligations imposed under this chapter.
- (4) A statement concerning criteria for evaluating the equity of tax allocation formulas, and concerning desirable and maximum amounts of special tax to be levied against any parcel pursuant to this chapter.
- (5) A statement of definitions, standards, and assumptions to be used in appraisals required by Section 53345.8.

(b) The goals and policies adopted by any school district pursuant to subdivision (a) shall include, but not be limited to, a priority access policy that gives priority attendance access to students residing in a community facilities district whose residents have paid special taxes that have, in whole or in part, financed the construction of school district facilities. The degree of priority shall reflect the proportion of each school's financing provided through the community facilities district. In developing a priority access policy for residents of a community facilities district, a school district may incorporate a school district attendance policy including criteria for student assignment such as goals to achieve ethnic, racial, or socioeconomic diversity; federal, state, or court mandates; transportation needs, safe pedestrian routes; grade levels for which facilities were designed; and ensuring students continuity of schooling within any single school year.

(Amended by Stats. 2007, Ch. 670, Sec. 54. Effective January 1, 2008.)

53312.8. (a) Territory that is dedicated or restricted to agricultural, open-space, or conservation uses may not be included within or annexed to a community facilities district that provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads, unless the landowner consents to the inclusion or annexation of that territory to the community facilities district.

(b) Notwithstanding any other provision of law, and except as provided in subdivision (c), if a landowner consents to the inclusion or annexation of territory in a community facilities district pursuant to subdivision (a), the landowner and any local agency may not terminate any easement or effect a final cancellation of any contract with respect to any portion of the land included within or annexed to the community facilities district prior to the release of land that is the subject of the proposed termination or cancellation from all liens that arise under the community facilities district for any sewers, nonagricultural water, or streets and roads that did not benefit land uses allowed under the contract or easement.

(c) Subdivision (b) shall not apply to any of the following:

(1) Land under a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1) included in a community facilities district for which a tentative map may be filed pursuant to paragraph (3) of subdivision (d) of Section 66474.4 or for which a tentative cancellation has been approved.

(2) Land subject to a conservation easement entered into prior to January 1, 2003.

(3) Land included in a community facilities district prior to the imposition of an enforceable restriction listed in subdivision (d) or prior to January 1, 2003.

(4) Land subject to an enforceable restriction listed in subdivision (d) that expressly waives the requirement of subdivision (b).

(d) As used in this section, "territory that is dedicated or restricted to agricultural, open-space, or conservation uses" means territory that is subject to any of the following:

(1) An open-space easement entered into pursuant to Chapter 6.5 (commencing with Section 51050) of Part 1 of Division 1.

(2) An open-space easement entered into pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1).

(3) A contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1).

(4) A farmland security zone contract created pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1), except as otherwise provided in Section 51296.4.

(5) A conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of Division 2 of the Civil Code.

(6) An agricultural conservation easement entered into pursuant to Chapter 4 (commencing with Section 10260) of Division 10.2 of the Public Resources Code.

(7) An agricultural conservation easement entered into pursuant to Section 51256.

(Added by Stats. 2002, Ch. 174, Sec. 1. Effective January 1, 2003.)

53313. A community facilities district may be established under this chapter to finance any one or more of the following types of services within an area:

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Recreation program services, library services, maintenance services for elementary and secondary schoolsites and structures, and the operation and maintenance of museums and cultural facilities. A special tax may be levied for any of the services specified in this subdivision only upon approval of the registered voters as specified in subdivision (b) of Section 53326. An election to enact a special tax for recreation program services, library services, and the operation and maintenance of museums and cultural facilities may be conducted pursuant to subdivision (c) of Section 53326.

(d) Maintenance and lighting of parks, parkways, streets, roads, and open space.

(e) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems, plowing and removal of snow, and sandstorm protection systems.

(f) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment. As used in this subdivision, the terms "remedial action" and "removal" shall have the meanings set forth in Sections 78125 and 78135, respectively, of the Health and Safety Code, and the term "hazardous substance" shall have the meaning set forth in Section 25281 of the Health and Safety Code. Community facilities districts shall provide the State Department of Health Care Services and local health and building departments with notification of any cleanup activity pursuant to this subdivision at least 30 days prior to commencement of the activity.

(g) Maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the local agency or by another local agency pursuant to an agreement entered into under Section 53316.2.

A community facilities district tax approved by vote of the landowners of the district may only finance the services authorized in this section to the extent that they are in addition to those provided in the territory of the district before the district was created. The additional services shall not supplant services already available within that territory when the district was created.

Bonds shall not be issued pursuant to this chapter to fund any of the services specified in this section, although bonds may be issued to fund capital facilities to be used in providing these services.

(Amended by Stats. 2022, Ch. 258, Sec. 20. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

53313.1. To the extent that any capital facility is provided under this chapter, a duplicate levy, impact fee, or other exaction may not be required for the same purpose under Section 66477.

(Added by renumbering Section 53313.8 (as added by Stats. 1982, Ch. 1451) by Stats. 1992, Ch. 427, Sec. 64. Effective January 1, 1993.)

53313.4. Any territory within a community facilities district established for the acquisition or improvement of school facilities for a school district shall be exempt from any fee, increase in any fee other than a cost-of-living increase as authorized by law, or other requirement first levied, increased, or imposed pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code or under Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7, by or to benefit any other school district, except as otherwise negotiated between the school districts. That exemption shall apply until a date 10 years following the most recent issuance of bonds by the community facilities district or, if no bonds have ever been issued by the community facilities district, a date 10 years following the formation of the community facilities district.

(Amended by Stats. 2007, Ch. 670, Sec. 56. Effective January 1, 2008.)

53313.5. A community facilities district may also finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property. The facilities need not be physically located within the district. A district may not lease out facilities that it has financed except pursuant to a lease agreement or annexation agreement entered into prior to January 1, 1988. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish the district is adopted pursuant to Section 53325.1, except that a district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency that will own or operate the facility. For example, a community facilities district may finance facilities, including, but not limited to, the following:

(a) Local park, recreation, parkway, and open-space facilities.

(b) Elementary and secondary schoolsites and structures provided that the facilities meet the building area and cost standards established by the State Allocation Board.

(c) Libraries.

(d) Child care facilities, including costs of insuring the facilities against loss, liability insurance in connection with the operation of the facility, and other insurance costs relating to the operation of the facilities, but excluding all other operational costs. However, the proceeds of bonds issued pursuant to this chapter shall not be used to pay these insurance costs.

(e) The district may also finance the construction or undergrounding of water transmission and distribution facilities, natural gas pipeline facilities, telephone lines, facilities for the transmission or distribution of electrical energy, and cable television lines to provide access to those services to customers who do not have access to those services or to mitigate existing visual blight. The district may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the conveyance of those facilities to the public utility. "Public utility" shall include all utilities, whether public and regulated by the Public Utilities Commission, or municipal. If the facilities are conveyed to the public utility, the agreement shall provide that the cost or a portion of the cost of the facilities that are the responsibility of the utility shall be refunded by the public utility to the district or improvement area thereof, to the extent that refunds are applicable pursuant to (1) the Public Utilities Code or rules of the Public Utilities Commission, as to utilities regulated by the commission, or (2) other laws regulating public utilities. Any reimbursement made to the district shall be utilized to reduce or minimize the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the resolution of formation.

(f) The district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for flood and storm protection services, including, but not limited to, storm drainage and treatment systems and sandstorm protection systems.

(g) The district may also pay in full all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a community facilities district or may pay debt service on that indebtedness. When the amount financed by the district is to pay a tax, fee, charge, or assessment imposed by a public agency other than the one conducting the proceedings, and if the amount provided to the other public agency will not be entirely used to pay off or prepay an assessment lien or special tax obligation pursuant to the property owner's legal right to do so, the written consent of the other public agency is required. In addition, tax revenues of a district may be used to make lease or debt service payments on any lease, lease-purchase contract, or certificate of participation used to finance facilities authorized to be financed by the district.

(h) Any other governmental facilities that the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate. However, the district shall not operate or maintain or, except as otherwise provided in subdivisions (e) and (k), have any ownership interest in any facilities for the transmission or distribution of natural gas, telephone service, or electrical energy.

(i) (1) A district may also pay for the following:

(A) Work deemed necessary to bring buildings or real property, including privately owned buildings or real property, into compliance with seismic safety standards or regulations. Only work certified as necessary to comply with seismic safety standards or regulations by local building officials may be financed. No project involving the dismantling of an existing building and its replacement by a new building, nor the construction of a new or substantially new building may be financed pursuant to this subparagraph. Work on qualified historical buildings or structures shall be done in accordance with the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code).

(B) In addition, within any county or area designated by the President of the United States or by the Governor as a disaster area or for which the Governor has proclaimed the existence of a state of emergency because of earthquake damage, a district may also pay for any work deemed necessary to repair any damage to real property directly or indirectly caused by the occurrence of an earthquake cited in the President's or the Governor's designation or proclamation, or by aftershocks associated with that earthquake, including work to reconstruct, repair, shore up, or replace any building damaged or destroyed by the earthquake, and specifically including, but not limited to, work on any building damaged or destroyed in the Loma Prieta earthquake that occurred on October 17, 1989, or by its aftershocks. Work may be financed pursuant to this subparagraph only on property or buildings identified in a resolution of intention to establish a community facilities district adopted within seven years of the date on which the county or area is designated as a disaster area by the President or by the Governor or on which the Governor proclaims for the area the existence of a state of emergency.

(2) Work on privately owned property, including reconstruction or replacement of privately owned buildings pursuant to subparagraph (B) of paragraph (1), may only be financed by a tax levy if all of the votes cast on the question of levying the tax, vote in favor of levying the tax, or with the prior written consent to the tax of the owners of all property that may be subject to the tax, in that case the prior written consent shall be deemed to constitute a vote in favor of the tax and any associated bond issue. Any district created to finance seismic safety work on privately owned buildings, including repair, reconstruction, or replacement of privately owned buildings pursuant to this subdivision, shall consist only of lots or parcels that the legislative body finds have buildings that were damaged or destroyed by the earthquake cited pursuant to subparagraph (B) of paragraph (1) or by the aftershocks of that earthquake.

(j) A district may also pay for the following:

(1) Work deemed necessary to repair and abate damage caused to privately owned buildings and structures by soil deterioration. "Soil deterioration" means a chemical reaction by soils that causes structural damage or defects in construction materials including concrete, steel, and ductile or cast iron. Only work certified as necessary by local building officials may be financed. No project involving the dismantling of an existing building or structure and its replacement by a new building or structure, nor the construction of a new or substantially new building or structure may be financed pursuant to this paragraph.

(2) Work on privately owned buildings and structures pursuant to this subdivision, including reconstruction, repair, and abatement of damage caused by soil deterioration, may only be financed by a tax levy if all of the votes cast on the question of levying the tax vote in favor of levying the tax. Any district created to finance the work on privately owned buildings or structures, including reconstruction, repair, and abatement of damage caused by soil deterioration, shall consist only of lots or parcels on which the legislative body finds that the buildings or structures to be worked on pursuant to this subdivision suffer from soil deterioration.

(k) A district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for the purposes of removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment. As used in this subdivision, "remedial action" and "removal" shall have the meaning set forth in Sections 78125 and 78135, respectively, of the Health and Safety Code, and "hazardous substance" shall have the meaning set forth in Section 25281 of the Health and Safety Code.

(l) A district may also finance and refinance the acquisition, installation, and improvement of energy efficiency, water conservation, wildfire safety improvements as defined in Section 5899.4 of the Streets and Highways Code, and renewable energy improvements that are affixed, as specified in Section 660 of the Civil Code, to or on real property and in buildings, whether the real property or buildings are privately or publicly owned. Energy efficiency, water conservation, wildfire safety improvements as defined in Section 5899.4 of the Streets and Highways Code, and renewable energy improvements financed by a district may only be installed on a privately owned building and on privately owned real property with the prior written consent of the owner or owners of the building or real property. This chapter shall not be used to finance installation of energy efficiency, water conservation, wildfire safety improvements as defined in Section 5899.4 of the Streets and Highways Code, and renewable energy improvements on a privately owned building or on privately owned real property in connection with the initial construction of a residential building unless the initial construction is undertaken by the intended owner or occupant.

(m) Any improvement on private property authorized to be financed by this section shall constitute a "public facility" for purposes of this chapter and a "public improvement" for purposes of Part 1 (commencing with Section 3100) and Part 2 (commencing with Section 3110) of Division 4.5 of the Streets and Highways Code, whether the improvement is owned by a private entity, if the legislative body has determined that the improvement provides a public benefit, or the improvement is owned by a public agency.

(n) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

(Amended (as amended by Stats. 2018, Ch. 837, Sec. 4) by Stats. 2022, Ch. 258, Sec. 21. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258. Repealed as of January 1, 2029, by its own provisions. See later operative version amended by Stats. 2022, Ch. 258, Sec. 22.)

53313.5. A community facilities district may also finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property. The facilities need not be physically located within the district. A district may not lease out facilities that it has financed except pursuant to a lease agreement or annexation agreement entered into prior to January 1, 1988. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish the district is adopted pursuant to Section 53325.1, except that a district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency that will own or operate the facility. For example, a community facilities district may finance facilities, including, but not limited to, the following:

(a) Local park, recreation, parkway, and open-space facilities.

(b) Elementary and secondary schoolsites and structures provided that the facilities meet the building area and cost standards established by the State Allocation Board.

(c) Libraries.

(d) Child care facilities, including costs of insuring the facilities against loss, liability insurance in connection with the operation of the facility, and other insurance costs relating to the operation of the facilities, but excluding all other operational costs. However, the proceeds of bonds issued pursuant to this chapter shall not be used to pay these insurance costs.

(e) The district may also finance the construction or undergrounding of water transmission and distribution facilities, natural gas pipeline facilities, telephone lines, facilities for the transmission or distribution of electrical energy, and cable television lines to provide access to those services to customers who do not have access to those services or to mitigate existing visual blight. The district may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the

conveyance of those facilities to the public utility. "Public utility" shall include all utilities, whether public and regulated by the Public Utilities Commission, or municipal. If the facilities are conveyed to the public utility, the agreement shall provide that the cost or a portion of the cost of the facilities that are the responsibility of the utility shall be refunded by the public utility to the district or improvement area thereof, to the extent that refunds are applicable pursuant to (1) the Public Utilities Code or rules of the Public Utilities Commission, as to utilities regulated by the commission, or (2) other laws regulating public utilities. Any reimbursement made to the district shall be utilized to reduce or minimize the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the resolution of formation.

(f) The district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for flood and storm protection services, including, but not limited to, storm drainage and treatment systems and sandstorm protection systems.

(g) The district may also pay in full all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a community facilities district or may pay debt service on that indebtedness. When the amount financed by the district is to pay a tax, fee, charge, or assessment imposed by a public agency other than the one conducting the proceedings, and if the amount provided to the other public agency will not be entirely used to pay off or prepay an assessment lien or special tax obligation pursuant to the property owner's legal right to do so, the written consent of the other public agency is required. In addition, tax revenues of a district may be used to make lease or debt service payments on any lease, lease-purchase contract, or certificate of participation used to finance facilities authorized to be financed by the district.

(h) Any other governmental facilities that the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate. However, the district shall not operate or maintain or, except as otherwise provided in subdivisions (e) and (k), have any ownership interest in any facilities for the transmission or distribution of natural gas, telephone service, or electrical energy.

(i) (1) A district may also pay for the following:

(A) Work deemed necessary to bring buildings or real property, including privately owned buildings or real property, into compliance with seismic safety standards or regulations. Only work certified as necessary to comply with seismic safety standards or regulations by local building officials may be financed. No project involving the dismantling of an existing building and its replacement by a new building, nor the construction of a new or substantially new building may be financed pursuant to this subparagraph. Work on qualified historical buildings or structures shall be done in accordance with the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code).

(B) In addition, within any county or area designated by the President of the United States or by the Governor as a disaster area or for which the Governor has proclaimed the existence of a state of emergency because of earthquake damage, a district may also pay for any work deemed necessary to repair any damage to real property directly or indirectly caused by the occurrence of an earthquake cited in the President's or the Governor's designation or proclamation, or by aftershocks associated with that earthquake, including work to reconstruct, repair, shore up, or replace any building damaged or destroyed by the earthquake, and specifically including, but not limited to, work on any building damaged or destroyed in the Loma Prieta earthquake that occurred on October 17, 1989, or by its aftershocks. Work may be financed pursuant to this subparagraph only on property or buildings identified in a resolution of intention to establish a community facilities district adopted within seven years of the date on which the county or area is designated as a disaster area by the President or by the Governor or on which the Governor proclaims for the area the existence of a state of emergency.

(2) Work on privately owned property, including reconstruction or replacement of privately owned buildings pursuant to subparagraph (B) of paragraph (1), may only be financed by a tax levy if all of the votes cast on the question of levying the tax, vote in favor of levying the tax, or with the prior written consent to the tax of the owners of all property that may be subject to the tax, in that case the prior written consent shall be deemed to constitute a vote in favor of the tax and any associated bond issue. Any district created to finance seismic safety work on privately owned buildings, including repair, reconstruction, or replacement of privately owned buildings pursuant to this subdivision, shall consist only of lots or parcels that the legislative body finds have buildings that were damaged or destroyed by the earthquake cited pursuant to subparagraph (B) of paragraph (1) or by the aftershocks of that earthquake.

(j) A district may also pay for the following:

(1) Work deemed necessary to repair and abate damage caused to privately owned buildings and structures by soil deterioration. "Soil deterioration" means a chemical reaction by soils that causes structural damage or defects in construction materials including concrete, steel, and ductile or cast iron. Only work certified as necessary by local building officials may be financed. No project involving the dismantling of an existing building or structure and its replacement by a new building or structure, nor the construction of a new or substantially new building or structure may be financed pursuant to this paragraph.

(2) Work on privately owned buildings and structures pursuant to this subdivision, including reconstruction, repair, and abatement of damage caused by soil deterioration, may only be financed by a tax levy if all of the votes cast on the question of levying the tax vote in favor of levying the tax. Any district created to finance the work on privately owned buildings or structures, including reconstruction, repair, and abatement of damage caused by soil deterioration, shall consist only of lots or parcels on which the legislative body finds that the buildings or structures to be worked on pursuant to this subdivision suffer from soil deterioration.

(k) A district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for the purposes of removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment. As used in this subdivision, "remedial action" and "removal" shall have the meaning set forth in Sections 78125 and 78135, respectively, of the Health and Safety Code, and "hazardous substance" shall have the meaning set forth in Section 25281 of the Health and Safety Code.

(l) A district may also finance and refinance the acquisition, installation, and improvement of energy efficiency, water conservation, and renewable energy improvements that are affixed, as specified in Section 660 of the Civil Code, to or on real property and in buildings, whether the real property or buildings are privately or publicly owned. Energy efficiency, water conservation, and renewable energy improvements financed by a district may only be installed on a privately owned building and on privately owned real property with the prior written consent of the owner or owners of the building or real property. This chapter shall not be used to finance installation of energy efficiency, water conservation, and renewable energy improvements on a privately owned building or on privately owned real property in connection with the initial construction of a residential building unless the initial construction is undertaken by the intended owner or occupant.

(m) Any improvement on private property authorized to be financed by this section shall constitute a "public facility" for purposes of this chapter and a "public improvement" for purposes of Part 1 (commencing with Section 3100) and Part 2 (commencing with Section 3110) of Division 4.5 of the Streets and Highways Code, whether the improvement is owned by a private entity, if the legislative body has determined that the improvement provides a public benefit, or the improvement is owned by a public agency.

(n) This section shall become operative on January 1, 2029.

(Amended (as added by Stats. 2018, Ch. 837, Sec. 5) by Stats. 2022, Ch. 258, Sec. 22. (AB 2327) Effective January 1, 2023. Operative January 1, 2029, by its own provisions)

53313.51. The legislative body may enter into an agreement for the construction of discrete portions or phases of facilities to be constructed and purchased consistent with Section 53313.5. The agreement may include any provisions that the legislative body determines are necessary or convenient, but shall do all of the following:

(a) Identify the specific facilities or discrete portions or phases of facilities to be constructed and purchased. The legislative body may agree to purchase discrete portions or phases of facilities if the portions or phases are capable of serviceable use as determined by the legislative body.

(b) Notwithstanding subdivision (a), when the purchase value of a facility exceeds one million dollars (\$1,000,000), the legislative body may agree to purchase discrete portions or phases of the partially completed project.

(c) Identify procedures to ensure that the facilities are constructed pursuant to plans, standards, specifications, and other requirements as determined by the legislative body.

(d) Specify a price or a method to determine a price for each facility or discrete portion or phase of a facility. The price may include an amount reflecting the interim cost of financing cash payments that must be made during construction of the project, at the discretion of the legislative body.

(e) Specify procedures for final inspection and approval of facilities or discrete portions of facilities, for approval of payment, and for acceptance and conveyance or dedication of the facilities to the local agency.

(Added by Stats. 2003, Ch. 55, Sec. 2. Effective January 1, 2004.)

53313.6. The legislative body may provide for adjustments in ad valorem property taxes pursuant to Section 53313.7 within a community facilities district only after making both of the following findings at the conclusion of the public hearing held pursuant to Article 2 (commencing with Section 53318):

(a) That an ad valorem property tax is, or will be, levied on property within a proposed community facilities district for the exclusive purpose of making lease payments on an existing lease or paying principal or interest on outstanding bonds or other existing indebtedness, including state school building loans, incurred to finance construction of capital facilities.

(b) That capital facilities to be financed by the community facilities district will provide the same services to the territory of the community facilities district as were provided by the capital facilities mentioned in subdivision (a).

(Amended by Stats. 2007, Ch. 670, Sec. 58. Effective January 1, 2008.)

53313.7. (a) Upon making the findings pursuant to Section 53313.6, the legislative body may, with the concurrence of the legislative body which levied the property tax described in subdivision (a) of Section 53313.6, by ordinance, determine that the total annual amount of ad valorem property tax revenue due from parcels within the proposed community facilities district, for purposes of paying principal and interest on the debt identified in Section 53313.6, shall not be increased after the date on which the resolution of formation for the community facilities district is adopted, or after a later date determined by the legislative body creating the community facilities district with the concurrence of the legislative body which levied the property tax in question.

(b) The legislative body may, by ordinance, with the concurrence of the legislative body that levied the property tax described in subdivision (a) of Section 53313.6, determine to cease and eliminate the freeze on property tax revenue established pursuant to subdivision (a), upon determining that the community facilities district's special tax or portion thereof levied on the parcels in question to pay for the capital facilities specified in subdivision (b) of Section 53313.6 shall cease to be levied and collected.

(Amended by Stats. 1993, Ch. 1193, Sec. 3. Effective January 1, 1994.)

53313.9. (a) All or any part of the cost of any school facilities financed by a community facilities district may be shared by the State Allocation Board pursuant to Section 17718.5 of the Education Code.

(b) If the State Allocation Board shares in any part of the cost of the school facilities, the ownership of those facilities and the real property upon which the facilities are located shall be held as provided in the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of the Education Code).

(c) The resolutions of intention, formation, consideration, and to incur bonded indebtedness, adopted pursuant to subdivision (b) of Section 53338 or Sections 53321, 53325.1, 53334, 53339.2, 53345, and 53351 may provide for cost sharing by the State Allocation Board and for appropriate adjustment of the principal amount of any bond issue or issues and of the rate and method of apportionment of any special tax.

(Amended by Stats. 2007, Ch. 670, Sec. 60. Effective January 1, 2008.)

53314. The legislative body may from time to time transfer moneys to a community facilities district or to an improvement area within a community facilities district, for the benefit of the district or improvement area, from any funds available to the legislative body. Any moneys so transferred may be used for the payment of any currently payable expenses incurred by reason of the construction or acquisition of any facilities or provision of any authorized services within the district or improvement area prior to December 1 of the first fiscal year in which a special tax may be levied for the facilities or services within the district or improvement area. The rate of interest earned by the investment of those moneys shall be determined by the legislative body.

(Amended by Stats. 1991, Ch. 1110, Sec. 4.)

53314.3. In the first fiscal year in which a special tax or charge is levied for any facility or for any services in a community facilities district or a zone within a community facilities district, the legislative body shall include in the levy a sum sufficient to repay to the legislative body the amounts transferred to that district or zone pursuant to Section 53314. The amounts borrowed, with interest, shall be retransferred to the proper fund or funds from the first available receipts from the special levy in that district or zone.

Notwithstanding the above provisions, the legislative body may, by a resolution adopted no later than the time of the first levy, extend the repayment of the transferred funds over a period of time not to exceed three consecutive years, in which event the levy and each subsequent levy shall include a sum sufficient to repay the amount specified by the legislative body for the year of the levy.

(Amended by Stats. 1987, Ch. 1440, Sec. 2.)

53314.5. Pursuant to a resolution adopted by the legislative body, the legislative body may appropriate any of its available moneys to a revolving fund to be used for the acquisition of real or personal property, engineering services, or the construction of structures or improvements needed in whole or in part to provide one or more of the facilities of a community facilities district. The revolving fund shall be reimbursed from tax revenues or other moneys available from the facilities district, and no sums shall be disbursed from the fund until the legislative body has, by resolution, established the method by, and term not exceeding five years within, which the community facilities district is to reimburse the fund. The district shall reimburse the fund for any amount disbursed to the area within five years after such disbursement, together with interest at the current rate per annum received on similar types of investments by the legislative body as determined by the local agency's treasurer.

(Added by Stats. 1982, Ch. 1451, Sec. 1.)

53314.6. (a) In connection with the financing of services and facilities pursuant to subdivision (f) of Section 53313 and subdivision (k) of Section 53313.5, the legislative body may establish a revolving fund to be kept in the treasury of the district. Except as provided in subdivision (b), moneys in the revolving fund shall be expended solely for the payment of costs with respect to those services and facilities. The revolving fund may be funded from time to time with moneys derived from any of the following:

- (1) Proceeds of the sale of bonds issued pursuant to Article 5 (commencing with Section 53345), notwithstanding any limitation contained in Section 53345.3.

(2) Any taxes or charges authorized under this chapter.

(3) Any other lawful source.

(b) Subject to the provisions of any resolution, trust agreement or indenture providing for the issuance of district bonds for the purposes set forth in subdivision (k) of Section 53313.5, the legislative body may withdraw money from the revolving fund whenever and to the extent that it finds that the amount of money therein exceeds the amount necessary to accomplish the purposes for which the revolving fund was established. Any moneys withdrawn from the revolving fund shall be used to redeem bonds of the district issued for the purposes set forth in subdivision (k) of Section 53313.5 or shall be paid to taxpayers in the district in amounts that the legislative body determines.

(Amended by Stats. 2007, Ch. 670, Sec. 61. Effective January 1, 2008.)

53314.7. (a) Any responsible party as defined by subdivision (a) of Section 78145 of the Health and Safety Code shall be liable to the district for the costs incurred in the removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment. The amount of the costs shall include interest on the costs accrued from the date of expenditure. The interest shall be calculated based on the average annual rate of return on the district's investment of surplus funds for the fiscal year in which the district incurred the costs. Recovery of costs by a community facilities district under this section shall be commenced before or immediately upon completion of the removal or remedial action, and payments received hereunder by the district shall be deposited in the revolving fund in accordance with Section 53314.6.

(b) To expedite cleanup, this section is intended to provide local jurisdictions an alternative method of financing the cost of removal or remedial action for the cleanup of any hazardous substance through the issuance of voter-approved limited obligation bonds. The provisions of this section shall not affect or limit the provisions of any other law establishing the liability of any person for, or otherwise regulating, the generation, transportation, storage, treatment, or disposal of hazardous substances. The scope and standard of liability for any costs recoverable pursuant to Section 53314.7 shall be the scope and standard of liability set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 6901 et seq.), or any other provision of state or federal law establishing responsibility for cleanup of hazardous waste sites.

(Amended by Stats. 2022, Ch. 258, Sec. 23. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

53314.8. At any time either before or after the formation of the district, the legislative body may provide, by ordinance, that for a period specified in the ordinance, the local agency may contribute, from any source of revenue not otherwise prohibited by law, any specified amount, portion, or percentage of the revenues for the purposes set forth in the ordinance, limited to the following: the acquisition or construction of a facility, the acquisition of interest in real property, or the payment of debt service with respect to the financing of either, the provision of authorized services, and the payment of expenses incidental thereto. The contribution shall not constitute an indebtedness or liability of the local agency.

(Amended by Stats. 1991, Ch. 1110, Sec. 5.)

53314.9. (a) Notwithstanding Section 53313.5, at any time either before or after the formation of the district, the legislative body may accept advances of funds or work in-kind from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds or that work in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a district. The legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds or work in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work in-kind, as determined by the legislative body, with or without interest, under all of the following conditions:

(1) The proposal to repay the funds or the value or cost of the work in-kind, whichever is less, is included both in the resolution of intention to establish a district adopted pursuant to Section 53321 and in the resolution of formation to establish the district adopted pursuant to Section 53325.1, or in the resolution of consideration to alter the types of public facilities and services provided within an established district adopted pursuant to Section 53334.

(2) Any proposed special tax or change in a special tax is approved by the qualified electors of the district pursuant to this chapter. Any agreement shall specify that if the qualified electors of the district do not approve the proposed special tax or change in a special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds.

(3) Any work in-kind accepted pursuant to this section shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority of, the local agency.

(b) The agreement shall not constitute a debt or liability of the local agency.

(Amended by Stats. 1987, Ch. 1440, Sec. 2.5.)

53315. This chapter shall be liberally construed in order to effectuate its purposes. No error, irregularity, informality, and no neglect or omission of any officer, in any procedure taken under this chapter, which does not directly affect the jurisdiction of the legislative body to order the installation of the facility or the provision of service, shall void or invalidate such proceeding or any levy for the costs of such facility or service.

(Added by Stats. 1982, Ch. 1451, Sec. 1.)

53315.3. The failure of any person to receive a notice, resolution, order, or other matter shall not affect in any way whatsoever the validity of any proceedings taken under this chapter, or prevent the legislative body from proceeding with any hearing so noticed.

(Added by Stats. 1982, Ch. 1451, Sec. 1.)

53315.6. When any proceeding is initiated under this chapter by a legislative body other than that of a city or county, a copy of the resolution of intention shall be transmitted to the legislative body of the city, where the land to be assessed lies within the corporate limits of any city, or of the county, where the land to be assessed lies within an unincorporated territory.

(Added by Stats. 1987, Ch. 1440, Sec. 3.)

53315.8. A county may not form a district within the territorial jurisdiction of a city without the consent of the legislative body of the city.

(Added by Stats. 1987, Ch. 1440, Sec. 3.1.)

53316. This chapter applies to all local agencies insofar as those entities have the power to install or contribute revenue for any of the facilities or provide or contribute revenue for any of the services authorized under this chapter. This chapter authorizes local agencies to create community facilities districts pursuant to this chapter within their territorial limits. A local agency may initiate proceedings pursuant to Section 53318 to include territory proposed for annexation to the local agency within a community facilities district if a petition or resolution of application for the annexation of the territory to the local agency has been accepted for filing and a certificate of filing has been issued by the executive officer of the local agency formation commission at the time the proceedings to create the district are initiated. Those proceedings may be completed only if the annexation of the territory to the local agency is completed. The officers of local agencies who have similar powers and duties, as determined by the legislative body of the local agency, as the municipal officers referred to in this chapter shall have the powers and duties given by this chapter to the municipal officials. Where no similar officer exists, the legislative body of the local agency shall, by resolution, appoint a person or designate an officer to perform the duties under this chapter. Any local agency that has no authority to enact an ordinance under other laws may, for purposes of this chapter, enact an ordinance in substantially the same manner as provided for the enactment of a city ordinance in Chapter 2 (commencing with Section 36900) of Part 2 of Division 3 of Title 4.

(Amended by Stats. 1988, Ch. 1365, Sec. 5.)

53316.2. (a) A community facilities district may finance facilities to be owned or operated by a public agency other than the agency that created the district, or services to be provided by a public agency other than the agency that created the district, or any combination, only pursuant to a joint community facilities agreement or a joint exercise of powers agreement adopted pursuant to this section. A joint community facilities agreement or a joint exercise of powers agreement with a state or federal agency shall not be required if the local agency that created the district is the agency that would, in the absence of the district, enter into an agreement with the state or federal agency for the provision of the facilities or services, or if the local agency that created the district enters into a joint agreement with the public agency that would, in the absence of the district, enter into an agreement with the state or federal agency for the provision of the facilities or services.

(b) At any time prior to the adoption of the resolution of formation creating a community facilities district or a resolution of change to alter a district, or a resolution or resolutions authorizing issuance of bonds pursuant to Section 53356, the legislative bodies of two or more local agencies may enter into a joint community facilities agreement pursuant to this section and Sections 53316.4 and 53316.6 or into a joint exercise of powers agreement pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) to exercise any power authorized by this chapter with respect to the community facilities district being created or changed if the legislative body of each entity adopts a resolution declaring that the joint agreement would be beneficial to the residents of that entity. This subdivision shall not be construed to limit the ability of a joint powers authority created pursuant to the Joint Exercise of Powers Act to exercise the powers authorized by the Joint Exercise of Powers Act.

(c) Notwithstanding the Joint Exercise of Powers Act, a contracting party may use the proceeds of any special tax or charge levied pursuant to this chapter or, in the case of facilities, of any bonds or other indebtedness issued pursuant to this chapter to provide facilities or services which that contracting party is otherwise authorized by law to provide, even though another contracting party does not have the power to provide those facilities or services.

(d) Notwithstanding subdivision (b), nothing in this section shall prevent entry into or amendment of a joint community facilities agreement or a joint exercise of powers agreement at any time, if the new agreement or amendment is necessary, as determined by the legislative body, for either of the following reasons:

(1) To allow an orderly transition of governmental facilities and finances in the case of any change in governmental organization approved pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5) or other law governing the reorganization of any agency that is a party to the agreement.

(2) To allow participation in the agreement by a state or federal agency, including, but not limited to, the California Department of Transportation. Participation in an agreement by a state or federal agency is purely optional.

(e) Notwithstanding any other provision of this chapter, no local agency that is party to a joint exercise of powers agreement or joint community facilities agreement shall have primary responsibility for formation of a district, or for an extension of authorized facilities and services or a change in special taxes pursuant to Article 3 (commencing with Section 53330), unless that local agency is one or more of the following:

(1) A city, a county, or a city and county.

(2) An agency created pursuant to a joint powers agreement that is separate from the parties to the agreement, is responsible for the administration of the agreement, and is subject to the notification requirement of Section 6503.5.

(3) An agency that is reasonably expected to have responsibility for providing facilities or services to be financed by a larger share of the proceeds of special taxes and bonds of the district or districts created or changed pursuant to the joint exercise of powers agreement or the joint community facilities agreement than any other local agency.

(Amended by Stats. 2013, Ch. 219, Sec. 3. (SB 692) Effective January 1, 2014.)

53316.4. The agreement entered into pursuant to Section 53316.2 shall contain a description of the facilities and services to be provided under the agreement, and any real or tangible property which is to be purchased, constructed, expanded, or rehabilitated.

(Added by Stats. 1984, Ch. 269, Sec. 6. Effective July 3, 1984.)

53316.6. The agreement entered into pursuant to Section 53316.2 may provide for the division of responsibility to provide any of the facilities or services among the entities entering into the agreement. The agreement shall provide for the allocation and distribution of the proceeds of any special tax levy among the parties to the agreement.

(Added by Stats. 1984, Ch. 269, Sec. 7. Effective July 3, 1984.)

53317. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Clerk" means the clerk of the legislative body of a local agency.

(b) "Community facilities district" means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing facilities and services.

(c) "Cost" means the expense of constructing or purchasing the public facility and of related land, right-of-way, easements, including incidental expenses, and the cost of providing authorized services, including incidental expenses.

(d) "Debt" means any binding obligation to pay or repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals, or long-term contracts.

(e) "Incidental expense" includes all of the following:

(1) The cost of planning and designing public facilities to be financed pursuant to this chapter, including the cost of environmental evaluations of those facilities.

(2) The costs associated with the creation of the district, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the district.

(3) Any other expenses incidental to the construction, completion, and inspection of the authorized work.

(f) "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of the land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, unless one of the following exists:

(1) The land owned by a public agency would be subject to a special tax pursuant to Section 53340.1.

(2) The public agency has acquired the property by purchase or negotiation in connection with foreclosure of a special tax lien and it is intended that the property will be transferred to private ownership.

(3) The public agency states in the proceedings that its land is intended to be transferred to private ownership and provides in the proceedings that its land will be subject to the special tax on the same basis as private property within the district and affirmatively waives any defense based on the fact of public ownership, to any action to foreclose on the property in the event of nonpayment of the special tax.

(4) The land owned by a public agency is within the territory of a military base that is closed or is being closed.

(g) "Legislative body" means the legislative body or governing board of any local agency.

(h) "Local agency" means any city or county, whether general law or chartered, special district, school district, joint powers entity created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, redevelopment agency, or any other municipal corporation, district, or political subdivision of the state.

(i) "Rate" means a single rate of tax or a schedule of rates.

(j) "Services" means the provision of categories of services identified in Section 53313. "Services" includes the performance by employees of functions, operations, maintenance, and repair activities. "Services" does not include activities or facilities identified in Section 53313.5. "Maintenance" shall include replacement, and the creation and funding of a reserve fund to pay for a replacement.

(Amended by Stats. 2013, Ch. 219, Sec. 4. (SB 692) Effective January 1, 2014.)

53317.3. If property not otherwise exempt from a special tax levied pursuant to this chapter is acquired by a public entity through a negotiated transaction, or by gift or devise, the special tax shall, notwithstanding Section 53340, continue to be levied on the property acquired and shall be enforceable against the public entity that acquired the property. However, even if the resolution of formation that authorized creation of the district did not specify conditions under which the obligation to pay a special tax may be prepaid and permanently satisfied, the legislative body of the local agency that created the district may specify conditions under which the public agency that acquires the property may prepay and satisfy the obligation to pay the tax. The conditions may be specified only if the local agency that created the district finds and determines that the prepayment arrangement will fully protect the interests of the owners of the district's bonds.

(Amended by Stats. 1991, Ch. 1110, Sec. 6.5.)

53317.5. If property subject to a special tax levied pursuant to this chapter is acquired by a public entity through eminent domain proceedings, the obligation to pay the special tax shall be treated, pursuant to Section 1265.250 of the Code of Civil Procedure, as if it were a special annual assessment. For this purpose, the present value of the obligation to pay a special tax to pay the principal and interest on any indebtedness incurred by the district prior to the date of apportionment determined pursuant to Section 5082 of the Revenue and Taxation Code shall be treated the same as a fixed lien special assessment.

(Added by Stats. 1986, Ch. 1102, Sec. 11. Effective September 24, 1986.)