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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 6.4. Benefit Assessment Act of 1982 [54703 - 54720] (Heading of Chapter 6.4 renumbered from Chapter 6.1 by Stats. 1984, Ch. 144, Sec. 147.)

ARTICLE 4. Procedure for Imposition of Benefit Assessment [54715 - 54719] (Article 4 added by Stats. 1982, Ch. 487, Sec. 3.)

54715. (a) The legislative body of a local agency may by ordinance or resolution, adopted after notice and public hearing, determine and propose for adoption an annual assessment on each parcel of real property within the jurisdiction of the local agency, except that the governing body shall not impose an assessment upon a federal or state governmental agency or another local agency.

(b) The legislative body may establish zones or areas of benefit within the local agency and may restrict the imposition of the assessment to areas lying within one or more of the zones or areas of benefit established within the local agency.

(c) The benefit assessment shall be levied on a parcel, class of improvement to property, or use of property basis, or a combination thereof, within the boundaries of the local agency, zone, or area of benefit. Except as provided in subdivision (d) or (e), in the case of a benefit assessment for flood control services, the benefit assessment may be levied on the basis of proportionate storm water runoff from each parcel. In the case of an assessment levied pursuant to Section 54710.3, the assessment may be levied at a uniform rate per parcel.

The assessment may be levied against any parcel, improvement, or use of property to which such services may be made available, whether or not such service is actually used.

(d) Whenever a railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way is included within an area proposed to be assessed, the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way shall be subject to the assessment only if, and to the extent that, it is found that it will benefit from the service, and the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way shall be subject to the same penalties, and the same procedure and sale, in the event of delinquencies, as other parcels in the assessment area. In determining whether or not the railroad, gas, water, telephone, cable television, electric utility right-of-way, electric line right-of-way, or other utility right-of-way benefits from the services provided, its use as a right-of-way for a railroad, gas, water, telephone, cable television, electric, or other utility shall be presumed to be permanent.

(e) Proportionate storm water runoff may be used as a measure of benefit on an undeveloped parcel of land pursuant to this section only if, and to the extent that, it is found that it will benefit from the service.

For the purposes of this section, an undeveloped parcel of land means a parcel of rural land in its undeveloped natural state, although the land may be grazed, if otherwise undisturbed, in a manner consistent with the normally accepted grazing land management practices for that geographic area. An undeveloped parcel of land also includes wetlands and marshlands if undisturbed and subject to periodic inundation. For purposes of this section, rural land is land which is outside of an urbanized area, as designated by the most recent federal decennial census of the United States Bureau of the Census.

(Amended by Stats. 1990, Ch. 446, Sec. 3.)

54716. (a) For the first fiscal year in which a benefit assessment is proposed to be imposed pursuant to this chapter, the legislative body shall cause a written report to be prepared and filed with the clerk of the local agency which shall contain all of the following information:

- (1) A description of the service proposed to be financed through the revenue derived from the assessment.

(2) A description of each lot or parcel of property proposed to be subject to the benefit assessment. The assessor's parcel number shall be a sufficient description of the parcel. The area proposed to be subject to the benefit assessment may be less than the entire area of the local agency.

(3) The amount of the proposed assessment for each parcel. In the case of an assessment to be collected in installments pursuant to paragraph (2) of subdivision (a) of Section 54711, the report shall set forth the number of annual installments and the fiscal years during which they are to be collected, and fix the maximum amount of each annual installment.

(4) The basis and schedule of the assessment.

(5) In the case of an assessment levied pursuant to Section 54710.3, an identification of the assessment districts for which the local agency has assumed responsibility for redemption fund deficiencies and for which it proposes to rely on assessments levied pursuant to this chapter, and a statement of the conditions under which the assessment will actually be levied and collected in any year.

(b) The clerk shall cause notice of the filing of the report and of a time, date, and place of hearing thereon to be published pursuant to Section 6066 and posted in at least three public places within the jurisdiction of the local agency.

(c) With respect to any new or increased assessment proposed to be levied pursuant to subdivision (b) of Section 54710 or Section 54710.3, the legislative body of the local agency shall comply with the notice, hearing, and protest procedures in Section 53753.

(d) At the hearing, the legislative body shall hear and consider all protests. At the conclusion of the hearing, the legislative body may adopt, revise, change, reduce, or modify the proposed assessment. The legislative body shall make a determination upon the assessment as described in the report or as determined at the hearing, and shall, by ordinance or resolution, determine the proposed assessment.

(Amended by Stats. 2000, Ch. 262, Sec. 28. Effective January 1, 2001.)

54718. (a) The legislative body may provide for the collection of the assessment or any installment of an assessment, in the same manner, and subject to the same penalties and priority of lien as, other charges and taxes fixed and collected by, or on behalf of the local agency, except that if, for the first year the assessment is levied the real property on which the assessment is levied has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of county taxes would become delinquent, the confirmed assessment shall not result in a lien against the real property but shall be transferred to the unsecured roll.

(b) If the assessments are collected by the county, the county may deduct its reasonable costs incurred for the service before remittance of the balance to the local agency's treasury.

(c) In the case of an assessment levied pursuant to Section 54710.3, the legislative body shall provide for the collection of the assessment in any year only if the legislative body determines that the levy is necessary because of a redemption fund deficiency.

(Amended by Stats. 1991, Ch. 966, Sec. 3.)

54719. If assessments to be collected through annual installment payments have been authorized pursuant to this chapter, the legislative body may do one or more of the following:

(a) Provide for the accumulation of the money collected from the annual installments in a fund until there is sufficient money to pay all or part of the cost of the maintenance work for which the installment assessments were authorized.

(b) Provide for a temporary advance to the improvement fund from any available and unencumbered funds of the local agency to pay all or part of the cost of the maintenance work for which the installment assessments were authorized and direct that the advance be repaid from the annual installments levied and collected during the fiscal years designated.

(c) Borrow an amount necessary to finance the estimated cost of the maintenance work for which the installment assessments were authorized. The amount borrowed and associated financing costs shall not exceed the amount of revenue estimated to be raised from the annual assessments levied over the designated five fiscal years.

(Added by Stats. 1991, Ch. 966, Sec. 4.)