

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 811

Introduced by Assembly Member ~~Levine~~ Members *Levine and Beall*

February 22, 2007

~~An act to add and repeal Sections 17053.67 and 23667 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~ *An act to amend Sections 5898.12, 5898.20, 5898.22, and 5898.30 of, and to add Sections 5898.14 and 5898.21 to, the Streets and Highways Code, relating to contractual assessments.*

LEGISLATIVE COUNSEL'S DIGEST

AB 811, as amended, ~~Levine. Income and corporation taxes: credits: renewable energy resource.~~ *Contractual assessments: energy efficiency improvements.*

Existing law authorizes the legislative body of any city to determine that it would be convenient and advantageous to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments and make arrangements to finance public improvements to specified lots or parcels under certain circumstances. Existing law requires the legislative body to make these determinations by adopting a resolution indicating its intention to do so and requires the resolution to include certain information, including, but not limited to, identification of the kinds of public works that may be financed, a description of the boundaries of the area within which contractual assessments may be entered into, and a description of the proposed arrangements for financing the program. Existing law also directs an appropriate city official to prepare a report to include, among other things, the terms and conditions that would be agreed to by a

property owner within the contractual assessment area and the city and identification of the types of facilities that may be financed through the use of contractual assessments.

This bill would additionally authorize a legislative body of any city to determine that it would be in the public interest to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments to finance energy efficiency improvements, as specified. The bill would require the resolution of intention to include the kinds of energy efficiency improvements which may be financed as well as a statement specifying that it is in the public interest to finance those energy efficiency improvements. The bill would further require the report to include the types of energy efficiency improvements which may be financed through the use of contractual assessments. The bill would authorize a property owner, upon written consent of an authorized city official, to purchase directly the related equipment and materials for the energy efficiency improvements and to contract directly for the improvements on the property owner’s real property. The bill would make findings and a declaration in this regard.

~~The Personal Income Tax and the Corporation Tax Law authorize various credits against the taxes imposed by those laws:~~

~~This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2007, and before January 1, 2012, for the costs paid or incurred by a taxpayer for the construction of an eligible renewable resource, as defined.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 **SECTION 1.** *Section 5898.12 of the Streets and Highways Code*
- 2 *is amended to read:*
- 3 5898.12. (a) It is the intent of the Legislature that this chapter
- 4 should be used to finance public improvements to lots or parcels
- 5 which are developed and where the costs and time delays involved
- 6 in creating an assessment district pursuant to other provisions of
- 7 this division or any other law would be prohibitively large relative
- 8 to the cost of the public improvements to be financed. ~~This~~

1 (b) *It is also the intent of the Legislature that this chapter should*
2 *be used to finance energy efficiency improvements to residential,*
3 *commercial, industrial, and other real property.*

4 (c) *This chapter shall not be used to finance facilities for parcels*
5 *which are undergoing development.* ~~Assessments~~

6 (d) *Assessments may be levied pursuant to this chapter only*
7 *with the free and willing consent of the owner of each lot or parcel*
8 *on which an assessment is levied at the time the assessment is*
9 *levied.*

10 *SEC. 2. Section 5898.14 is added to the Streets and Highways*
11 *Code, to read:*

12 *5898.14. (a) The Legislature finds all of the following:*

13 (1) *Energy conservation efforts, including the promotion of*
14 *energy efficiency improvements to residential, commercial,*
15 *industrial, and other real property are necessary to address the*
16 *issue of global climate change.*

17 (2) *The up-front cost of making residential, commercial,*
18 *industrial, and other real property more energy efficient by*
19 *replacing inefficient appliances, equipment, and building materials*
20 *or by installing renewable energy sources, such as solar energy*
21 *panels, prevents many property owners from making those*
22 *improvements. To make those improvements more affordable and*
23 *to promote the installation of those improvements, it is necessary*
24 *to authorize an alternative procedure for authorizing assessments*
25 *to finance the cost of energy efficiency improvements.*

26 (b) *The Legislature declares that a public purpose will be served*
27 *by a contractual assessment program that provides the legislative*
28 *body of any city with the authority to finance energy efficiency*
29 *improvements to residential, commercial, industrial, and other*
30 *real property.*

31 *SEC. 3. Section 5898.20 of the Streets and Highways Code is*
32 *amended to read:*

33 5898.20. (a) (1) *The legislative body of any city may*
34 *determine that it would be convenient and advantageous to*
35 *designate an area within the city, which may encompass the entire*
36 *city or a lesser portion, within which authorized city officials and*
37 *property owners may enter into contractual assessments for public*
38 *improvements and to make financing arrangements pursuant to*
39 *this chapter.*

1 (2) *The legislative body of any city may also determine that it*
2 *would be convenient, advantageous, and in the public interest to*
3 *designate an area within the city, which may encompass the entire*
4 *city or a lesser portion, within which authorized city officials and*
5 *property owners may enter into contractual assessments to finance*
6 *energy efficiency improvements pursuant to this chapter.*

7 (b) The legislative body shall make these determinations by
8 adopting a resolution indicating its intention to do so. The
9 resolution of intention shall include a statement that the city
10 proposes to make contractual assessment financing available to
11 property owners, shall identify the kinds of public works *or energy*
12 *efficiency improvements* which may be financed, shall describe
13 the boundaries of the area within which contractual assessments
14 may be entered into, and shall briefly describe the proposed
15 arrangements for financing the program. *The resolution of intention*
16 *shall state it is in the public interest to finance energy efficiency*
17 *improvements pursuant to paragraph (2) of subdivision (a), if*
18 *applicable.* The resolution shall state that a public hearing should
19 be held at which interested persons may object to or inquire about
20 the proposed program or any of its particulars, and shall state the
21 time and place of the hearing. The resolution shall direct an
22 appropriate city official to prepare a report pursuant to Section
23 5898.22.

24 (c) *For purposes of this chapter, “energy efficiency*
25 *improvements” includes the installation of distributed generation*
26 *renewable energy sources.*

27 *SEC. 4. Section 5898.21 is added to the Streets and Highways*
28 *Code, to read:*

29 5898.21. *Notwithstanding any other provision of this chapter,*
30 *upon the written consent of an authorized city official, the proposed*
31 *arrangements for financing the program pertaining to energy*
32 *efficiency improvements may authorize the property owner to*
33 *purchase directly the related equipment and materials for the*
34 *energy efficiency improvements and to contract directly for the*
35 *energy efficiency improvements on the property owner’s*
36 *residential, commercial, industrial, and other real property.*

37 *SEC. 5. Section 5898.22 of the Streets and Highways Code is*
38 *amended to read:*

39 5898.22. The report shall contain all of the following:

1 (a) A map showing the boundaries of the territory within which
2 contractual assessments are proposed to be offered.

3 (b) A draft contract specifying the terms and conditions that
4 would be agreed to by a property owner within the contractual
5 assessment area and the city.

6 (c) A statement of city policies concerning contractual
7 assessments including all of the following:

8 (1) Identification of types of facilities *or energy efficiency*
9 *improvements* which may be financed through the use of
10 contractual assessments.

11 (2) Identification of a city official authorized to enter into
12 contractual assessments on behalf of the city.

13 (3) A maximum aggregate dollar amount of contractual
14 assessments.

15 (4) A method for setting requests from property owners for
16 financing through contractual assessments in priority order in the
17 event that requests appear likely to exceed the authorization
18 amount.

19 (d) A plan for raising a capital amount required to pay for work
20 performed pursuant to contractual assessments. The plan may
21 include amounts to be advanced by the city through funds available
22 to it from any source. The plan may include the sale of a bond or
23 bonds or other financing relationship pursuant to Section 5898.28.
24 The plan shall include a statement of or method for determining
25 the interest rate and time period during which contracting property
26 owners would pay any assessment. The plan shall provide for any
27 reserve fund or funds. The plan shall provide for the apportionment
28 of all or any portion of the costs incidental to financing,
29 administration, and collection of the contractual assessment
30 program among the consenting property owners and the city.

31 *SEC. 6. Section 5898.30 of the Streets and Highways Code is*
32 *amended to read:*

33 5898.30. Assessments levied pursuant to this chapter, and the
34 interest and any penalties thereon shall constitute a lien against
35 the lots and parcels of land on which they are made, until they are
36 paid. Division 10 (commencing with Section 8500) applies to the
37 levy and collection of assessments levied pursuant to this chapter,
38 insofar as those provisions are not in conflict with the provisions
39 of this chapter, including, but not limited to, *the collection of*
40 *assessments in the same manner and at the same time as the*

1 *general taxes of the city on real property are payable and any*
 2 *penalties and remedies and lien priorities in the event of*
 3 *delinquency and default.*

4 ~~SECTION 1. Section 17053.67 is added to the Revenue and~~
 5 ~~Taxation Code, to read:~~

6 ~~17053.67. (a) For each taxable year beginning on or after~~
 7 ~~January 1, 2007, and before January 1, 2012, there shall be allowed~~
 8 ~~as a credit against the “net tax,” as defined in Section 17039, an~~
 9 ~~amount equal to ___ percent paid or incurred by a taxpayer for the~~
 10 ~~construction of an eligible renewable resource.~~

11 ~~(b) The aggregate amount of tax credits authorized under this~~
 12 ~~section shall not exceed ___ for any taxable year.~~

13 ~~(c) For purposes of this section, “eligible renewable resource”~~
 14 ~~has the same meaning as provided in Section 399.12 of the Public~~
 15 ~~Utilities Code.~~

16 ~~(d) In the case where the credit allowed by this section exceeds~~
 17 ~~the “net tax,” the excess may be carried over to reduce the “net~~
 18 ~~tax” in the following year, and the succeeding 10 years if necessary,~~
 19 ~~until the credit is exhausted.~~

20 ~~(e) This section shall remain in effect only until January 1, 2013,~~
 21 ~~and as of that date, is repealed. However, any unused credit may~~
 22 ~~be carried over and used after that repeal date in accordance with~~
 23 ~~subdivision (d).~~

24 ~~SEC. 2. Section 23667 is added to the Revenue and Taxation~~
 25 ~~Code, to read:~~

26 ~~23667. (a) For each taxable year beginning on or after January~~
 27 ~~1, 2007, and before January 1, 2012, there shall be allowed as a~~
 28 ~~credit against the “tax,” as defined in Section 23036, an amount~~
 29 ~~equal to ___ percent paid or incurred by a taxpayer for the~~
 30 ~~construction of an eligible renewable resource.~~

31 ~~(b) The aggregate amount of tax credits authorized under this~~
 32 ~~section shall not exceed ___ for any taxable year.~~

33 ~~(c) For purposes of this section, “eligible renewable resource”~~
 34 ~~has the same meaning as provided in Section 399.12 of the Public~~
 35 ~~Utilities Code.~~

36 ~~(d) In the case where the credit allowed by this section exceeds~~
 37 ~~the “tax,” the excess may be carried over to reduce the “tax” in~~
 38 ~~the following year, and the succeeding 10 years if necessary, until~~
 39 ~~the credit is exhausted.~~

1 ~~(e) This section shall remain in effect only until January 1, 2013,~~
2 ~~and as of that date, is repealed. However, any unused credit may~~
3 ~~be carried over and used after that repeal date in accordance with~~
4 ~~subdivision (d).~~

5 ~~SEC. 3. This act provides for a tax levy within the meaning of~~
6 ~~Article IV of the Constitution and shall go into immediate effect.~~

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