

## Senate Bill No. 1954

### CHAPTER 1161

An act to amend Sections 53325.3 and 53356 of, and to add Section 53356.03 to, the Government Code, relating to local government finance.

[Approved by Governor September 30, 1996. Filed  
with Secretary of State September 30, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1954, Mello. Local government finance.

(1) Existing law requires counties to distribute various fines, fees, forfeitures, and penalties according to prescribed schedules in each fiscal year.

This bill would provide for the validation of the distributions of fines, fees, forfeitures, and penalties made by the County of Santa Cruz in the 1990–91 to 1994–95 fiscal years, inclusive, as specified.

(2) Under the Mello-Roos Community Facilities Act of 1982, a tax imposed under the act is declared to be a special tax that may be on or based on a benefit received by parcels of real property, the cost of making facilities or services available to each parcel, or some other reasonable basis as determined by a legislative body. The act specifies that a special tax apportioned on any of these bases shall not be construed to be on or based upon the ownership of real property.

This bill would delete this specification.

(3) Under the act, the legislative body of a community facilities district may levy special taxes and incur bonded indebtedness under specified conditions.

This bill would provide that all revenues collected by the district pursuant to these authorizations shall be deposited in a designated account or invested, as specified.

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

SECTION 1. (a) Notwithstanding any other provision of law, the distributions of fines, fees, forfeitures, and penalties by the County of Santa Cruz for the 1990–91 to 1994–95 fiscal years, inclusive, shall be deemed correct and no reductions or increases shall be made to those distributions for those fiscal years, except those amounts owed to other local agencies.

(b) With respect to subdivision (a), the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances



applicable to the County of Santa Cruz. The County of Santa Cruz made distributions of fines, fees, forfeitures, and penalties to the state for the 1990–91 to 1994–95 fiscal years, inclusive, in good faith and reasonable belief that its methods of distribution of fines complied with all applicable statutes and these methods were not audited or reviewed by either the Department of Finance or the Controller until the end of the 1994–95 fiscal year.

SEC. 2. Section 53325.3 of the Government Code is amended to read:

53325.3. A tax imposed pursuant to this chapter is a special tax and not a special assessment, and there is no requirement that the tax be apportioned on the basis of benefit to any property. However, a special tax levied pursuant to this chapter may be on or based on a benefit received by parcels of real property, the cost of making facilities or authorized services available to each parcel, or some other reasonable basis as determined by the legislative body.

SEC. 3. Section 53356 of the Government Code is amended to read:

53356. If more than two-thirds of the votes cast at the election are in favor of incurring the indebtedness, the legislative body may, by resolution, at the time or times it deems proper, provide for the following:

- (a) The form of the bonds.
- (b) The execution of the bonds.
- (c) The issuance of any part of the bonds.
- (d) The appointment of one or more banks or trust companies within or without the state having the necessary trust powers as trustee, fiscal agent, paying agent, or bond registrar.
- (e) The execution of a trust agreement or indenture securing the bonds.
- (f) The pledge or assignment of any revenues of the community facilities district to the repayment of the bonds.
- (g) The investment of any bond proceeds and other revenues, including special tax revenues, by the trustee or fiscal agent in any securities or obligations described in the resolution, indenture, trust agreement, or other instrument providing for the issuance of the bonds. Investment subject to this subdivision shall comply with Section 53356.03. The resolution may provide for payment to the United States from any available revenues of a community facilities district of any excess investment earnings required to be rebated by federal law.
- (h) The date or dates to be borne by the bonds and the time or times of maturity of the bonds and the place or places and time or times that the bonds shall be payable.
- (i) The interest, fixed or variable, to be borne by the bonds.
- (j) The denominations, form, and registration privileges of the bonds.



(k) Any other terms and conditions determined to be necessary by the legislative body.

SEC. 4. Section 53356.03 is added to the Government Code, to read:

53356.03. The proceeds of any bond, note, or other security issued pursuant to this chapter, or the proceeds of any bond, note, or other security issued pursuant to any other authority where revenue collected pursuant to this chapter is pledged or otherwise committed to pay or repay principal, interest, or both, shall be deposited or invested only in one or more of the following, to the extent that those securities are otherwise eligible legal investments of the local agency:

(a) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, and which have a maximum term to maturity not to exceed three years.

(b) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state, which are rated in one of the two highest short-term or long-term rating categories by either Moody's Investors Service, Inc. or Standard and Poor's Corporation, and which have a maximum term to maturity not to exceed three years.

(c) Time certificates of deposit or negotiable certificates of deposit issued by a state or nationally chartered bank or trust company, or a state or federal savings and loan association; provided, that the certificates of deposit shall be one or more of the following:

(1) Continuously and fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(2) Continuously and fully secured by securities described in subdivision (a) or (b) of this section which shall have a market value, as determined on a marked-to-market basis calculated at least weekly, and exclusive of accrued interest, or not less than 102 percent of the principal amount of the certificates on deposit.

(d) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided by either Moody's Investors Service, Inc. or Standard and Poor's Corporation, which commercial paper is limited to issuing corporations that are organized and operating within the United States of America and that have total assets in excess of five hundred million dollars (\$500,000,000) and that have an "A" or higher rating for the issuer's debentures, other than commercial paper, by either Moody's Investors Service, Inc. or Standard and Poor's Corporation, provided that purchases of eligible commercial paper may not exceed 180 days' maturity nor represent more than 10 percent of the outstanding commercial paper of an issuing corporation. Purchases of



commercial paper may not exceed 20 percent of the proceeds of any bond invested pursuant to this section.

(e) A repurchase agreement with a state or nationally chartered bank or trust company or a national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, provided that all of the following conditions are satisfied:

(1) The agreement is secured by any one or more of the securities described in subdivision (a) of this section.

(2) These underlying securities are required by the repurchase agreement to be held by a bank, trust company, or primary dealer having a combined capital and surplus of at least one hundred million dollars (\$100,000,000) and which is independent of the issuer of the repurchase agreement.

(3) These underlying securities are maintained at a market value, as determined on a marked-to-market basis calculated at least weekly, of not less than 103 percent of the amount so invested.

(f) An investment agreement or guaranteed investment contract with, or guaranteed by, a financial institution the long-term unsecured obligations of which are rated “AA” or better by Moody’s Investors Service, Inc. and Standard and Poor’s Corporation at the time of initial investment. The investment agreement shall be subject to a downgrade provision with at least the following requirements:

(1) The agreement shall provide that within five business days after the financial institution’s long-term unsecured credit rating has been withdrawn, suspended, other than because of general withdrawal or suspension by Moody’s Investors Service, Inc. or Standard and Poor’s Corporation from the practice of rating that debt, or reduced below “AA-” by Standard and Poor’s Corporation or below “Aa3” by Moody’s Investors Service, Inc. (these events are called “rating downgrades”) the financial institution shall give notice to the local agency and, within the five-day period, and for as long as the rating downgrade is in effect, shall deliver in the name of the local agency or its trustee to the local agency or its trustee federal securities allowed as investments under subdivision (a) of this section with aggregate current market value equal to at least 105 percent of the principal amount of the investment agreement invested with the financial institution at that time, and shall deliver additional allowed federal securities as needed to maintain an aggregate current market value equal to at least 105 percent of the principal amount of the investment agreement within three days after each evaluation date, which shall be at least weekly.

(2) The agreement shall provide that, if the financial institution’s long-term unsecured credit rating is reduced below “A3” by Moody’s Investors Service, Inc. or below “A-” by Standard and Poor’s Corporation, the financial institution shall give notice of the



downgrade to the trustee or the local agency, and the trustee of the local agency may, upon five business days' written notice to the financial institution, withdraw the investment agreement, with accrued but unpaid interest thereon to the date, and terminate the agreement.

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