

Date of Hearing: June 13, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 1323 (Hernandez) – As Introduced February 16, 2018

SENATE VOTE: 38-0

SUBJECT: Maintenance districts: County of Los Angeles.

SUMMARY: Allows county lighting districts for the County of Los Angeles to perform maintenance and make improvements authorized under the Landscaping and Lighting Act of 1972 (1972 Act). Specifically, **this bill:**

- 1) Authorizes the county lighting districts for the County of Los Angeles to perform maintenance and make improvements under the Act of 1972, in addition to the existing authority granted to them under the Improvement Act of 1911 (1911 Act).
- 2) Contains findings and declarations explaining the need for legislation that applies only to the County of Los Angeles.
- 3) Contains an urgency clause.

EXISTING LAW:

- 1) Allows, under the 1911 Act, local agencies to fund the construction and maintenance of a variety of types of infrastructure, including transportation systems, street paving, grading, sidewalks, parks, recreation areas, sewers, drainage systems, fire protection, flood control systems, water systems, and other necessary improvements.
- 2) Requires that projects funded under the 1911 Act have sufficient funds available for the project before construction begins. Contractors are reimbursed for their work from the proceeds of the district.
- 3) Authorizes, under the 1911 Act, the creation of maintenance districts specifically for the purposes of maintaining sewer and lighting facilities. These maintenance districts may not acquire or construct these facilities.
- 4) Allows, under the 1972 Act, local agencies to pay for landscaping, lighting, and other improvements and services in public areas, including:
 - a) Acquisition or construction of landscaping; general lighting, such as streetlights and traffic lights; recreational improvements, such as parks; ornamental features, such as statues and fountains; and, any facilities attached or related to these types of improvements;
 - b) Acquisition of land for parks and open spaces;
 - c) Acquisition or construction of community centers, municipal auditoriums, halls, or other similar facilities;

- d) Acquisition of any existing asset that a district would otherwise be able to construct; and,
 - e) Maintenance of any of the above.
- 5) Allows bonds to be issued to finance improvements under the 1972 Act.

FISCAL EFFECT: None

COMMENTS:

- 1) **Assessments.** Not everyone benefits from all of the services or facilities that a local government provides. When a specific project or particular service benefits only a well-defined group of property owners, then it makes sense to match the costs and benefits. Articles XIII C and XIII D of the California Constitution allow for the imposition of “benefit assessments” for precisely this purpose. A benefit assessment is a charge that property owners pay for a public improvement or service that provides a special benefit to their property. The amount of the assessment must be directly related to the amount of the benefit that the property receives. Benefit assessments can finance public projects like flood control, street improvement, streetlights, and public landscaping, among many others.

California statute authorizes local agencies to adopt a wide variety of assessments through the formation of assessment districts. An assessment district is not a separate government agency but rather a defined area containing the property that especially benefits from certain public improvements. Within this defined area, the special assessments are apportioned and levied according to a benefit formula approved by the legislative body.

With the passage of Proposition 218 (1996), assessments became more difficult to impose, including those levied by assessment districts because of newly enacted property owner approval requirements. In general, Proposition 218 ensured that all new or increased taxes and charges on property owners are subject to property owner approval, and it sought to curb the use of these revenue-raising tools to pay for general governmental services rather than property-related services.

- 2) **1911 Act.** The 1911 Act allows local agencies to fund the construction and maintenance of a variety of types of infrastructure, including transportation systems, street paving, grading, sidewalks, parks, recreation areas, sewers, drainage systems, fire protection, flood control systems, water systems, and other necessary improvements. Improvements must be completed before their total cost is assessed against the properties within the district. The 1911 Act requires that sufficient funds be available for the project before construction begins and contractors are reimbursed for their work from the proceeds of the district. Essentially, the local agency has to use upfront revenue to fund the construction of a project and then ask residents to repay the costs at a later date through the imposition of an assessment. If the residents refuse to approve an assessment as required by Proposition 218, the local agency would be unable to recover the funds already spent on the infrastructure project.

The 1911 Act also authorizes the creation of maintenance districts specifically for the purposes of maintaining sewer and lighting facilities. However, these maintenance districts may not acquire or construct these facilities.

- 3) **1972 Act.** The 1972 Act is a tool used by local agencies to pay for landscaping, lighting, and other improvements and services in public areas. Bonds can be issued to finance

improvements under the 1972 Act. Under the 1972 Act, a broad range of improvements can be financed, including:

- a) Acquisition or construction of landscaping; general lighting, such as streetlights and traffic lights; recreational improvements, such as parks; ornamental features, such as statues and fountains; and any facilities attached or related to these types of improvements;
- b) Acquisition of land for parks and open spaces;
- c) Acquisition or construction of community centers, municipal auditoriums, halls, or other similar facilities;
- d) Acquisition of any existing asset that a district would otherwise be able to construct; and,
- e) Maintenance of any of the above.

The 1972 Act allows local agencies to fund some improvements and activities that the 1911 Act does not. In particular, landscaping is not an authorized use of assessment revenue under the 1911 Act, and the 1911 Act may not construct or acquire existing assets.

- 4) **Bill Summary.** This bill authorizes Los Angeles County's 1911 Act maintenance districts to provide improvements and perform maintenance under the 1972 Act, expanding the types of projects benefit assessments can be spent upon. This bill is sponsored by Los Angeles County.
- 5) **Author's Statement.** According to the author, "The 1911 Act is limited in its application to modern management of street lighting facilities. While property tax revenue collected pursuant to the 1911 Act can be used solely for the maintenance of the lighting facilities, assessment revenue collected under the 1972 Act may be used for maintenance, as well as installation or construction of new lighting facilities and any facilities on or adjacent to the lighting facilities, including wireless and smart technology devices for the maintenance of lighting facilities within the 1911 Districts. SB 1323 provides LA County the expanded authority necessary to use revenue collected under the 1911 Act for installation or construction of new streetlights and any facilities on or adjacent to the lighting facilities including wireless and smart technology devices for the maintenance of streetlights; acquisition of existing streetlights; and upgrade of existing street lighting systems to current LA County design standards. The expanded authority allows LA County to implement modern energy saving strategies throughout LA County, consistent with the state's 2030 Greenhouse Gas Reduction Goals. These investments in sustainability would reduce the operational costs of the 1911 Districts and help safeguard the financial health of the Districts against rising energy costs, operational and maintenance costs, and administrative costs."
- 6) **Limitations Under the 1911 Act.** After the passage of Proposition 218, maintenance districts formed under the 1911 Act became a less beneficial tool for funding local infrastructure projects. Proposition 218 requires local agencies to gain property owner approval through a protest process if a new assessment is created or an existing one is increased. Because the 1911 Act requires upfront money to pay for construction, local agencies run the risk of paying for the improvements out of agency funds with no repayment

if the subsequent assessment is disapproved by residents. In addition, the 1911 Act does not allow as wide a variety of uses for funds collected as the 1972 Act does. For instance, the 1911 Act does not allow a local agency to acquire existing assets. As a result, local agencies have turned away from using the 1911 Act to levy benefit assessments. But some districts are left with unspent funds collected under the 1911 Act. SB 1323 authorizes county maintenance districts to take a wider variety of actions than currently allowed, potentially making better use of these funds. But because the 1911 Act requires upfront funding before a district can build a project or carry out any other activities, the funds that these districts collected in the past were set aside for particular uses. By authorizing these districts to use the powers under the 1972 Act, SB 1323 could lead to Los Angeles County using funds already collected for purposes not initially intended.

- 7) **Los Angeles County.** Los Angeles County's Department of Public Works administers 19 maintenance districts serving the unincorporated Los Angeles County area and 18 cities with street lighting services, pursuant to the 1911 Act. Los Angeles County is interested in acquiring streetlights currently owned by Southern California Edison (SCE) located in the unincorporated area of the County. Such acquisition must take place on or before July 18, 2018. However, the revenue collected by maintenance districts under the 1911 Act cannot be used for acquiring property. Los Angeles County is asking for the expanded authority to acquire the streetlights from SCE using existing funds in order to reduce costs in energy consumption with LED lamp fixture replacements.
- 8) **Prior Legislation.** SB 361 (Hernández), Chapter 63, Statutes of 2017, allowed the Landscaping and Lighting District of the City of La Puente to also perform maintenance and make improvements under the 1972 Act, in addition to its authority under the 1911 Act.
- 9) **Arguments in Support.** Supporters argue that, "This bill would allow Los Angeles County to implement modern energy saving strategies throughout the county consistent with the State's 2030 Greenhouse Gas Reduction Goals. These investments in sustainability would reduce the operational costs of the 1911 Districts and would help safeguard the financial health of the Districts against rising costs for energy, operations, maintenance and administration."

10) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County [SPONSOR]
California State Association of Counties
City of South El Monte
Urban Counties Caucus

Opposition

None on file

Analysis Prepared by: Jimmy MacDonald / L. GOV. / (916) 319-3958