

Date of Hearing: June 9, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 431 (Rubio) – As Amended March 17, 2021

SENATE VOTE: 38-0

SUBJECT: Street lighting systems: City of West Covina.

SUMMARY: Authorizes the Landscaping and Lighting District of the City of West Covina to perform maintenance and make improvements pursuant to the Landscaping and Lighting Act of 1972 (1972 Act).

FISCAL EFFECT: None.

COMMENTS:

- 1) **Assessments.** 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 specifically 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 Improvement Act of 1911 (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.
 - 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) **City of West Covina and Limitations Under the 1911 Act.** Incorporated in 1923, the City of West Covina has a population of approximately 110,000 residents and is located 19 miles east of Downtown Los Angeles in the Eastern San Gabriel Valley. The City of West Covina reports a balance of approximately \$10.9 million collected under the 1911 Act that it could use for one-time improvements. These funds could be used for the benefit of the public to provide improved maintenance and capital improvements on city streets, street trees, and medians.

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. Giving all maintenance districts that were formed under the 1911 Act the authority to also function under the 1972 Act could renew the viability of these districts throughout California. Proposition 218's constitutional requirements would still apply, which includes residents' ability to protest a new or increased assessment.

- 5) **Bill Summary and Author's Statement.** This bill would allow the Landscaping and Lighting District of the City of West Covina to perform maintenance and make improvements pursuant to the 1972 Act. The City of West Covina is the sponsor of this bill.

According to the author, “The City of West Covina has accumulated unspent ad valorem funds due to the limitations on the permissible uses from revenue source under the Improvement Act of 1911, and at the same time has had to defer or reduce the maintenance of those improvements allowed under the Landscape and Lighting Act of 1972. This has created an imbalance in the city, with an unusable fund balance currently projected at over \$2 million. Funds from the 1911 Act can only be used for lighting maintenance and cannot be used for the installation of city owned public lighting facilities including traffic signals or landscaping maintenance, all of which are critical for the city's public safety. Cities in Senate District 22 have greatly benefited from this policy and, for example, have successfully updated their street lights to LED lights, providing a much more energy efficient, and long-lasting improvements within the city. This bill will give the city the ability to perform critical and much needed maintenance upgrades.”

- 6) **Prior Legislation.** SB 1307 (Rubio), Chapter 135, Statutes of 2020, allowed the Landscaping and Lighting District for the City of Rosemead to perform maintenance and make improvements authorized under the 1972 Act in addition to its authority under the Street Lighting Act of 1919.

SB 324 (Rubio), Chapter 73, Statutes of 2019, allowed the Landscaping and Lighting District for the City of Temple City to perform maintenance and make improvements authorized under the 1972 Act in addition to its authority under the Street Lighting Act of 1919.

SB 1323 (Hernández), Chapter 93, Statutes of 2018, allowed county lighting districts for the County of Los Angeles to also perform maintenance and make improvements under the 1972 Act in addition to its authority under the 1911 Act.

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.

- 7) **Arguments in Support.** According to the City of West Covina, “West Covina receives revenue under authority of the Improvement Act of 1911 for the purpose of funding the operation and maintenance of the Landscaping Maintenance District No. 1 (181). The City can only use funds from the 1911 Act for specified purposes, not for other needs it may have, such as the installation of public lighting facilities, including traffic signals, or for landscape maintenance, which would be allowed if the City collected these funds under authority of the Landscaping & Light Act of 1972. The Landscaping Maintenance District has a fund balance of approximately \$10.9 million collected under the 1911 Act that it could use for one-time improvements.”
- 8) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

City of West Covina [SPONSOR]

Opposition

None on file.

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