
CONSENT

Bill No: AB 2890
Author: Bloom (D)
Amended: 5/5/22 in Assembly
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/22/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

ASSEMBLY FLOOR: 73-0, 5/23/22 - See last page for vote

SUBJECT: Property and business improvement districts

SOURCE: California Downtown Association

DIGEST: This bill makes several changes to Property and Business Improvement District Law.

ANALYSIS:

Existing law:

- 1) Adds Article XIIID to the California Constitution, which among other provisions (Proposition 218, 1996):
 - a) Requires owners of real property to approve benefit assessments in a weighted ballot election, where owners vote in proportion to their proposed assessments, which reflect how much their property benefits from the proposed public works or public services.
 - b) Provides that no assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel, and requires a professional engineer's report to estimate the amount of special benefit to landowners and the amount of general benefit.
 - c) Adds that the proportionate special benefit derived by each identified parcel must be determined in relationship to the entirety of the capital cost of a

public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided.

- d) Further defines a “special benefit” as a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.
- 2) Enacts the Property and Business Improvement District (PBID) Law of 1994, which allows property owners to petition a city or county to set up an improvement district and levy assessments on property owners to pay for promotional activities as well as for physical improvements (AB 3754, Caldera, Chapter 897. Statutes of 1994)
 - 3) Incorporates Proposition 218’s requirements into PBID Law (AB 2618, J. Perez, Chapter 240, Statutes of 2014), including:
 - a) Defining “special benefit” as a particular and distinct benefit over and above general benefits conferred on real property located in a district or to the public at large.
 - b) Providing that a special benefit includes incidental or collateral effects that arise from the improvements, maintenance, or activities of property-based districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.
 - c) Requiring any formation of a PBID to include a summary of its management plan that includes specified contents, including a list of the properties or businesses to be assessed, the assessor’s parcel numbers for properties to be assessed, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property or businesses, in proportion to the benefit received by the property or business.
 - d) Stating that the proportionate special benefit derived by each identified parcel must be determined exclusively in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the activities, and prohibited any assessment that exceeds the reasonable cost of the proportional special benefit conferred on that parcel.
 - e) Requiring the plan to include the total amount of all special benefits to be conferred upon the properties located within the property-based district, as well as general benefits, if any.

This bill:

- 1) Adds an additional definition for special benefit to include a particular and distinct benefit provided directly to each assessed parcel within the district.
- 2) States that because the fact that parcels throughout an assessment district share the same special benefits does not make the benefits general.
- 3) Deletes the requirement that the plan include the total amount of all special benefits conferred on all properties within the PBID, as well as the total amounts of general benefits, if any.
- 4) Provides that properties throughout the PBID may share the same special benefits.
- 5) Adds that in a district with boundaries that define which parcels are to receive improvements, maintenance, or activities over and above those services provided by the city, the improvements, maintenance, or activities themselves may constitute a special benefit, and permits the city to impose assessments that are less than the proportional special benefit conferred, but not any that the exceed the reasonable costs of the proportional special benefit conferred.
- 6) States that because one or more parcels pay less than the special benefit conferred does not necessarily mean that other parcels are assessed more than the reasonable cost of their special benefit.
- 7) Makes conforming changes.

Background

In 2004, Robert Dahms challenged the City of Pomona's formation of a PBID under several grounds that the City violated provisions of Proposition 218. After losing in trial court, Dahms appealed, and in 2009, the Fourth District Court of Appeals entered a decision in *Dahms v. City of Pomona*, 174 Cal.App.4th 708 (2009), affirming the trial court decision.

Dahms argued that the City of Pomona's PBID's assessments were not proportional to the benefits received because they were discounted for nonprofit entities, and as a result, could not be proportionate to the benefit received if all properties received the same benefits. The Court rejected the argument, stating that Proposition 218 "leaves local governments free to impose assessments that are less than the proportional special benefit conferred—in effect, to allow discounts. Moreover, nothing in article XIII D precludes local governments from allowing

discounts across the board for all parcels in the assessment district or from allowing them selectively, for certain parcels in the district but not for other.” Instead, the Court held that Proposition 218’s binding restriction is to ensure assessments do not exceed the reasonable cost of the special benefit.

Additionally, Dahms argued that City of Pomona failed to separate general benefits from special ones, in violation of Proposition 218’s direction that an agency “shall separate the general benefits from the special benefits conferred on a parcel.” The Court disagreed, stating the Proposition 218 only requires that assessments be limited to the reasonable cost of providing special benefit, and that any additional costs of providing additional general benefits cannot be included in the amounts assessed. The Court added that special benefits can in turn provide general ones, such as when the PBID’s enhanced security services produced increased property values or increased safety for the general public; however, these benefits need not be deducted from the reasonable cost of providing the special benefits before the assessments are calculated.

AB 2890 amends PBID law to incorporate the holding in the *Dahms* decision to clarify PBID assessment calculation procedures.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/24/22)

California Downtown Association (source)
California Travel Association
Carmichael Improvement District
Central City Association of Los Angeles
Chrysalis
City and County of San Francisco
Downtown Berkeley Association
Downtown Center Business Improvement District
Downtown LA Industrial District BID
Downtown Long Beach Alliance
Downtown Napa Association
Downtown Oakland Association
Downtown Sacramento Partnership
Downtown San Diego Partnership
Downtown Walnut Creek Business Improvement District
Figueroa Corridor Business Improvement District Los Angeles
Florin Road Partnership
Gateway Los Angeles Airport District

Old Pasadena Management District
San Jose Downtown Association
Soma West Community Benefit District
Union Square Alliance
Urban Place Consulting Group
Westwood Village

OPPOSITION: (Verified 6/24/22)

None received

ARGUMENTS IN SUPPORT: According to the author, “Without the clarifications in AB 2890, PBIDs will remain subject to litigation challenges that severely impede – or even eliminate – PBIDs and the benefits they provide. The pandemic has had an unprecedented impact on California communities, and AB 2890 provides simple clarifications that will help ensure PBIDs can continue to revitalize our State’s downtown areas and economic corridors in a time when these districts need it the most.”

ASSEMBLY FLOOR: 73-0, 5/23/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Bryan, Calderon, Carrillo, Cervantes, Chen, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Berman, Mia Bonta, Choi, O'Donnell, Blanca Rubio

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