



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

4

915 I Street, Sacramento, CA 95814-2671

**STAFF REPORT**  
**May 20, 2008**

Honorable Members of the  
Law and Legislation Committee

**Title: Legislation Position: Support AB 2705 Relating to the Use of Mello-Roos  
Special Taxes for Public Transit**

**Location/Council District: Citywide**

**Recommendation:** Staff recommends that the Law and Legislation Committee adopt a support position on AB 2705.

**Contact:** Mark Griffin, Fiscal Manager, 808-8788; Carol Shearly, Director, 808-5893

**Presenters:** Mark Griffin, Fiscal Manager

**Department:** Planning Department

**Division:** Public Improvement Financing

**Organization No:** 4915

## **Description/Analysis**

**Issue:** Assembly Bill 2705, authored by Assembly Member Dave Jones, would add public transit funding as an allowed use of Mello-Roos Special Taxes. Public Transit Special Taxes could be used for operation and maintenance and for the financing of capital facilities including rolling stock. Other requirements under the Mello-Roos Community Facilities Act would remain unchanged, including the requirement for a two-thirds vote.

Passage would not directly benefit the City of Sacramento. The City's Charter powers already provide this ability. However, because public transit and its benefits are regional in nature, allowing greater options for funding throughout the region would provide a local benefit and help ensure that other jurisdictions in the region also have all available tools.

The bill is similar to the chaptered AB373 in 2007 that authorized the use of Mello-Roos Special Taxes for the maintenance of roads. This bill was also supported by the City,

**Policy Considerations:** This bill is consistent with City's Strategic Plan to achieve sustainability and enhance livability. The bill is also consistent with the Smart Growth principle to support land use, transportation management, infrastructure and environmental planning programs that reduce vehicle emissions and improve air quality.

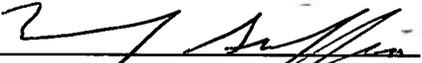
**Environmental Considerations:** None.

**Committee/Commission Action:** None.

**Rationale for Recommendation:** Staff anticipates a continuing and increasing funding need for public transit related capital, operations and maintenance. Staff recommends support of AB 2705 to assist our regional partners with one additional funding option and ensure more balanced options for funding regional public transit.

**Financial Considerations:** None

**Emerging Small Business Development (ESBD):** None

Respectfully Submitted by:   
Mark Griffin  
Fiscal Manager

Approved by:   
Carol Shearly  
Director, Planning Department

Recommendation Approved:

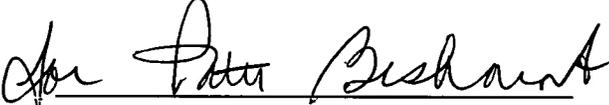
  
Ray Kerridge  
City Manager

Table of Contents:  
Pg 1 Report

Attachments  
1 3 Draft Letter of Support  
2 4 Bill Text

**Attachment 1 - Draft Letter of Support**

May 20, 2008

Assembly Member Jones  
State Capitol  
P.O. Box 942849  
Sacramento, CA 94249-0009

**RE: AB 2705 (Jones) Public Transit Funding  
NOTICE OF SUPPORT**

Dear Assembly Member Jones:

The City of Sacramento is pleased to support AB 2705.

On behalf of the City of Sacramento, I am pleased to express the City's support of Assembly Bill 2705 relating to the use of Mello-Roos Special Taxes for Public Transit. This bill would provide an additional option for local jurisdictions to apply the Mello-Roos Community Facilities Act of 1982 for the purpose of Public Transit capital, operations and maintenance funding.

While the City of Sacramento will not benefit directly from this legislation because of the City's Charter powers, passage will allow our regional partners greater funding options. Because public transit and its benefits are regional in nature, allowing greater options for funding throughout the region would provide a local benefit and help ensure that other jurisdictions in the region also have all available tools.

Thank you for introducing this important piece of legislation.

Sincerely,

Sandy Sheedy, Chair  
Law and Legislation Committee

Cc: Mayor Fargo and Members of the City Council  
Members and Consultant, Senate Local Government Committee  
Members and Consultant, Senate Transportation and Housing Committee  
David Jones, Emanuels and Jones and Associates

Attachment 2 – Bill Text

BILL NUMBER: AB 2705 INTRODUCED  
BILL TEXT

INTRODUCED BY Assembly Member Jones

FEBRUARY 22, 2008

An act to amend Sections 53313 and 53313.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2705, as introduced, Jones. Local government: Mello-Roos Community Facilities districts: public transit.

(1) The Mello-Roos Community Facilities Act of 1982 authorizes the establishment of community facilities districts and the issuance of bonds and the levying of special taxes to finance various types of facilities and services within the district.

This bill would add public transit services to the types of services that may be financed under the act.

(2) The Mello-Roos Community Facilities Act of 1982 authorizes a community facilities district to finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property, as specified, including the financing of facilities for local park, recreation, parkway, and open-space, libraries, and child care facilities, among others.

This bill would also authorize the financing of facilities for public transit.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 53313 of the Government Code is amended to read:

53313. A community facilities district may be established under this chapter to finance any one or more of the following types of services within an area:

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Recreation program services, library services, maintenance services for elementary and secondary schoolsites and structures, and the operation and maintenance of museums and cultural facilities. A special tax may be levied for any of the services specified in this subdivision only upon approval of the registered voters as specified in subdivision (b) of Section 53326. An election to enact a special tax for recreation program services, library services, and the operation and maintenance of museums and cultural facilities may be

conducted pursuant to subdivision (c) of Section 53326.

(d) Maintenance and lighting of parks, parkways, streets, roads, and open space.

(e) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems, plowing and removal of snow, and sandstorm protection systems.

(f) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment. As used in this subdivision, the terms "remedial action" and "removal" shall have the meanings set forth in Sections 25322 and 25323, respectively, of the Health and Safety Code, and the term "hazardous substance" shall have the meaning set forth in Section 25281 of the Health and Safety Code. Community facilities districts shall provide the State Department of Health Services and local health and building departments with notification of any cleanup activity pursuant to this subdivision at least 30 days prior to commencement of the activity.

(g) *Public transit services, including, but not limited to, operational expenses and maintenance of public transit equipment.*

A community facilities district tax approved by vote of the landowners of the district may only finance the services authorized in this section to the extent that they are in addition to those provided in the territory of the district before the district was created. The additional services may not supplant services already available within that territory when the district was created.

Bonds may not be issued pursuant to this chapter to fund any of the services specified in this section, although bonds may be issued to fund capital facilities to be used in providing these services.

SEC. 2. Section 53313.5 of the Government Code is amended to read:

53313.5. A community facilities district may also finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property. The facilities need not be physically located within the district. A district may not lease out facilities that it has financed except pursuant to a lease agreement or annexation agreement entered into prior to January 1, 1988. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish the district is adopted pursuant to Section 53325.1, except that a district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency that will own or operate the facility. For example, a community facilities district may finance facilities, including, but not limited to, the following:

(a) Local park, recreation, parkway, and open-space facilities.

(b) Elementary and secondary schoolsites and structures provided that the facilities meet the building area and cost standards established by the State Allocation Board.

(c) Libraries.

(d) Child care facilities, including costs of insuring the facilities against loss, liability insurance in connection with the

operation of the facility, and other insurance costs relating to the operation of the facilities, but excluding all other operational costs. However, the proceeds of bonds issued pursuant to this chapter shall not be used to pay these insurance costs.

(e) The district may also finance the construction or undergrounding of water transmission and distribution facilities, natural gas pipeline facilities, telephone lines, facilities for the transmission or distribution of electrical energy, and cable television lines to provide access to those services to customers who do not have access to those services or to mitigate existing visual blight. The district may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the conveyance of those facilities to the public utility. "Public utility" shall include all utilities, whether public and regulated by the Public Utilities Commission, or municipal. If the facilities are conveyed to the public utility, the agreement shall provide that the cost or a portion of the cost of the facilities that are the responsibility of the utility shall be refunded by the public utility to the district or improvement area thereof, to the extent that refunds are applicable pursuant to (1) the Public Utilities Code or rules of the Public Utilities Commission, as to utilities regulated by the commission, or (2) other laws regulating public utilities. Any reimbursement made to the district shall be utilized to reduce or minimize the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the resolution of formation.

(f) The district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for flood and storm protection services, including, but not limited to, storm drainage and treatment systems and sandstorm protection systems.

(g) The district may also pay in full all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a community facilities district or may pay debt service on that indebtedness. When the amount financed by the district is to pay a tax, fee, charge, or assessment imposed by a public agency other than the one conducting the proceedings, and if the amount provided to the other public agency will not be entirely used to pay off or prepay an assessment lien or special tax obligation pursuant to the property owner's legal right to do so, the written consent of the other public agency is required. In addition, tax revenues of a district may be used to make lease or debt service payments on any lease, lease-purchase contract, or certificate of participation used to finance authorized district facilities.

(h) Any other governmental facilities that the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate. However, the district shall not operate or maintain or, except as otherwise provided in subdivisions (e) and (k), have any ownership interest in any facilities for the transmission or distribution of natural gas, telephone service, or electrical energy.

(i) (1) A district may also pay for the following:

(A) Work deemed necessary to bring buildings or real property, including privately owned buildings or real property, into compliance

with seismic safety standards or regulations. Only work certified as necessary to comply with seismic safety standards or regulations by local building officials may be financed. No project involving the dismantling of an existing building and its replacement by a new building, nor the construction of a new or substantially new building may be financed pursuant to this subparagraph. Work on qualified historical buildings or structures shall be done in accordance with the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code).

(B) In addition, within any county or area designated by the President of the United States or by the Governor as a disaster area or for which the Governor has proclaimed the existence of a state of emergency because of earthquake damage, a district may also pay for any work deemed necessary to repair any damage to real property directly or indirectly caused by the occurrence of an earthquake cited in the President's or the Governor's designation or proclamation, or by aftershocks associated with that earthquake, including work to reconstruct, repair, shore up, or replace any building damaged or destroyed by the earthquake, and specifically including, but not limited to, work on any building damaged or destroyed in the Loma Prieta earthquake that occurred on October 17, 1989, or by its aftershocks. Work may be financed pursuant to this subparagraph only on property or buildings identified in a resolution of intention to establish a community facilities district adopted within seven years of the date on which the county or area is designated as a disaster area by the President or by the Governor or on which the Governor proclaims for the area the existence of a state of emergency.

(2) Work on privately owned property, including reconstruction or replacement of privately owned buildings pursuant to subparagraph (B) of paragraph (1), may only be financed by a tax levy if all of the votes cast on the question of levying the tax, vote in favor of levying the tax, or with the prior written consent to the tax of the owners of all property that may be subject to the tax, in that case the prior written consent shall be deemed to constitute a vote in favor of the tax and any associated bond issue. Any district created to finance seismic safety work on privately owned buildings, including repair, reconstruction, or replacement of privately owned buildings pursuant to this subdivision, shall consist only of lots or parcels that the legislative body finds have buildings that were damaged or destroyed by the earthquake cited pursuant to subparagraph (B) of paragraph (1) or by the aftershocks of that earthquake.

(j) A district may also pay for the following:

(1) Work deemed necessary to repair and abate damage caused to privately owned buildings and structures by soil deterioration. "Soil deterioration" means a chemical reaction by soils that causes structural damage or defects in construction materials including concrete, steel, and ductile or cast iron. Only work certified as necessary by local building officials may be financed. No project involving the dismantling of an existing building or structure and its replacement by a new building or structure, nor the construction of a new or substantially new building or structure may be financed pursuant to this subparagraph.

(2) Work on privately owned buildings and structures pursuant to this subdivision, including reconstruction, repair, and abatement of damage caused by soil deterioration, may only be financed by a tax levy if all of the votes cast on the question of levying the tax vote

in favor of levying the tax. Any district created to finance the work on privately owned buildings or structures, including reconstruction, repair, and abatement of damage caused by soil deterioration, shall consist only of lots or parcels on which the legislative body finds that the buildings or structures to be worked on pursuant to this subdivision suffer from soil deterioration.

(k) A district may also finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for the purposes of removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment. As used in this subdivision, the terms "remedial action" and "removal" shall have the meaning set forth in Sections 25322 and 25323, respectively, of the Health and Safety Code, and the term "hazardous substance" shall have the meaning set forth in Section 25281 of the Health and Safety Code.

*(l) Public transit.*