

Salinas City Elementary School District

Facilities

Exhibit #7210

FACILITIES FINANCING

State School Building Lease-Purchase Law of 1976

Under Education Code 17000-17059.2, the State Allocation Board is authorized to provide project funding for the construction, reconstruction or modernization of school buildings. Eligible districts may use funding under this law to acquire and convert existing building space for school facility purposes.

Developer Fees

Education Code 17620 authorizes Governing Boards to levy developer fees to fund new construction or reconstruction of school facilities. These fees apply to residential, commercial and industrial construction within the district. Under the authority of Government Code 65970-65980.1, cities or counties may levy developer fees to be used to finance interim facilities (temporary classrooms and restrooms) which will be used for five years or less. In total, developer fees may not exceed limits specified in Government Code 65995. Cities and counties may not issue building permits unless the appropriate school board certifies that developer fees have been paid.

General Obligation Bonds

Uncodified Statutes 17696-17696.98 authorize local governments to issue voter-approved general obligation bonds for capital outlay. Two-thirds voter approval is required for passage of local general obligation bond measures. Such bond measures place financial responsibility on all property owners in the school district, rather than only on those developing new homes or businesses.

Mello-Roos Taxes and Bonds

Under the Mello-Roos Community Facilities Act of 1982 (Government Code 53311-53368.3), a school district may establish a "community facilities district" for the area which such facilities would serve. To finance school construction, the community facilities district may issue bonds and may levy a special tax on land within the community facilities district to repay the bonds. The cost of the school facilities may be financed in whole or in part with the proceeds of the bonds. School facilities also may be financed solely from the proceeds of annual special taxes on a "pay-as-you-go" basis.

The special tax and bonds must be approved by two-thirds of the community facilities district voters. When fewer than 12 registered voters live within the community facilities district, the landowners must approve the special tax, each having one vote per acre.

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School Facilities Improvement District

Education Code 15300-15425 authorizes any school district, with the approval of the County Board of Supervisors, to form a school facilities improvement district. School facilities improvement districts can propose a bond issue which requires approval by two-thirds of its resident voters. The Board must determine that the overall cost of financing these bonds would be less than the overall cost of other financing options; this determination is not necessary if the district includes a Mello-Roos district and if the new school facilities improvement district will include all of the territory within district boundaries that is not included in the existing Mello-Roos district.

Integrated Financing District

By creating an integrated financing district, Boards can levy an assessment on land which is contingent upon the development of the land. This assessment can be made payable at the time when the project is approved. It can be used in combination with the noncontingent special tax under Mello-Roos, provided the total of both assessments is proportionate to the amount of benefit anticipated for each parcel. To establish this assessment, school boards must hold a public hearing and act upon all protests. If more than half of the property owners protest, the assessment proposal must be withdrawn for a year. (Government Code 53175-53187)

Landscaping and Lighting Assessment Districts

Proposition 218, passed by the voters in November, 1996, affects a school district's ability to use Landscaping and Lighting Assessment Districts to fund facility improvements. As codified by SB 919 (Ch. 38, Statutes of 1997), Prop. 218 requires districts to review existing assessments to first determine if they meet the following conditions: (Government Code 53753.5)

1. The assessment was imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems, or vector control.
2. At the time, the assessment was imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment or by a majority of the voters.
3. The proceeds of the assessment are used exclusively to repay bond indebtedness.

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If an assessment does not meet one of the above conditions, then the school district must either eliminate the assessment or bring it into compliance with the election and assessment requirements specified in Prop. 218. These requirements include notice, election and hearings by the district, as well as a determination as to whether property owners receive a "special benefit" as defined by Prop. 218. (Government Code 53753, California Constitution, Article 13D, Section 4)

Under the Landscaping and Lighting Act of 1972 (Streets and Highways Code 22500-22679), an assessment may be used only to fund the purchase, installation, construction and/or maintenance and servicing of landscaping, public lighting facilities, park or recreational improvements, and land for park, recreational or open-space purposes.

Parcel Taxes

Government Code 50079 authorizes a school district, with two-thirds voter approval, to impose a qualified special tax that applies equally and uniformly to the taxpayers of all real property within the district, regardless of the value of the property. The district must comply with notice and public hearing procedures specified in Government Code 50077, and taxpayers 65 years of age or older may be exempted from the tax.

Surplus Property

School surplus property may be another funding source for school construction, particularly in the use of lease revenues for capital outlay purposes. Districts should be aware that (1) they are subject to nonuse payments if a facility is not used for educational purposes for five years, (2) they are required to investigate cooperative agreements with other contiguous districts with respect to housing students before applying for state funds, and (3) they may not receive state funding for school construction if they have surplus school sites. If a surplus site is sold and the proceeds used by the school district, the district is prohibited for five years from applying to the State Allocation Board for additional funds.

City- or County-Imposed Mitigation Requirements

In *Mira Development Corporation v. City of San Diego* (205 Cal.App.3d 1201, 1988), the court, after distinguishing between zoning and development projects, concluded that the city was not restricted by the terms of Government Code 65996 and therefore, could deny an application that implicated a zoning decision based on the lack of school facilities. If the decision pertained solely to a development project, however, with no legislative entitlements being sought, then Government Code 65996 may impose limitations on the manner in which a city may act in approving or denying the approval of a project on the basis of the adequacy of school facilities.

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Some cities and counties subsequently adopted ordinances which require developers in certain areas to contribute a certain amount over and above the developer fees levied by the school district as a condition of obtaining a permit to develop their land. As an alternative, cities and counties may require participation by developers in Mello-Roos financing districts as a condition to development approval.

Redevelopment Projects

Health and Safety Code 33000-33071 authorizes cities and the unincorporated parts of counties to establish a redevelopment agency (RDA). Redevelopment is funded by property tax revenues within the redevelopment area that exceed the revenues being received at the time the redevelopment plan was adopted.

Because new housing created by redevelopment projects may generate an increase in school enrollment, K-12 schools affected by redevelopment projects receive, for facilities or capital outlay, a percentage of the tax increment generated over the life of a redevelopment project. For the same purpose, county offices of education also receive a percentage of the tax increment.

Before 1993 redevelopment reform law established the above entitlement, many school districts negotiated mitigation agreements with RDAs. These agreements were prompted by statutes that gave school districts the right to accept title to school buildings financed by RDAs or to seek RDA funds to mitigate their increased costs. The 1993 reform law does not affect these existing mitigation agreements.

Transactions and Use Taxes

Revenue and Taxation Code 7288.1-7288.6 authorizes a local public finance authority established by a county, the county office of education, and a majority of the school and community college districts in the county to propose a transactions and use tax of 1/4 or 1/2 cent on all taxable sales in the county. The tax must be approved by two-thirds of the voters. Tax proceeds may be used for drug abuse prevention, crime prevention, health care services, and public education. Allocation among those uses is determined by the authority's board, half of whom are county supervisors and half of whom are school Board members.