Policy 7212: Mello-Roos Districts **Status:** ADOPTED

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CSBA NOTE: The Mello-Roos Community Facilities Act (Government Code 53311-53368.3) authorizes school districts to establish a community facilities district (CFD) (also referred to as a Mello-Roos district) for specified school facility purposes. The boundaries of the CFD may include the entire school district, but usually include only a portion of the district, such as an area with new housing developments. The bonds sold by the CFD are paid for by a parcel tax or assessment on the properties within that CFD's boundaries.

Because the laws regarding formation of a Mello-Roos district are complex, districts should consult legal counsel, as appropriate.

The Governing Board desires to provide adequate facilities in order to enhance student learning and to help the district achieve its vision for educating district students. Toward that end, the Board may order the formation of a community facilities district (CFD) (Mello-Roos district) for the acquisition or improvement of school facilities when, in the Board's judgment, it is in the best interest of district students and the community. The issuance of debt through the CFD shall be consistent with law and the district's debt management policy.

CSBA NOTE: Pursuant to Government Code 53318, the Governing Board may initiate the proceedings to establish a CFD. In addition, Government Code 53318 specifies that the Board must institute such proceedings when two members of the Board have filed a written request or a specified percentage of registered voters or landowners in the district file a written petition requesting that the district establish a CFD. The petition or request must describe the boundaries of the territory and specify the types of facilities and services to be financed by the proposed district.

Proceedings to establish a CFD may be instituted at the Board's discretion. In addition, such proceedings shall be instituted when a written request to establish a CFD has been filed by any two Board members, or a petition has been submitted by at least 10 percent of registered voters residing within the territory of the proposed CFD or by the owners of at least 10 percent of the area of land to be included within the proposed CFD. (Government Code 53318)

CSBA NOTE: Government Code 53312.7 mandates that districts establishing a CFD first adopt local goals and policies, as specified below. At the district's discretion, the following list may be modified to reflect the district's goals and policies related to each required component. The district may also reference any other district policies that may be applicable to the mandated components, such as BP 7110 - Facilities Master Plan, BP 7210 - Facilities Financing, or BP 3470 - Debt Issuance and Management.

Prior to initiating proceedings to form a CFD, the Board shall consider and adopt local goals and policies that include the following elements: (Government Code 53312.7)

1. The priority that various facilities shall have for financing through the Mello-Roos Community Facilities Act, including public facilities to be owned and operated by other public agencies and services to be provided by other public agencies

2. The credit quality to be required of bond issues and criteria to be used in evaluating the credit quality

3. Steps by which prospective property purchasers will be fully informed about their related taxpaying obligations

4. Criteria for evaluating the equity of tax allocation formulas, including desirable and maximum amounts of special tax to be levied against any parcel

5. Definitions, standards, and assumptions to be used in appraisals required by Government Code 53345.8

CSBA NOTE: Government Code 53312.7 mandates a district policy giving attendance priority to children who reside within the territory of the proposed CFD. See BP 5116 - School Attendance Boundaries for additional language fulfilling this mandate.

6. To the extent authorized by law, priority for students residing within the CFD to attend schools financed in whole or in part by the CFD, in a manner that reflects the proportion of each school's financing provided through the CFD

Within 45 days of receiving a written request or petition to establish a CFD, the Board shall determine a fee to be paid by the requesters or petitioners which shall be sufficient to compensate the district for the costs incurred in conducting proceedings to create the CFD. Proceedings for establishing the CFD shall only be initiated after payment of the fee. (Government Code 53318)

CSBA NOTE: Government Code 53320 requires that, within 90 days after the request or petition has been filed and any fee required under Government Code 53318 has been paid, the Board must adopt a resolution of intention to establish a CFD. Specified components of the resolution are listed in Government Code 53321 and include, but are not limited to, a description of the boundaries of the district and a description of the public facilities and services that will be financed by the proposed district. Legal requirements for the hearing are detailed in Government Code 53323-53325.

Upon Board action to form a CFD, or within 90 days after the receipt of a petition or request to form a CFD and the payment of any applicable fee, the Board shall adopt a resolution of intention and conduct a hearing in accordance with law. The resolution shall fix the time and place for holding a public hearing on the establishment of the CFD, which shall be within 30-60 days after the adoption of the resolution. Notice of the hearing shall be given by publishing the text or a summary of the resolution of intention once, in a newspaper of general circulation published in the area of the proposed CFD, at least seven days before the hearing, and shall include other requirements specified in Government Code 53322. Notice of the hearing may also be sent by first-class mail to each registered voter and to each landowner within the proposed CFD. (Government Code 53320, 53321, 53322, 53322.4)

If, after the hearing, the Board decides to establish a CFD, the Board shall adopt a resolution of formation in accordance with law. (Government Code 53325, 53325.1)

CSBA NOTE: Government Code 53326 provides that the election on the levy of special taxes must be held 90-180 days following the adoption of the resolution of formation. However, any election to be held less than 125 days following the adoption of the resolution of formation requires the concurrence of the elections official. Because the levy of special taxes involves technical and complex provisions of law, districts are advised to consult legal counsel when contemplating the levy of a special tax.

If a special tax is proposed to be levied in the CFD, the Board shall submit the resolution of formation and other information specified in Government Code 53326 to the elections official within three business days after the adoption of the resolution of formation, and the question of levying the special tax shall be submitted to the qualified electors of the proposed CFD in accordance with law. (Government Code 53326)

Upon approval by two-thirds of the voters in the proposed CFD, the tax may be levied in accordance with Government Code 53340. (Government Code 53328)

Whenever the Board deems it necessary for the CFD to incur a bonded indebtedness, it shall follow the procedures specified in Government Code 53345-53365.7, as applicable.

The proceeds of any bonds, notes, or other securities issued pursuant to the Mello-Roos Community Facilities Act shall be deposited or invested in accordance with Government Code 53356.03.

CSBA NOTE: Pursuant to Government Code 53343.2, as amended by AB 1666 (Ch. 93, Statutes of 2016), any local agency that has established a CFD, such as a school district, is required to post on its web site the information listed below. If the school district is not the issuing agency, it is recommended that it provide a link on the district web site that accesses the required information on the issuing agency's web site.

The Superintendent or designee shall, within seven months after the last day of each fiscal year, prominently display the following reports on the district's web site: (Government Code 53343.2)

1. A copy of an annual report for that fiscal year, if requested pursuant to Government Code 53343.1

2. A copy of the report provided to the California Debt and Investment Advisory Commission pursuant to Government Code 53359.5

3. A copy of the report provided to the State Controller's Office pursuant to Government Code 12463.2