

# Keeping pace with demand

## Mello-Roos bond financing

By LORI RAINERI

The special-district form of government is used in California on a wider scale than in any other state. In contrast with the broad constitutional and legal authority under which cities and counties operate, special districts are limited in their ability to raise revenue and in their power to regulate planning and land use. Yet, special districts often face an increased demand for services and a growing population to serve.

The Mello-Roos Community Facilities Act of 1982 allows local governments, including special districts, to establish a community-facilities district which encompasses an area to be served by proposed facilities or services.

In a sense, a community-facilities district is a dependent special district. A community-facilities district has bonding and taxing authority, so it can issue

bonds to finance public facilities or services and repay those bonds through a special tax levied by the district.

The special tax levy must be approved by 2/3 of the eligible voters. However, if less than 12 registered voters reside within the proposed community-facilities district, the vote shall be by the landowners of the proposed district, with each landowner having one vote per acre.

As the election procedure implies, this type of financing is directed toward developing or rehabilitating areas. For example, a community may propose a single-family-home development that may require increased water supply and distribution. The area may be established as a community-facilities district during development, by a vote of the developer/landowner, to provide financing for the new water facilities.

When the development is complete and the homes are sold, the new homeowners

will repay the bonds through payment of the special tax. The residents of the community who actually benefit from the expanded water system pay for it.

One advantage of Mello-Roos Community Facilities District financing over more traditional assessment district financing is the variety of public facilities and services which qualify:

- Police protection, including criminal-justice facilities;
- Fire protection, including ambulance and paramedic facilities;
- Recreation program services, including operation and maintenance of parks and parkways;
- Flood and storm protection services, including operation and maintenance of parks and parkways;
- Elementary and secondary schools;
- Libraries;
- Natural-gas pipeline facilities;

- Telephone lines;
  - Facilities for the transmission or distribution of electrical energy; and
  - Any other governmental facilities which the governing legislative body is authorized to construct, own or operate.
- It should be noted that Mello-Roos bond financing can only be used to provide *additional* facilities or services to the community, not to finance existing facilities or services.

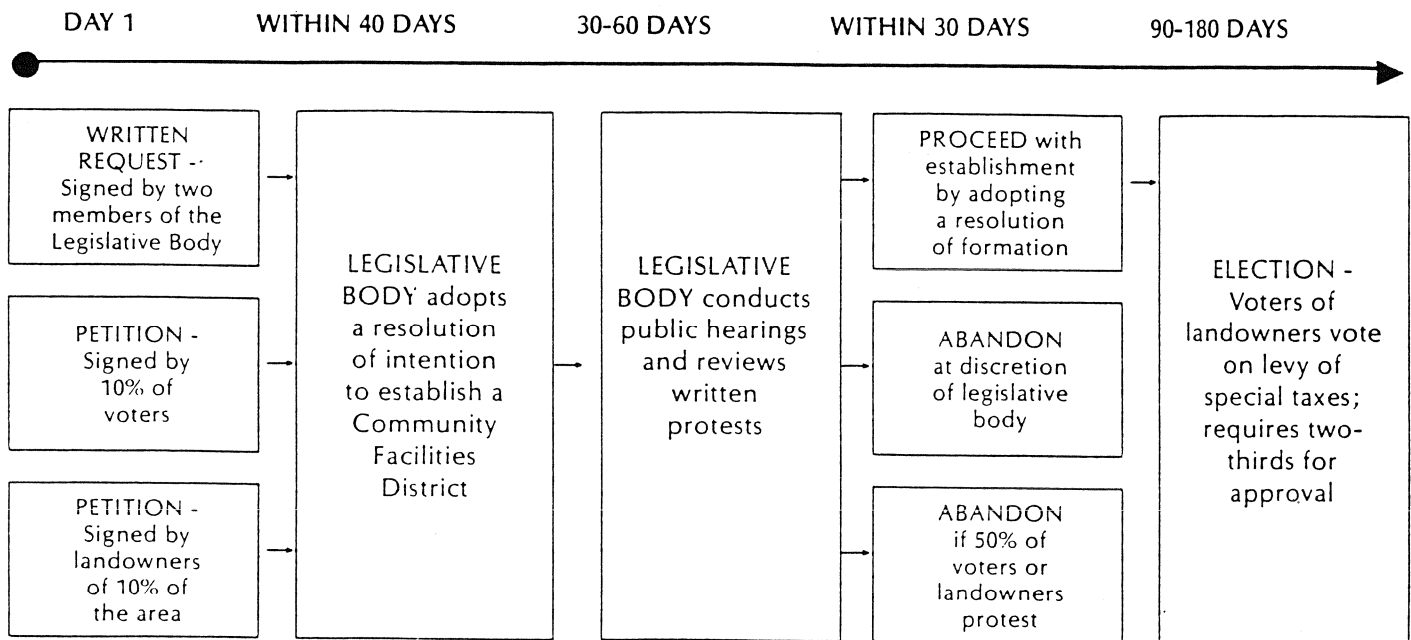
### Background

The Mello-Roos Community Facilities Act became law in January of 1983. There was just one issue completed in 1983, three in 1984 and ten in both 1985 and 1986. Only two special districts have completed Mello-Roos financings.

Mello-Roos bond issues have been used to finance a variety of public improvements ranging from bicycle paths in the town of

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## Forming A Community Facilities District



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Tiburon to streets for Orange County.

The Mountain View School District in San Bernardino County completed the first Mello-Roos bond financing in September of 1983 to finance a kindergarten-through-eighth grade school facility. Since that time, Mello-Roos bond financing has been used for wastewater facilities, bridges, public parking, fire stations and parks. These issues have ranged in par amount from \$120,000 to \$34 million.

With the passage of the Tax Reform Act of 1986 and its new restrictions on the ability of local governments to issue tax-exempt bonds, more communities in California will turn to Mello-Roos bonds to finance the public facilities they need.

#### **Advantages**

Mello-Roos bond financing provides some unique advantages to special districts. Mello-Roos bond projects are initiated, approved and operated for and by the local community, so that only necessary projects will be added to the special district. The process of a Mello-Roos

bond financing is geared in all respects to local control. The payment is structured to specifically meet the needs of the community.

In 1984, the Valley Center Municipal Water District in North San Diego County needed to expand its supply and distribution capability in the Bear Ridge area, encompassing 35 parcels and 18 property owners. Valley Center MWD had the authority to levy a surcharge and issue assessment bonds, but the financing costs seemed prohibitive.

Valley Center MWD determined that through a Mello-Roos financing it could structure a private placement with a 15-year term and an apportionment formula based on benefit. Valley Center established an average annual levy which produced a 30 percent savings over the more traditional assessment financing.

The Valley Center MWD presented the alternatives to the property owners and received unanimous voter approval. The district sold its debt through a private placement at an interest rate equal to 75 percent of the

prime rate. It received such an attractive rate because its debt, like any municipal bond issue, is tax-exempt.

Jere Jarrell, the district's director of finance, says it was simple to put the financing together and clearly the Bear Ridge property owners realized a substantial savings. "Mello-Roos doesn't fit every situation, but for Valley Center Municipal Water District it was a perfect match."

Local government can design the apportionment of the special tax so it not only takes benefit into account, but local political concerns as well. A special district will want a tax that is fair but also one that will be approved by the voters. If there are a relatively small number of eligible voters, the apportionment formula may be largely a matter of negotiation.

However, in a populated area, local government will be in a position of publicly presenting a ballot measure. The more this measure addresses local concerns, the more likely it will be approved at the polls.

#### **Forming a community facilities district**

The formation of a community facilities district generally requires a minimum of four months, even if there are no problems. It is a complicated process, particularly the tax apportionment plan, election and bond structure.

The special tax imposed by a community facilities district is not a special assessment. There is no requirement that the tax be apportioned on the basis of benefit, but it may not be apportioned on the basis of ownership of real property. However, the special tax levy may be based on the *benefit* received by parcels of real property. The legislative body can structure the tax levy in any reasonable fashion, so long as it is not an "ad valorem" tax.

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