

AMENDED IN ASSEMBLY JULY 5, 2005
AMENDED IN ASSEMBLY JUNE 27, 2005
AMENDED IN SENATE APRIL 26, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 1085

Introduced by Senator Migden

February 22, 2005

An act to amend Section 53395.1 of, and to repeal and add Section 53395.8 of, the Government Code, relating to infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1085, as amended, Migden. Infrastructure financing districts: public trust lands.

Existing law authorizes the formation by local legislative bodies of infrastructure financing districts, which may include specified types of areas, to incur debt, as defined, or provide for tax increment allocation, to finance the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of specified types of real or tangible property, including specified types of facilities, pursuant to an infrastructure financing plan adopted pursuant to specified procedures.

This bill would include a public agency that owns all the land to be included in a proposed district within the definition of "landowner" for purposes of these provisions.

This bill would, with respect to the City and County of San Francisco, expand the definition of "debt" for these purposes, include environmental remediation and certain types of repairs within those

projects that may be financed, include various facilities within those qualifying for financing, and make various conforming changes. It would, with respect to the City and County of San Francisco, include tidelands and submerged lands subject to the public trust for commerce ~~or~~, navigation, and fisheries, and the applicable statutory trust grant or grants, among the areas that may be included in an infrastructure financing district and make related changes, would make various changes in the procedures for formation of the district and adoption of an infrastructure financing plan if all the land in the district would be publicly owned, and would authorize the amendment of an infrastructure financing plan to extend time limitations for receipt of property tax increment, subject to specified conditions.

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

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 53395.1 of the Government Code is
2 amended to read:
3 53395.1. Unless the context otherwise requires, the
4 definitions contained in this article shall govern the construction
5 of this chapter.
6 (a) “Affected taxing entity” means any governmental taxing
7 agency which levied or had levied on its behalf a property tax on
8 all or a portion of the property located in the proposed district in
9 the fiscal year prior to the designation of the district, but not
10 including any county office of education, school district, or
11 community college district.
12 (b) “City” means a city, a county, or a city and county.
13 (c) “Debt” means any binding obligation to repay a sum of
14 money, including obligations in the form of bonds, certificates of
15 participation, long-term leases, loans from government agencies,
16 or loans from banks, other financial institutions, private
17 businesses, or individuals.
18 (d) “Designated official” means the city engineer or other
19 appropriate official designated pursuant to Section 53395.13.
20 (e) (1) “District” means an infrastructure financing district.
21 (2) An infrastructure financing district is a “district” within the
22 meaning of Section 1 of Article XIII A of the California
23 Constitution.

1 (f) “Infrastructure financing district” means a legally
2 constituted governmental entity established pursuant to this
3 chapter for the sole purpose of financing public facilities.

4 (g) “Landowner” or “owner of land” means any person shown
5 as the owner of land on the last equalized assessment roll or
6 otherwise known to be the owner of the land by the legislative
7 body. The legislative body has no obligation to obtain other
8 information as to the ownership of land, and its determination of
9 ownership shall be final and conclusive for the purposes of this
10 chapter. A public agency is not a landowner or owner of land for
11 purposes of this chapter, unless the public agency owns all of the
12 land to be included within the proposed district.

13 (h) “Legislative body” means the city council or board of
14 supervisors.

15 SEC. 2. Section 53395.8 of the Government Code is repealed.

16 SEC. 3. Section 53395.8 is added to the Government Code, to
17 read:

18 53395.8. (a) This section applies only to the City and County
19 of San Francisco. For the purposes of this chapter, the City and
20 County of San Francisco is a city.

21 (b) In addition to the findings and declarations in Section
22 53395, the Legislature further finds and declares that
23 consolidating in a single public agency the responsibility to
24 administer waterfront lands in the City and County of San
25 Francisco that are subject to the public trust and the ability to
26 capture property tax increment revenues to finance needed public
27 infrastructure improvements in those areas will further the
28 objectives of the public trust and enjoyment of those trust lands
29 by the people of the state.

30 (c) Notwithstanding subdivision (c) of Section 53395.1, for the
31 purposes of this section, “debt” includes commercial paper and
32 variable rate demand notes.

33 (d) In addition to the purposes provided in subdivision (a) of
34 Section 53395.3, a district subject to this section may finance the
35 environmental remediation of any real or tangible property that
36 the district may finance pursuant to Section 53395.3. The district
37 may also finance planning and design work that is directly
38 related to the improvement, seismic retrofit, or environmental
39 mediation of that property. The district may not finance routine
40 nonstructural repair work.

1 (e) In addition to the public capital facilities of
2 communitywide significance that a district may finance pursuant
3 to subdivision (b) of Section 53395.3, a district subject to this
4 section may finance all of the following:

5 (1) Seismic and life-safety improvements to existing buildings
6 and other structures.

7 (2) Rehabilitation, restoration, and preservation of structures,
8 buildings, or other facilities having special historical,
9 architectural, or aesthetic interest or value and that are either
10 eligible for listing on the National Register of Historic Places,
11 both individually or because of their location within an eligible
12 registered historic district, or are locally designated landmarks.

13 (3) Structural repairs and improvements to piers, seawalls, and
14 wharves.

15 (4) Remediation of hazardous materials.

16 (5) Storm water management facilities, other utility
17 infrastructure, or public access improvements.

18 (f) Notwithstanding Section 53395.4, a district subject to this
19 section may include tidelands and submerged lands, including
20 filled lands, subject to the public trust for commerce ~~or~~
21 ~~navigation and fisheries, and the applicable statutory trust grant~~
22 ~~or grants. However, nothing in this chapter shall be construed to~~
23 ~~exempt these tidelands and submerged lands and any facilities~~
24 ~~that are constructed on these lands from any legal restrictions on~~
25 ~~use under the public trust for commerce or navigation and~~
26 ~~fisheries, or to grant an exemption from any statutory trust grant~~
27 ~~provision or otherwise limit the jurisdiction of the public~~
28 ~~agencies having responsibilities for the stewardship of the public~~
29 ~~trust lands. A district subject to this section that includes~~
30 ~~tidelands and submerged lands that are subject to Section 6306 of~~
31 ~~the Public Resources Code shall also be subject to the~~
32 ~~requirements of that section.~~, *navigation, and fisheries, and the*
33 *applicable statutory trust grant or grants. Where a district*
34 *includes tidelands and submerged lands, whether filled or*
35 *unfilled, and finances facilities located on these tidelands and*
36 *submerged lands, these facilities shall serve and promote uses*
37 *and purposes consistent with the public trust and applicable*
38 *statutory trust grants. These facilities shall be public trust assets*
39 *subject to the administration and control of the legislative trust*
40 *grantee of the public trust lands on which they are constructed.*

1 *However, if these facilities are among the public capital facilities*
2 *listed in paragraphs (1) to (4), inclusive, of subdivision (b) of*
3 *Section 53395.3 or paragraph (5) of subdivision (e) of this*
4 *section and are not owned by the public agency administering*
5 *the public trust lands, but are owned and operated by another*
6 *entity pursuant to a license from or an agreement with the public*
7 *agency administering the public trust lands, then these facilities*
8 *are not required to become public trust assets. The district shall*
9 *maintain accounting procedures in accordance, and otherwise*
10 *comply, with Section 6306 of the Public Resources Code.*

11 (g) Notwithstanding Section 53395.5, nothing in this chapter
12 shall prohibit the formation of a district on urban waterfront
13 property, nor the financing of needed public infrastructure
14 projects located on public trust lands, pursuant to this section.

15 (h) Notwithstanding subdivision (c) of Section 53395.14,
16 infrastructure improvements that increase public access to, or use
17 or enjoyment of, public trust lands pursuant to this section shall
18 be deemed to satisfy the requirements of that subdivision.

19 (i) Notwithstanding Section 53395.20 or any other provision
20 of law, if all of the land in a district subject to this section would
21 be publicly owned, no election shall be required to form the
22 district, and the legislative body may, by ordinance, adopt the
23 infrastructure financing plan and create the district, upon
24 recommendation of the public agency with jurisdiction over the
25 land.

26 (j) (1) Notwithstanding any other provision of this chapter,
27 the legislative body may amend an infrastructure financing plan
28 subject to this section to extend the time limitations for receipt of
29 property tax increment beyond the 30-year period from adoption
30 of the ordinance for the district for a period not to exceed 10
31 years to pay bonded indebtedness, if the district does all of the
32 following:

33 (A) Includes an amendment, if necessary, to increase the total
34 number of dollars to be allocated to the district.

35 (B) Prepares an analysis of the projected fiscal impact on each
36 affected taxing entity.

37 (C) Sets a time and date for a public hearing on the matter.

38 (2) The amendment to the infrastructure financing plan shall
39 be mailed by the clerk to each affected taxing entity for its
40 review. Each affected taxing entity shall review and consent to or

1 disapprove the amended infrastructure financing plan within 60
2 days of the receipt thereof.

3 (k) (1) The legislative body shall hold a public hearing
4 regarding the amendment to the infrastructure financing plan
5 within 60 days after each affected taxing entity has approved the
6 extension.

7 (2) The public hearing, and notice thereof, shall be conducted
8 in accordance with Sections 53395.17 and 53395.18. At the
9 conclusion of the hearing, the legislative body may adopt an
10 ordinance adopting the infrastructure financing plan, as modified,
11 or it may abandon the proceedings.

12 SEC. 4. The Legislature finds and declares that a special law
13 is necessary and that a general law cannot be made applicable
14 within the meaning of Section 16 of Article IV of the California
15 Constitution because of the unique circumstances of the City and
16 County of San Francisco. The facts constituting the special
17 circumstances are:

18 The Port Authority of the City and County of San Francisco
19 administers tidelands along its waterfront where there are neither
20 private landowners nor registered voters. The Port Authority of
21 the City and County of San Francisco wants to establish one or
22 more infrastructure financing districts to finance improvements
23 to those waterfront properties. However, the current law that
24 governs the formation of infrastructure financing districts
25 assumes the presence of private landowners and registered
26 voters. In order to adapt the provisions of Chapter 2.8
27 (commencing with Section 53395) of Part 1 of Division 2 of Title
28 5 of the Government Code, relating to infrastructure financing
29 districts, to these unique circumstances, this special act is
30 necessary.

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