

ASSEMBLY BILL

No. 664

Introduced by Assembly Member Ammiano

February 17, 2011

An act to add Section 53395.9 to the Government Code, relating to infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 664, as introduced, Ammiano. Infrastructure financing districts: America's Cup district.

Existing law authorizes the City and County of San Francisco to create infrastructure financing districts, including districts that include specified waterfront property, adopt infrastructure financing plans for those districts, and issue bonds financed by projected increases in ad valorem property taxes to fund certain public facilities, pursuant to a specified procedure. Existing property tax law establishes various procedures and requirements with respect to the annual apportionment and allocation of ad valorem property tax revenues, including increased revenues from these infrastructure financing districts.

This bill would authorize the adoption under these provisions of a financing plan for a waterfront district that includes the waterfront area in the City and County of San Francisco designated as the America's Cup venues, and the use of specified tax revenues produced in the district for the construction of the Port of San Francisco's cruise terminal project at Pier 27, and related work, subject to specified allocation procedures. It would require the county board of supervisors to submit a fiscal analysis to the California Infrastructure and Economic Development Bank for review and approval before adopting the resolution authorizing the issuance of debt pursuant to these provisions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Areas of San Francisco, including portions of the San
4 Francisco waterfront, are characterized by deteriorating conditions
5 that cannot be remedied by private investment alone, and require
6 the use of public financing mechanisms to finance the rectification
7 of deteriorating conditions.

8 (b) In February 2010, the BMW ORACLE Racing Team (and
9 its successors, the “team”), sailing under the burgee of the Golden
10 Gate Yacht Club, won the 33rd America’s Cup, off the coast of
11 Valencia, Spain. The America’s Cup, which was first awarded in
12 1851, is the oldest sporting trophy in sailing history. On December
13 31, 2010, the team designated the City and County of San Francisco
14 to host the 34th America’s Cup sailing regatta. The team has
15 designated as the potential venue for the 34th America’s Cup the
16 San Francisco waterfront area generally between the Golden Gate
17 Bridge to the north and the Bay Bridge to the south. The team
18 anticipates holding the 34th America’s Cup match in San Francisco
19 Bay in 2013, with preliminary races worldwide beginning in 2011
20 and in San Francisco Bay in 2012.

21 (c) An economic impact study by the Bay Area Council’s
22 Economic Institute and Beacon Economics released in July 2010
23 concludes that hosting the America’s Cup on the San Francisco
24 Bay would generate nearly 9,000 jobs and \$1.4 billion in direct
25 spending in the San Francisco Bay area and California, and nearly
26 \$1.9 billion nationwide. The study reports that the America’s Cup
27 is the world’s third largest sporting competition after the Olympics
28 and soccer’s World Cup.

29 (d) The San Francisco waterfront is a valuable public trust asset
30 of the state that provides special maritime, navigational,
31 recreational, cultural, and historical benefits to the people of the
32 region and the state. Realizing the goals of the port waterfront land
33 use plan, the San Francisco Bay Conservation and Development

1 Commission special area plan, and the port capital plan is a matter
2 of statewide significance, and rectifying the deteriorating conditions
3 along the San Francisco waterfront caused by deferred maintenance
4 since 1969 by providing a financing mechanism, through the use
5 of incremental property tax revenues, is a matter of statewide
6 importance that will further the purposes of both the public trust
7 and the Burton Act trust. Public facilities along the San Francisco
8 waterfront to be financed pursuant to the infrastructure financing
9 district law will increase public access to, and use or enjoyment
10 of, public trust lands and are, therefore, facilities of statewide and
11 communitywide significance.

12 (e) The City of San Francisco has agreed to provide the team
13 with venues for regattas, team and competitor facilities, sponsorship
14 activities, spectator viewing, and ancillary activities. The venues
15 will be located on water areas, piers and wharves, and waterfront
16 and landside property under Port of San Francisco jurisdiction,
17 generally from Pier 19 to Pier 80, and will include shared use of
18 the city’s new cruise terminal facility to be built on Pier 27; all of
19 the venues, as determined from time to time, are collectively
20 referred to as the “America’s Cup venues.” The City and County
21 of San Francisco intends to establish infrastructure financing
22 districts to finance public facilities along the San Francisco
23 waterfront through its port, including a district covering the
24 America’s Cup venues. Due to the extraordinary capital needs of
25 the port, it is the intent of the Legislature in enacting this act to
26 provide the City and County of San Francisco and its port the
27 widest latitude, within the framework of the infrastructure financing
28 district law, to create and operate infrastructure financing districts
29 in the manner that provides the optimal financing options to
30 construct needed public facilities on public trust waterfront lands
31 in order to meet the stated goals of statewide significance.

32 SEC. 2. Section 53395.9 is added to the Government Code, to
33 read:

34 53395.9. (a) This section shall apply only to a waterfront
35 district in the City and County of San Francisco comprising some
36 or all of the America’s Cup venues.

37 (b) An America’s Cup district may be created as a waterfront
38 district pursuant to, and shall be subject to, all applicable
39 requirements of Sections 53395.3 and 53395.8, except as provided
40 in and this section.

1 (c) (1) The America's Cup ERAF share produced in an
2 America's Cup district shall be used only to finance the following:

3 (A) Construction of the Port of San Francisco's cruise terminal
4 project at Pier 27.

5 (B) Planning and design work that is directly related to the port's
6 Pier 27 cruise terminal project.

7 (2) An America's Cup enhanced financing plan shall provide
8 that the proceeds of ERAF-secured debt are restricted for use to
9 finance directly, reimburse the port for its costs related to, or
10 refinance other debt incurred, in the construction of the port's
11 cruise terminal project.

12 (d) (1) Before adopting the resolution authorizing the issuance
13 of debt by an America's Cup district authorized by this section,
14 the board of supervisors shall submit a fiscal analysis to the
15 California Infrastructure and Economic Development Bank for
16 review and approval.

17 (2) The bank may circulate the fiscal analysis to other state
18 agencies, including, but not limited to, the Department of Finance,
19 the Department of Housing and Community Development, and
20 the Office of Planning and Research, and solicit their comments
21 and recommendations. After considering the comments and
22 recommendations of other state agencies, if any, the bank shall
23 take one of the following actions:

24 (A) Approve the fiscal analysis if the bank makes the finding
25 required pursuant to paragraph (4).

26 (B) Return the fiscal analysis to the board of supervisors with
27 specific recommendations for changes that would allow the bank
28 to approve the fiscal analysis.

29 (3) The bank shall have 30 days from the receipt of the fiscal
30 analysis to act pursuant to this subdivision. If the bank does not
31 act within 30 days, the fiscal analysis shall be deemed approved.

32 (4) For bank approval, the fiscal analysis shall demonstrate to
33 the bank's reasonable satisfaction a reasonable probability that the
34 economic activity proposed to occur as a result of hosting the
35 America's Cup event in California would result in an amount of
36 revenue to the General Fund with a net present value that is greater
37 than the net present value of the amount of property tax increment
38 revenues that would be diverted from ERAF over the term of the
39 America's Cup district, taking into consideration all pertinent data.
40 In reviewing the board's fiscal analysis, the bank shall consider

1 only those General Fund revenues that would occur because of
2 economic activity proposed to occur as a result of hosting the
3 America’s Cup event in California. The bank shall not consider
4 those General Fund revenues that would have occurred if the
5 America’s Cup event were not held in California.

6 (e) The county auditor or officer responsible for the payment
7 of taxes into the funds of the respective taxing entities shall allocate
8 and pay to an America’s Cup district the portion of taxes required
9 to be allocated pursuant to an approved America’s Cup enhanced
10 financing plan. If the plan allocates 100 percent of the incremental
11 tax revenue to the district, then the district shall not make a
12 payment to ERAF, but if the plan allocates less than 100 percent
13 of the incremental tax revenue of San Francisco to an America’s
14 Cup district then the district shall pay a proportionate share of
15 incremental tax revenue into ERAF. The district shall file a
16 statement of indebtedness and a reconciliation statement annually
17 in the same manner as described in subdivision (i) of Section
18 53395.8.

19 (f) This section implements and fulfills the intent of this article
20 and of Article XIII B and Section 16 of Article XVI of the
21 California Constitution. The allocation and payment to the
22 America’s Cup district of the America’s Cup ERAF share for the
23 purpose of paying principal of, or interest on, loans, advances, or
24 indebtedness incurred for facilities under this section shall not be
25 deemed the receipt by the district of proceeds of taxes levied by
26 or on behalf of the district within the meaning or for the purposes
27 of Article XIII B of the California Constitution, nor shall this
28 portion of taxes be deemed the receipt of proceeds of taxes by, or
29 an appropriation subject to limitation of, any other public body
30 within the meaning or for purposes of Article XIII B of the
31 California Constitution or any statutory provision enacted in
32 implementation of Article XIII B. The allocation and payment to
33 a district of this portion of taxes shall not be deemed the
34 appropriation by a district of proceeds of taxes levied by or on
35 behalf of a district within the meaning or for purposes of Article
36 XIII B of the California Constitution.

37 (g) For purposes of this section, the following terms have the
38 following meanings except as otherwise provided:

39 (1) “America’s Cup district” means a waterfront district that
40 includes the waterfront area in the City and County of San

1 Francisco designated as the America’s Cup venues, excluding any
2 venues within the Rincon Point-South Beach Redevelopment
3 Project Area.

4 (2) “America’s Cup enhanced financing plan” means an
5 infrastructure district financing plan for an America’s Cup district
6 that contains a provision identical to that authorized for a Pier 70
7 district under subparagraph (D) of paragraph (3) of subdivision
8 (g) of Section 55395.8.

9 (3) “America’s Cup ERAF-secured debt” means debt incurred
10 in accordance with an America’s Cup enhanced financing plan
11 that is secured by and will be repaid from the America’s Cup ERAF
12 share.

13 (4) “America’s Cup ERAF share” means the county ERAF
14 portion of incremental tax revenue committed, as applicable, to
15 an America’s Cup district under an enhanced financing plan.

16 (5) “Cruise terminal project” means all phases of the Port of
17 San Francisco’s public works project to build new cruise terminal
18 facilities at Pier 27 in San Francisco and includes any public access
19 and public open space improvements on Pier 27.

20 (6) “ERAF” means the Educational Revenue Augmentation
21 Fund.

22 SEC. 3. The Legislature finds and declares that a special law
23 is necessary and that a general law cannot be made applicable
24 within the meaning of Section 16 of Article IV of the California
25 Constitution because of the unique circumstances of the City and
26 County of San Francisco. The facts constituting the special
27 circumstances are:

28 Areas of San Francisco, including the portions of the San
29 Francisco waterfront, are characterized by deteriorating conditions
30 that cannot be remedied by private investment alone, and require
31 the use of public financing mechanisms to finance the rectification
32 of the deteriorating conditions. In order to adapt the provisions of
33 law governing infrastructure financing districts to these unique
34 circumstances, this special act is necessary.

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