

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2144**

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**Introduced by Assembly Members John A. Pérez and Atkins**

February 23, 2012

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An act to amend ~~Section 53395.4 of the Government Code~~ Sections 53395.1, 53395.3, 53395.4, 53395.14, 53395.23, 53395.24, and 53397.6 of, and to add Sections 53395.1.5, 53395.3.1, and 53395.26 to, the Government Code, and to amend Section 33459 of the Health and Safety Code, relating to ~~economic development~~ local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2144, as amended, John A. Pérez. Local government: ~~economic development~~. *infrastructure and revitalization financing districts.*

*Existing law authorizes the creation of infrastructure financing districts, as defined, for the sole purpose of financing public facilities, subject to adoption of a resolution by the legislative body and affected taxing entities proposed to be subject to division of taxes and  $\frac{2}{3}$  voter approval. Existing law authorizes the legislative body to, by majority vote, initiate proceedings to issue bonds for the financing of district projects by adopting a resolution, subject to specified procedures and  $\frac{2}{3}$  voter approval. Existing law requires an infrastructure financing plan to include the date on which an infrastructure financing district will cease to exist, which may not be more than 30 years from the date on which the ordinance forming the district is adopted. Existing law prohibits a district from including any portion of a redevelopment project area. Existing law, the Polanco Redevelopment Act, authorizes*

*a redevelopment agency to take any action that the agency determines is necessary and consistent with state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to specified conditions.*

*This bill would authorize the creation of an infrastructure and revitalization financing district and the issuance of debt with 55% voter approval. The bill would authorize the creation of a district for up to 40 years and the issuance of debt with a final maturity date of up to 30 years. The bill would delete the prohibition on a district including any portion of a redevelopment project area, and authorize a district to finance projects in redevelopment project areas and former redevelopment project areas and former military bases. The bill would authorize a city to form a district to finance a project or projects on a former military base, if specified conditions are met. The bill would provide that the issuance of debt by such a district on land of a former military base that is publicly owned is not subject to voter approval.*

*The bill would expand the projects that a district may fund to include watershed land used for the collection and treatment of water for urban uses, flood management, levees, bypasses, open space, habitat restoration, brownfields restoration, environmental mitigation, purchase of land and property for development purposes, including commercial property, hazardous cleanup, former military bases, and specified transportation purposes. The bill would authorize a district to implement hazardous cleanup pursuant to the Polanco Redevelopment Act, as specified. The bill would impose a specified reporting requirement on districts. The bill would make a statement of legislative intent and would change the name of an “infrastructure financing district” to “infrastructure and revitalization financing district.”*

~~Existing law provides for various economic development programs that foster community sustainability and community and economic development initiatives throughout the state:~~

~~This bill would declare the intent of the Legislature to enact legislation during the 2011–12 Regular Session that establishes long-term, targeted programs that provide local governments with tools and resources for specified purposes in a manner that encourages local cooperation and includes appropriate protections for state and local taxpayers.~~

~~Existing law authorizes a city, county, or city and county to establish infrastructure financing districts for the sole purpose of financing public facilities utilizing incremental property tax revenues. A district may~~

~~not include a redevelopment project area and a redevelopment project area may not include any portion of a district.~~

~~The bill would delete the provision prohibiting a district from including a redevelopment project area and a redevelopment project area from including any portion of a district.~~

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. It is the intent of the Legislature to enact  
2 legislation during the 2011–12 Regular Session that establishes  
3 long-term, targeted programs that provide local governments with  
4 tools and resources for specified purposes, including, but not  
5 limited to, public infrastructure, affordable housing, economic  
6 development and job creation, and environmental protection and  
7 remediation, in a manner that encourages local cooperation and  
8 includes appropriate protections for state and local taxpayers.

9 SEC. 2. Section 53395.1 of the Government Code is amended  
10 to read:

11 53395.1. Unless the context otherwise requires, the definitions  
12 contained in this article shall govern the construction of this  
13 chapter.

14 (a) “Affected taxing entity” means any governmental taxing  
15 agency ~~which~~ *that* levied or had levied on its behalf a property tax  
16 on all or a portion of the property located in the proposed district  
17 in the fiscal year prior to the designation of the district, but not  
18 including any county office of education, school district, or  
19 community college district.

20 (b) “City” means a city, a county, or a city and county.

21 (c) “Debt” means any binding obligation to repay a sum of  
22 money, including obligations in the form of bonds, certificates of  
23 participation, long-term leases, loans from government agencies,  
24 or loans from banks, other financial institutions, private businesses,  
25 or individuals.

26 (d) “Designated official” means the city engineer or other  
27 appropriate official designated pursuant to Section 53395.13.

28 (e) (1) “District” means an infrastructure *and revitalization*  
29 financing district.

1 (2) An infrastructure *and revitalization* financing district is a  
 2 “district” within the meaning of Section 1 of Article XIII A of the  
 3 California Constitution.

4 (f) “Infrastructure *and revitalization* financing district” means  
 5 a legally constituted governmental entity established pursuant to  
 6 this chapter for the sole purpose of financing public facilities.

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

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

18 *SEC. 3. Section 53395.1.5 is added to the Government Code,*  
 19 *to read:*

20 *53395.1.5. Notwithstanding any other law, any reference in*  
 21 *this title to an “infrastructure financing district” or “district”*  
 22 *shall instead be deemed to refer to an “infrastructure and*  
 23 *revitalization financing district.”*

24 *SEC. 4. Section 53395.3 of the Government Code is amended*  
 25 *to read:*

26 53395.3. (a) A district may finance (1) the purchase,  
 27 construction, expansion, improvement, seismic retrofit, or  
 28 rehabilitation of any real or other tangible property with an  
 29 estimated useful life of 15 years or longer which satisfies the  
 30 requirements of subdivision (b), (2) may finance planning and  
 31 design work which is directly related to the purchase, construction,  
 32 expansion, or rehabilitation of that property, and (3) the costs  
 33 described in Sections 53395.5; and 53396.5. ~~A district may only~~  
 34 ~~finance the purchase of facilities for which construction has been~~  
 35 ~~completed, as determined by the legislative body.~~ The facilities  
 36 need not be physically located within the boundaries of the district.  
 37 A district may not finance routine maintenance, repair work, or  
 38 the costs of ongoing operation or providing services of any kind.

39 (b) The district shall finance only public capital facilities *or*  
 40 *projects* of communitywide significance, ~~which provide significant~~

1 ~~benefits to an area larger than the area of the district, including,~~  
2 but not limited to, ~~all~~ any of the following:

3 (1) Highways, interchanges, ramps and bridges, arterial streets,  
4 parking facilities, and transit facilities.

5 (2) Sewage treatment and water reclamation plants and  
6 interceptor pipes.

7 (3) Facilities *and watershed lands used* for the collection and  
8 treatment of water for urban uses.

9 (4) Flood ~~control~~ management, including levees ~~and~~, bypasses,  
10 dams, retention basins, and drainage channels.

11 (5) Child care facilities.

12 (6) Libraries.

13 (7) Parks, recreational facilities, ~~and~~ open space, *and habitat*  
14 *restoration*.

15 (8) Facilities for the transfer and disposal of solid waste,  
16 including transfer stations and vehicles.

17 (9) *Brownfields restoration and other environmental mitigation.*

18 (10) *Purchase of land and property for development purposes*  
19 *and related site improvements.*

20 (11) *Acquisition, construction, or repair of housing for rental*  
21 *or purchase, including multipurpose facilities.*

22 (12) *Acquisition, construction, or repair of commercial or*  
23 *industrial structures for private use.*

24 (13) *The repayment of the transfer of funds to a military base*  
25 *reuse authority pursuant to Section 67851.*

26 (c) Any district ~~which~~ *that* constructs dwelling units shall set  
27 aside not less than 20 percent of those units to increase and improve  
28 the community's supply of low- and moderate-income housing  
29 available at an affordable housing cost, as defined by Section  
30 50052.5 of the Health and Safety Code, to persons and families of  
31 low- and moderate-income, as defined in Section 50093 of the  
32 Health and Safety Code.

33 (d) *A district may utilize any powers under the Polanco*  
34 *Redevelopment Act (Article 12.5 (commencing with Section 33459)*  
35 *of Chapter 4 of Part 1 of Division 24 of the Health and Safety*  
36 *Code), and finance any action necessary to implement that act.*

37 (e) *A district may finance any project that implements a*  
38 *sustainable communities strategy prepared pursuant to Section*  
39 *65074.*

1 SEC. 5. Section 53395.3.1 is added to the Government Code,  
2 to read:

3 53395.3.1. (a) A city may form a district to finance a project  
4 or projects on a former military base pursuant to the requirements  
5 set forth in this chapter.

6 (b) A district formed under this section may finance a project  
7 pursuant to Section 53395.3 or this section only if the project is  
8 consistent with the authority reuse plan and is approved by the  
9 military base reuse authority, if applicable.

10 (c) Notwithstanding Section 53397.6, the issuance of debt by a  
11 district formed under this section to finance a project on land of  
12 a former military base that is publicly owned shall not be subject  
13 to voter approval.

14 ~~SEC. 2:~~

15 SEC. 6. Section 53395.4 of the Government Code is amended  
16 to read:

17 53395.4. (a) A district may finance only the facilities or  
18 services authorized in this chapter to the extent that the facilities  
19 or services are in addition to those provided in the territory of the  
20 district before the district was created. The additional facilities or  
21 services may not supplant facilities or services already available  
22 within that territory when the district was created but may  
23 supplement those facilities and services as needed to serve new  
24 developments.

25 (b) A district may include areas ~~which~~ that are not contiguous.

26 (c) Any district may finance any project or portion of a project  
27 that is located in, or overlaps with, any redevelopment project  
28 area or former redevelopment project area or former military  
29 base.

30 (d) Notwithstanding subdivision (c), any debt or obligation of  
31 a district shall be subordinate to an enforceable obligation of a  
32 former redevelopment agency, as defined in Section 34171 of the  
33 Health and Safety Code.

34 SEC. 7. Section 53395.14 of the Government Code is amended  
35 to read:

36 53395.14. After receipt of a copy of the resolution of intention  
37 to establish a district, the official designated pursuant to Section  
38 53395.13 shall prepare a proposed infrastructure financing plan.  
39 The infrastructure financing plan shall be consistent with the

1 general plan of the city within which the district is located and  
2 shall include all of the following:

3 (a) A map and legal description of the proposed district, which  
4 may include all or a portion of the district designated by the  
5 legislative body in its resolution of intention.

6 (b) A description of the public facilities required to serve the  
7 development proposed in the area of the district including those  
8 to be provided by the private sector, those to be provided by  
9 governmental entities without assistance under this chapter, those  
10 public improvements and facilities to be financed with assistance  
11 from the proposed district, and those to be provided jointly. The  
12 description shall include the proposed location, timing, and costs  
13 of the public improvements and facilities.

14 (c) A finding that the public facilities are of communitywide  
15 significance and provide significant benefits to an area larger than  
16 the area of the district.

17 (d) A financing section, which shall contain all of the following  
18 information:

19 (1) A specification of the maximum portion of the incremental  
20 tax revenue of the city and of each affected taxing entity proposed  
21 to be committed to the district for each year during which the  
22 district will receive incremental tax revenue. The portion need not  
23 be the same for all affected taxing entities. The portion may change  
24 over time.

25 (2) A projection of the amount of tax revenues expected to be  
26 received by the district in each year during which the district will  
27 receive tax revenues, including an estimate of the amount of tax  
28 revenues attributable to each affected taxing entity for each year.

29 (3) A plan for financing the public facilities to be assisted by  
30 the district, including a detailed description of any intention to  
31 incur debt.

32 (4) A limit on the total number of dollars of taxes ~~which~~ *that*  
33 may be allocated to the district pursuant to the plan.

34 (5) A date on which the district ~~will~~ *shall* cease to exist, by  
35 which time all tax allocation to the district will end. The date shall  
36 not be more than ~~30~~ *40* years from the date on which the ordinance  
37 forming the district is adopted pursuant to Section 53395.23. *The*  
38 *district may issue debt with a final maturity date of up to 30 years.*

39 (6) An analysis of the costs to the city of providing facilities  
40 and services to the area of the district while the area is being

1 developed and after the area is developed. The plan shall also  
 2 include an analysis of the tax, fee, charge, and other revenues  
 3 expected to be received by the city as a result of expected  
 4 development in the area of the district.

5 (7) An analysis of the projected fiscal impact of the district and  
 6 the associated development upon each affected taxing entity.

7 (8) A plan for financing any potential costs that may be incurred  
 8 by reimbursing a developer of a project that is both located entirely  
 9 within the boundaries of that district and qualifies for the Transit  
 10 Priority Project Program, pursuant to Section 65470, including  
 11 any permit and affordable housing expenses related to the project.

12 (e) If any dwelling units occupied by persons or families of low  
 13 or moderate income are proposed to be removed or destroyed in  
 14 the course of private development or public works construction  
 15 within the area of the district, a plan providing for replacement of  
 16 those units and relocation of those persons or families consistent  
 17 with the requirements of Section 53395.5.

18 *SEC. 8. Section 53395.23 of the Government Code is amended*  
 19 *to read:*

20 53395.23. After the canvass of returns of any election pursuant  
 21 to Section 53395.20, the legislative body may, by ordinance, adopt  
 22 the infrastructure financing plan and create the district with full  
 23 force and effect of law, if ~~two-thirds~~ 55 percent of the votes upon  
 24 the question of creating the district are in favor of creating the  
 25 district.

26 *SEC. 9. Section 53395.24 of the Government Code is amended*  
 27 *to read:*

28 53395.24. After the canvass of returns of any election  
 29 conducted pursuant to Section 53395.20, the legislative body shall  
 30 take no further action with respect to the proposed infrastructure  
 31 financing district for one year from the date of the election if the  
 32 question of creating the district fails to receive approval ~~by~~  
 33 ~~two-thirds~~ of 55 percent of the votes cast upon the question.

34 *SEC. 10. Section 53395.26 is added to the Government Code,*  
 35 *to read:*

36 53395.26. *No later than June 30 of each year after the adoption*  
 37 *of an infrastructure financing plan, the legislative body shall post*  
 38 *an annual report in an easily identifiable and accessible location*  
 39 *on the legislative body's Internet Web site. The annual report shall*  
 40 *contain all of the following:*

- 1 (a) A summary of the district's expenditures.
- 2 (b) A description of the progress made towards the district's
- 3 adopted goals.
- 4 (c) An assessment of the status regarding completion of the
- 5 district's projects.

6 SEC. 11. Section 53397.6 of the Government Code is amended

7 to read:  
8 53397.6. (a) The bonds may be issued if ~~two-thirds~~ 55 percent  
9 of the voters voting on the proposition vote in favor of issuing the  
10 bonds.

11 (b) If the voters approve the issuance of the bonds as provided  
12 by subdivision (a), the legislative body shall proceed with the  
13 issuance of the bonds by adopting a resolution which shall provide  
14 for all of the following:

- 15 (1) The issuance of the bonds in one or more series.
- 16 (2) The principal amount of the bonds, which shall be consistent
- 17 with the amount specified in subdivision (b) of Section 53397.2.
- 18 (3) The date the bonds will bear.
- 19 (4) The date of maturity of the bonds.
- 20 (5) The denomination of the bonds.
- 21 (6) The form of the bonds.
- 22 (7) The manner of execution of the bonds.
- 23 (8) The medium of payment in which the bonds are payable.
- 24 (9) The place or manner of payment and any requirements for
- 25 registration of the bonds.
- 26 (10) The terms of call or redemption, with or without premium.

27 SEC. 12. Section 33459 of the Health and Safety Code is

28 amended to read:  
29 33459. For purposes of this article, the following terms shall  
30 have the following meanings:

- 31 (a) "Department" means the Department of Toxic Substances
- 32 Control.
- 33 (b) "Director" means the Director of Toxic Substances Control.
- 34 (c) "Hazardous substance" means any hazardous substance as
- 35 defined in subdivision (h) of Section 25281, and any reference to
- 36 hazardous substance in the definitions referenced in this section
- 37 shall be deemed to refer to hazardous substance, as defined in this
- 38 subdivision.
- 39 (d) "Local agency" means a single local agency that is one of
- 40 the following:

- 1 (1) A local agency authorized pursuant to Section 25283 to  
2 implement Chapter 6.7 (commencing with Section 25280) of, and  
3 Chapter 6.75 (commencing with Section 25299.10) of, Division  
4 20.
- 5 (2) A local officer who is authorized pursuant to Section 101087  
6 to supervise a remedial action.
- 7 (3) *An infrastructure and revitalization financing district.*
- 8 (e) “Qualified independent contractor” means an independent  
9 contractor who is any of the following:
  - 10 (1) An engineering geologist who is certified pursuant to  
11 Section 7842 of the Business and Professions Code.
  - 12 (2) A geologist who is registered pursuant to Section 7850 of  
13 the Business and Professions Code.
  - 14 (3) A civil engineer who is registered pursuant to Section 6762  
15 of the Business and Professions Code.
- 16 (f) “Release” means any release, as defined in Section 25320.
- 17 (g) “Remedy” or “remove” means any action to assess, evaluate,  
18 investigate, monitor, remove, correct, clean up, or abate a release  
19 of a hazardous substance or to develop plans for those actions.  
20 “Remedy” includes any action set forth in Section 25322 and  
21 “remove” includes any action set forth in Section 25323.
- 22 (h) “Responsible party” means any person described in  
23 subdivision (a) of Section 25323.5 of this code or subdivision (a)  
24 of Section 13304 of the Water Code.