

**Introduced by Senator Wolk**February 8, 2011

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An act to amend Sections 53395.5, 53395.6, 53395.7, 53395.14, 53395.19, 53395.20, 53396, 53397.1, and 53397.2 of, and to repeal Sections 53395.21, 53395.22, 53395.23, 53395.24, 53395.25, 53397.4, 53397.5, 53397.6, and 53397.7 of, the Government Code, relating to infrastructure financing districts.

## LEGISLATIVE COUNSEL'S DIGEST

SB 214, as introduced, Wolk. Infrastructure financing districts: voter approval: repeal.

(1) Existing law authorizes a legislative body, as defined, to create an infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, to finance specified public facilities, upon voter approval.

This bill would eliminate the requirement of voter approval and authorize the legislative body to create the district, adopt the plan, and issue the bonds by resolutions.

(2) Existing law requires that an infrastructure financing plan created by a legislative body to include a date on which the district will cease to exist, which shall not be more than 30 years from the date on which the ordinance forming the district is adopted.

This bill instead would specify that the date on which the district would cease to exist would not be more than 40 years from the date on which the legislative body adopted the resolution adopting the infrastructure financing plan.

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 53395.5 of the Government Code is  
2 amended to read:

3 53395.5. It is the intent of the Legislature that ~~the area of the~~  
4 ~~districts created be substantially undeveloped, and~~ the  
5 establishment of a district should not ordinarily lead to the removal  
6 of existing dwelling units. If, however, any dwelling units are  
7 proposed to be removed or destroyed in the course of private  
8 development or public works construction within the area of the  
9 district, the legislative body shall do all of the following:

10 (a) Within four years of the removal or destruction, cause or  
11 require the construction or rehabilitation, for rental or sale to  
12 persons or families of low or moderate income, of an equal number  
13 of replacement dwelling units at affordable housing cost, as defined  
14 in Section 50052.5 of the Health and Safety Code, within the  
15 territory of the district if the dwelling units removed were inhabited  
16 by persons or families of low or moderate income, as defined in  
17 Section 50093 of the Health and Safety Code.

18 (b) Within four years of the removal or destruction, cause or  
19 require the construction or rehabilitation, for rental or sale to  
20 persons of low or moderate income, a number of dwelling units  
21 which is at least one unit but not less than 20 percent of the total  
22 dwelling units removed at affordable housing cost, as defined in  
23 Section 50052.5 of the Health and Safety Code, within the territory  
24 of the district if the dwelling units removed or destroyed were not  
25 inhabited by persons of low or moderate income, as defined in  
26 Section 50093 of the Health and Safety Code.

27 (c) Provide relocation assistance and make all the payments  
28 required by Chapter 16 (commencing with Section 7260) of  
29 Division 7 of Title 1, to persons displaced by any public or private  
30 development occurring within the territory of the district. This  
31 displacement shall be deemed to be the result of public action.

32 (d) Ensure that removal or destruction of any dwelling units  
33 occupied by persons or families of low or moderate income not  
34 take place unless and until there are suitable housing units, at  
35 comparable cost to the units from which the persons or families  
36 were displaced, available and ready for occupancy by the residents  
37 of the units at the time of their displacement. The housing units  
38 shall be suitable to the needs of these displaced persons or families

1 and shall be decent, safe, sanitary, and otherwise standard  
2 dwellings.

3 SEC. 2. Section 53395.6 of the Government Code is amended  
4 to read:

5 53395.6. Any action or proceeding to attack, review, set aside,  
6 void, or annul the creation of a district, adoption of an infrastructure  
7 financing plan, including a division of taxes thereunder, ~~or an~~  
8 ~~election pursuant to this chapter~~ shall be commenced within 30  
9 days after the enactment of the ordinance creating the district  
10 ~~pursuant to Section 53395.23~~ *date the legislative body adopted*  
11 *the resolution adopting the infrastructure finance plan pursuant*  
12 *to Section 53395.20*. Consistent with the time limitations of this  
13 section, such an action or proceeding with respect to a division of  
14 taxes under this chapter may be brought pursuant to Chapter 9  
15 (commencing with Section 860) of Title 10 of Part 2 of the Code  
16 of Civil Procedure, except that Section 869 of the Code of Civil  
17 Procedure shall not apply.

18 SEC. 3. Section 53395.7 of the Government Code is amended  
19 to read:

20 53395.7. An action to determine the validity of the issuance  
21 of bonds pursuant to this chapter may be brought pursuant to  
22 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of  
23 the Code of Civil Procedure. However, notwithstanding the time  
24 limits specified in Section 860 of the Code of Civil Procedure, the  
25 action shall be commenced within 30 days after ~~adoption of the~~  
26 ~~resolution pursuant to Section 53397.6~~ *providing for issuance of*  
27 ~~the bonds~~ *the date the legislative body adopted the resolution*  
28 *authorizing the issuance of the bonds pursuant to Section 53397.1,*  
29 if the action is brought by an interested person pursuant to Section  
30 863 of the Code of Civil Procedure. Any appeal from a judgment  
31 in that action or proceeding shall be commenced within 30 days  
32 after entry of judgment.

33 SEC. 4. Section 53395.14 of the Government Code is amended  
34 to read:

35 53395.14. After receipt of a copy of the resolution of intention  
36 to establish a district, the official designated pursuant to Section  
37 53395.13 shall prepare a proposed infrastructure financing plan.  
38 The infrastructure financing plan shall be consistent with the  
39 general plan of the city within which the district is located and  
40 shall include all of the following:

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

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

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

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

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

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

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

30 (4) A limit on the total number of dollars of taxes which may  
31 be allocated to the district pursuant to the plan.

32 (5) A date on which the district will cease to exist, by which  
33 time all tax allocation to the district will end. The date shall not  
34 be more than ~~30~~ 40 years from the date ~~on which the ordinance~~  
35 ~~forming the district is adopted pursuant to Section 53395.23~~ *the*  
36 *legislative body adopted the resolution adopting the infrastructure*  
37 *finance plan pursuant to Section 53395.20.*

38 (6) An analysis of the costs to the city of providing facilities  
39 and services to the area of the district while the area is being  
40 developed and after the area is developed. The plan shall also

1 include an analysis of the tax, fee, charge, and other revenues  
2 expected to be received by the city as a result of expected  
3 development in the area of the district.

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

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

12 SEC. 5. Section 53395.19 of the Government Code is amended  
13 to read:

14 53395.19. (a) The legislative body shall not enact a resolution  
15 ~~proposing formation of~~ *forming* a district and providing for the  
16 division of taxes of any affected taxing entity pursuant to Article  
17 3 (commencing with Section 53396) unless a resolution approving  
18 the plan has been adopted by the governing body of each affected  
19 taxing entity which is proposed to be subject to division of taxes  
20 pursuant to Article 3 (commencing with Section 53396) has been  
21 filed with the legislative body at or prior to the time of the hearing.

22 (b) Nothing in this section shall be construed to prevent the  
23 legislative body from amending its infrastructure financing plan  
24 and adopting a resolution ~~proposing formation of~~ *forming* the  
25 infrastructure financing district without allocation of the tax  
26 revenues of any affected taxing entity ~~which~~ *that* has not approved  
27 the infrastructure financing plan by resolution of the governing  
28 body of the affected taxing entity.

29 SEC. 6. Section 53395.20 of the Government Code is amended  
30 to read:

31 53395.20. ~~(a)~~ At the conclusion of the hearing *required by*  
32 *Section 53395.17*, the legislative body may adopt a resolution  
33 ~~proposing adoption of~~ *adopting* the infrastructure financing plan,  
34 as modified, and *approving the* formation of the infrastructure  
35 financing district in a manner consistent with Section 53395.19,  
36 or it may abandon the proceedings. ~~If the legislative body adopts~~  
37 ~~a resolution proposing formation of the district, it shall then submit~~  
38 ~~the proposal to create the district to the qualified electors of the~~  
39 ~~proposed district in the next general election or in a special election~~  
40 ~~to be held, notwithstanding any other requirement, including any~~

1 requirement that elections be held on specified dates, contained in  
2 the Elections Code, at least 90 days, but not more than 180 days,  
3 following the adoption of the resolution of formation. The  
4 legislative body shall provide the resolution of formation, a  
5 certified map of sufficient scale and clarity to show the boundaries  
6 of the district, and a sufficient description to allow the election  
7 official to determine the boundaries of the district to the official  
8 conducting the election within three business days after the  
9 adoption of the resolution of formation. The assessor's parcel  
10 numbers for the land within the district shall be included if it is a  
11 landowner election or the district does not conform to an existing  
12 district's boundaries and if requested by the official conducting  
13 the election. If the election is to be held less than 125 days  
14 following the adoption of the resolution of formation, the  
15 concurrence of the election official conducting the election shall  
16 be required. However, any time limit specified by this section or  
17 requirement pertaining to the conduct of the election may be  
18 waived with the unanimous consent of the qualified electors of the  
19 proposed district and the concurrence of the election official  
20 conducting the election.

21 (b) If at least 12 persons have been registered to vote within the  
22 territory of the proposed district for each of the 90 days preceding  
23 the close of the hearing, the vote shall be by the registered voters  
24 of the proposed district, who need not necessarily be the same  
25 persons, with each voter having one vote. Otherwise, the vote shall  
26 be by the landowners of the proposed district and each landowner  
27 who is the owner of record at the close of the protest hearing, or  
28 the authorized representative thereof, shall have one vote for each  
29 acre or portion of an acre of land that he or she owns within the  
30 proposed district. The number of votes to be voted by a particular  
31 landowner shall be specified on the ballot provided to that  
32 landowner.

33 (c) Ballots for the special election authorized by subdivision (a)  
34 may be distributed to qualified electors by mail with return postage  
35 prepaid or by personal service by the election official. The official  
36 conducting the election may certify the proper mailing of ballots  
37 by an affidavit, which shall be exclusive proof of mailing in the  
38 absence of fraud. The voted ballots shall be returned to the election  
39 officer conducting the election not later than the hour specified in

1 the resolution calling the election. However, if all the qualified  
2 voters have voted, the election shall be closed.

3 SEC. 7. Section 53395.21 of the Government Code is repealed.

4 53395.21. (a) Except as otherwise provided in this chapter,  
5 the provisions of law regulating elections of the local agency that  
6 calls an election pursuant to this chapter, insofar as they may be  
7 applicable, shall govern all elections conducted pursuant to this  
8 chapter. Except as provided in subdivision (b), there shall be  
9 prepared and included in the ballot material provided to each voter,  
10 an impartial analysis pursuant to Section 9160 or 9280 of the  
11 Elections Code, arguments and rebuttals, if any, pursuant to  
12 Sections 9162 to 9167, inclusive, and 9190 of the Elections Code  
13 or pursuant to Sections 9281 to 9287, inclusive, and 9295 of the  
14 Elections Code.

15 (b) If the vote is to be by the landowners of the proposed district,  
16 analysis and arguments may be waived with the unanimous consent  
17 of all the landowners and shall be so stated in the order for the  
18 election.

19 SEC. 8. Section 53395.22 of the Government Code is repealed.

20 53395.22. (a) If the election is to be conducted by mail ballot,  
21 the election official conducting the election shall provide ballots  
22 and election materials pursuant to subdivision (d) of Section 53326  
23 and Section 53327, together with all supplies and instructions  
24 necessary for the use and return of the ballot.

25 (b) The identification envelope for return of mail ballots used  
26 in landowner elections shall contain the following:

27 (1) The name of the landowner.

28 (2) The address of the landowner.

29 (3) A declaration, under penalty of perjury, stating that the voter  
30 is the owner of record or the authorized representative of the  
31 landowner entitled to vote and is the person whose name appears  
32 on the identification envelope.

33 (4) The printed name and signature of the voter.

34 (5) The address of the voter.

35 (6) The date of signing and place of execution of the declaration  
36 pursuant to paragraph (3).

37 (7) A notice that the envelope contains an official ballot and is  
38 to be opened only by the canvassing board.

39 SEC. 9. Section 53395.23 of the Government Code is repealed.

1     ~~53395.23.—After the canvass of returns of any election pursuant~~  
2 ~~to Section 53395.20, the legislative body may, by ordinance, adopt~~  
3 ~~the infrastructure financing plan and create the district with full~~  
4 ~~force and effect of law, if two-thirds of the votes upon the question~~  
5 ~~of creating the district are in favor of creating the district.~~

6     SEC. 10. Section 53395.24 of the Government Code is  
7 repealed.

8     ~~53395.24.—After the canvass of returns of any election~~  
9 ~~conducted pursuant to Section 53395.20, the legislative body shall~~  
10 ~~take no further action with respect to the proposed infrastructure~~  
11 ~~financing district for one year from the date of the election if the~~  
12 ~~question of creating the district fails to receive approval by~~  
13 ~~two-thirds of the votes cast upon the question.~~

14     SEC. 11. Section 53395.25 of the Government Code is  
15 repealed.

16     ~~53395.25.—The legislative body may submit a proposition to~~  
17 ~~establish or change the appropriations limit, as defined by~~  
18 ~~subdivision (h) of Section 8 of Article XIII B of the California~~  
19 ~~Constitution, of a district to the qualified electors of a proposed~~  
20 ~~or established district. The proposition establishing or changing~~  
21 ~~the appropriations limit shall become effective if approved by the~~  
22 ~~qualified electors voting on the proposition and shall be adjusted~~  
23 ~~for changes in the cost of living and changes in populations, as~~  
24 ~~defined by subdivisions (b) and (c) of Section 7901, except that~~  
25 ~~the change in population may be estimated by the legislative body~~  
26 ~~in the absence of an estimate by the Department of Finance, and~~  
27 ~~in accordance with Section 1 of Article XIII B of the California~~  
28 ~~Constitution. For purposes of adjusting for changes in population,~~  
29 ~~the population of the district shall be deemed to be at least one~~  
30 ~~person during each calendar year. Any election held pursuant to~~  
31 ~~this section may be combined with any election held pursuant to~~  
32 ~~Section 53395.20 in any convenient manner.~~

33     SEC. 12. Section 53396 of the Government Code is amended  
34 to read:

35     53396. Any infrastructure financing plan may contain a  
36 provision that taxes, if any, levied upon taxable property in the  
37 area included within the infrastructure financing district each year  
38 by or for the benefit of the State of California, or any affected  
39 taxing entity after the effective date of the ~~ordinance~~ *resolution*



1 adopted pursuant to Section ~~53395.23~~ 53395.20 to create the  
2 district, shall be divided as follows:

3 (a) That portion of the taxes which would be produced by the  
4 rate upon which the tax is levied each year by or for each of the  
5 affected taxing entities upon the total sum of the assessed value  
6 of the taxable property in the district as shown upon the assessment  
7 roll used in connection with the taxation of the property by the  
8 affected taxing entity, last equalized prior to the effective date of  
9 the ~~ordinance~~ *resolution* adopted pursuant to Section ~~53395.23~~  
10 53395.20 to create the district, shall be allocated to, and when  
11 collected shall be paid to, the respective affected taxing entities as  
12 taxes by or for the affected taxing entities on all other property are  
13 paid.

14 (b) That portion of the levied taxes each year specified in the  
15 adopted infrastructure financing plan for the city and each affected  
16 taxing entity which has agreed to participate pursuant to Section  
17 53395.19 in excess of the amount specified in subdivision (a) shall  
18 be allocated to, and when collected shall be paid into a special  
19 fund of, the district for all lawful purposes of the district. Unless  
20 and until the total assessed valuation of the taxable property in a  
21 district exceeds the total assessed value of the taxable property in  
22 the district as shown by the last equalized assessment roll referred  
23 to in subdivision (a), all of the taxes levied and collected upon the  
24 taxable property in the district shall be paid to the respective  
25 affected taxing entities. When the district ceases to exist pursuant  
26 to the adopted infrastructure financing plan, all moneys thereafter  
27 received from taxes upon the taxable property in the district shall  
28 be paid to the respective affected taxing entities as taxes on all  
29 other property are paid.

30 SEC. 13. Section 53397.1 of the Government Code is amended  
31 to read:

32 53397.1. The legislative body may, by majority vote, ~~initiate~~  
33 ~~proceedings to issue bonds~~ *authorize the issuance of bonds*  
34 pursuant to this chapter by adopting a resolution ~~stating its intent~~  
35 ~~to issue the bonds.~~

36 SEC. 14. Section 53397.2 of the Government Code is amended  
37 to read:

38 53397.2. The resolution adopted pursuant to Section 53397.1  
39 shall contain all of the following information:

- 1 (a) A description of the facilities to be financed with the
- 2 proceeds of the ~~proposed~~ bond issue.
- 3 (b) The estimated cost of the facilities, the estimated cost of
- 4 preparing and issuing the bonds, and the principal amount of the
- 5 ~~proposed~~ bond issuance.
- 6 (c) The maximum interest rate and discount on the ~~proposed~~
- 7 bond issuance.
- 8 ~~(d) The date of the election on the proposed bond issuance and~~
- 9 ~~the manner of holding the election.~~
- 10 (e)
- 11 (d) A determination of the amount of tax revenue available or
- 12 estimated to be available, for the payment of the principal of, and
- 13 interest on, the bonds.
- 14 (f)
- 15 (e) A finding that the amount necessary to pay the principal of,
- 16 and interest on, the ~~proposed~~ bond issuance will be less than, or
- 17 equal to, the amount determined pursuant to subdivision ~~(e)~~ (d).
- 18 (f) *The issuance of the bonds in one or more series.*
- 19 (g) *The date the bonds will bear.*
- 20 (h) *The denomination of the bonds.*
- 21 (i) *The form of the bonds.*
- 22 (j) *The manner and execution of the bonds.*
- 23 (k) *The medium of payment in which the bonds are payable.*
- 24 (l) *The place or manner of payment and any requirements for*
- 25 *registration of the bonds.*
- 26 (m) *The terms or call of redemption, with or without premium.*
- 27 SEC. 15. Section 53397.4 of the Government Code is repealed.
- 28 ~~53397.4. The clerk of the legislative body shall publish the~~
- 29 ~~resolution adopted pursuant to Section 53397.1 once a day for at~~
- 30 ~~least seven successive days in a newspaper published in the city~~
- 31 ~~or county at least six days a week, or at least once a week for two~~
- 32 ~~successive weeks in a newspaper published in the city or county~~
- 33 ~~less than six days a week.~~
- 34 ~~If there are no newspapers meeting these criteria, the resolution~~
- 35 ~~shall be posted in three public places within the territory of the~~
- 36 ~~district for two succeeding weeks.~~
- 37 SEC. 16. Section 53397.5 of the Government Code is repealed.
- 38 ~~53397.5. The legislative body shall submit the proposal to issue~~
- 39 ~~the bonds to the voters who reside within the district. The election~~
- 40 ~~shall be conducted in the same manner as the election to create the~~

1 district pursuant to ~~Section 53395.20~~ and the two elections may  
2 be consolidated.

3 SEC. 17. Section 53397.6 of the Government Code is repealed.

4 ~~53397.6. (a) The bonds may be issued if two-thirds of the~~  
5 ~~voters voting on the proposition vote in favor of issuing the bonds.~~

6 ~~(b) If the voters approve the issuance of the bonds as provided~~  
7 ~~by subdivision (a), the legislative body shall proceed with the~~  
8 ~~issuance of the bonds by adopting a resolution which shall provide~~  
9 ~~for all of the following:~~

10 ~~(1) The issuance of the bonds in one or more series.~~

11 ~~(2) The principal amount of the bonds, which shall be consistent~~  
12 ~~with the amount specified in subdivision (b) of Section 53397.2.~~

13 ~~(3) The date the bonds will bear.~~

14 ~~(4) The date of maturity of the bonds.~~

15 ~~(5) The denomination of the bonds.~~

16 ~~(6) The form of the bonds.~~

17 ~~(7) The manner of execution of the bonds.~~

18 ~~(8) The medium of payment in which the bonds are payable.~~

19 ~~(9) The place or manner of payment and any requirements for~~  
20 ~~registration of the bonds.~~

21 ~~(10) The terms of call or redemption, with or without premium.~~

22 SEC. 18. Section 53397.7 of the Government Code is repealed.

23 ~~53397.7. If any proposition submitted to the voters pursuant~~  
24 ~~to this chapter is defeated by the voters, the legislative body shall~~  
25 ~~not submit, or cause to be submitted, a similar proposition to the~~  
26 ~~voters for at least one year after the first election.~~