

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 214**

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**Introduced by Senator Wolk**

February 8, 2011

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An act to amend Sections 53395, 53395.3, 53395.4, 53395.5, 53395.6, 53395.7, 53395.10, 53395.11, 53395.12, 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 amended, 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. *The bill would authorize a district to finance specified actions and projects and prohibit the district from providing financial assistance to a vehicle dealer or big box retailer, as defined.*

(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. *The bill would also impose additional reporting requirements after the adoption of an 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 of the Government Code is  
 2     amended to read:  
 3     53395. (a) The Legislature finds and declares that the state  
 4     and federal governments have withdrawn in whole or in part from  
 5     their former role in financing ~~major, regional, or communitywide~~  
 6     infrastructure, including highways and interchanges, sewage  
 7     treatment and water reclamation works, water supply and treatment  
 8     works, flood control and drainage works, schools, libraries, parks,  
 9     parking facilities, open space, and seismic retrofit and rehabilitation  
 10    of public facilities.  
 11    (b) The Legislature further finds and declares that the methods  
 12    available to local agencies to finance public works often place an  
 13    undue and unfair burden on buyers of new homes, especially for  
 14    public works that benefit the broader community.  
 15    (c) The Legislature further finds and declares that the absence  
 16    of practical and equitable methods for financing ~~both regional and~~  
 17    ~~local~~ public works leads to a declining standard of public works,  
 18    a reduced quality of life and decreased safety for affected citizens,  
 19    increased objection to otherwise desirable development, and  
 20    excessive costs for homebuyers.  
 21    (d) *The Legislature further finds and declares that because*  
 22    *California’s disadvantaged communities, as defined in Section*  
 23    *75005 of the Public Resources Code, may not be beneficiaries of*  
 24    *quality public works, these communities are neglected and, thus,*  
 25    *isolated from and deprived of the basic facilities needed for public*  
 26    *health and safety.*  
 27    ~~(d)~~  
 28    (e) The Legislature further finds and declares that it is equitable  
 29    and in the public interest to provide alternative procedures for

1 financing public works and services needed to meet the needs of  
2 new housing, *disadvantaged communities*, and other development  
3 projects.

4 *SEC. 2. Section 53395.3 of the Government Code is amended*  
5 *to read:*

6 53395.3. (a) A district may finance (1) the purchase,  
7 construction, expansion, improvement, seismic retrofit, or  
8 rehabilitation of any real or other tangible property with an  
9 estimated useful life of 15 years or longer which satisfies the  
10 requirements of subdivision (b), (2) may finance planning and  
11 design work which is directly related to the purchase, construction,  
12 expansion, or rehabilitation of that property and (3) the costs  
13 described in Sections 53395.5, and 53396.5. A district may only  
14 finance the purchase of facilities for which construction has been  
15 completed, as determined by the legislative body. The facilities  
16 need not be physically located within the boundaries of the district.  
17 A district ~~may~~ *shall* not finance routine maintenance, repair work,  
18 or the costs of ongoing operation or providing services of any kind.  
19 *A district shall not compensate the members of the legislative body*  
20 *of the city for any activities undertaken pursuant to this chapter.*

21 (b) The district shall finance only public capital facilities ~~of~~  
22 ~~communitywide significance, which provide significant benefits~~  
23 ~~to an area larger than the area of the district~~, including, but not  
24 limited to, all of the following:

25 (1) Highways, interchanges, ramps and bridges, arterial streets,  
26 parking facilities, and transit facilities.

27 (2) Sewage treatment and water reclamation plants and  
28 interceptor pipes.

29 (3) Facilities for the collection and treatment of water for urban  
30 uses.

31 (4) Flood control levees and dams, retention basins, and drainage  
32 channels.

33 (5) Child care facilities.

34 (6) Libraries.

35 (7) Parks, recreational facilities, and open space.

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

38 (c) *The district may finance any actions necessary to implement*  
39 *the Polanco Redevelopment Act (Article 12.5 (commencing with*

1 Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health  
2 and Safety Code).

3 (d) The district may finance any projects that implement a  
4 sustainable communities strategy prepared pursuant to Section  
5 65074.

6 (e)

7 (e) Any district which constructs dwelling units shall set aside  
8 not less than 20 percent of those units to increase and improve the  
9 community’s supply of low- and moderate-income housing  
10 available at an affordable housing cost, as defined by Section  
11 50052.5 of the Health and Safety Code, to persons and families of  
12 low- and moderate-income, as defined in Section 50093 of the  
13 Health and Safety Code.

14 SEC. 3. Section 53395.4 of the Government Code is amended  
15 to read:

16 53395.4. (a) A district ~~may not include any portion of a~~  
17 ~~redevelopment project area which is or has been previously created~~  
18 ~~pursuant to Part 1 (commencing with Section 33000) of Division~~  
19 ~~24 of the Health and Safety Code, whether the creation is or was~~  
20 ~~proper or improper. A redevelopment project area may not include~~  
21 ~~any portion of a district created pursuant to this chapter shall not~~  
22 ~~provide any form of financial assistance to a vehicle dealer or a~~  
23 ~~big box retailer, or a business entity that sells or leases land to a~~  
24 ~~vehicle dealer or big box retailer, that is relocating from the~~  
25 ~~territorial jurisdiction of one local agency to the territorial~~  
26 ~~jurisdiction of another local agency but within the same market~~  
27 ~~area, as those terms are used in Section 53084.~~

28 (b) A district may finance only the facilities ~~or services~~  
29 authorized in this chapter to the extent that the facilities ~~or services~~  
30 are in addition to those provided in the territory of the district  
31 before the district was created. The additional facilities ~~or services~~  
32 may not supplant facilities ~~or services~~ already available within that  
33 territory when the district was created but may supplement those  
34 facilities ~~and services~~ as needed to serve new developments.

35 (c) A district may include areas which are not contiguous.

36 SECTION 4.

37 SEC. 4. Section 53395.5 of the Government Code is amended  
38 to read:

39 53395.5. It is the intent of the Legislature that the establishment  
40 of a district should not ordinarily lead to the removal of existing

1 dwelling units. If, however, any dwelling units are proposed to be  
2 removed or destroyed in the course of private development or  
3 public works construction within the area of the district, the  
4 legislative body shall do all of the following:

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

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

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

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

36 ~~SEC. 2.~~

37 *SEC. 5.* Section 53395.6 of the Government Code is amended  
38 to read:

39 53395.6. Any action or proceeding to attack, review, set aside,  
40 void, or annul the creation of a district, adoption of an infrastructure

1 financing plan, including a division of taxes thereunder, shall be  
2 commenced within 30 days after the date the legislative body  
3 adopted the resolution adopting the infrastructure ~~finance~~ *financing*  
4 plan pursuant to Section 53395.20. Consistent with the time  
5 limitations of this section, such an action or proceeding with respect  
6 to a division of taxes under this chapter may be brought pursuant  
7 to Chapter 9 (commencing with Section 860) of Title 10 of Part 2  
8 of the Code of Civil Procedure, except that Section 869 of the  
9 Code of Civil Procedure shall not apply.

10 ~~SEC. 3.~~

11 *SEC. 6.* Section 53395.7 of the Government Code is amended  
12 to read:

13 53395.7. An action to determine the validity of the issuance  
14 of bonds pursuant to this chapter may be brought pursuant to  
15 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of  
16 the Code of Civil Procedure. However, notwithstanding the time  
17 limits specified in Section 860 of the Code of Civil Procedure, the  
18 action shall be commenced within 30 days after the date the  
19 legislative body adopted the resolution authorizing the issuance  
20 of the bonds pursuant to Section 53397.1, if the action is brought  
21 by an interested person pursuant to Section 863 of the Code of  
22 Civil Procedure. Any appeal from a judgment in that action or  
23 proceeding shall be commenced within 30 days after entry of  
24 judgment.

25 *SEC. 7.* Section 53395.10 of the Government Code is amended  
26 to read:

27 53395.10. A legislative body of a city may designate one or  
28 more proposed infrastructure financing districts pursuant to this  
29 chapter. Proceedings for the establishment of a district shall be  
30 instituted by the adoption of a resolution of intention to establish  
31 the proposed district and shall do all of the following:

32 (a) State that an infrastructure financing district is proposed to  
33 be established under the terms of this chapter and describe the  
34 boundaries of the proposed district, which may be accomplished  
35 by reference to a map on file in the office of the clerk of the city.

36 (b) State the type of public facilities proposed to be financed  
37 by the district. The district may only finance public facilities  
38 authorized by Section 53395.3.

39 (c) *State the need for the district and the goals the district*  
40 *proposes to achieve by financing public facilities.*

1 (e)  
2 (d) State that incremental property tax revenue from the city  
3 and some or all affected taxing entities within the district may be  
4 used to finance these public facilities.

5 (d)  
6 (e) Fix a time and place for a public hearing on the proposal.

7 SEC. 8. Section 53395.11 of the Government Code is amended  
8 to read:

9 53395.11. The legislative body shall direct the clerk to mail a  
10 copy of the resolution of intention to create the district to each  
11 owner of land within the district *and to each affected taxing entity.*

12 SEC. 9. Section 53395.12 of the Government Code is amended  
13 to read:

14 53395.12. The legislative body shall direct the clerk to ~~mail a~~  
15 ~~copy of the resolution to each affected taxing entity~~ *post a copy*  
16 *of the resolution of intention to create the district in an easily*  
17 *identifiable and accessible location on the legislative body's*  
18 *Internet Web site.*

19 ~~SEC. 4.~~

20 SEC. 10. Section 53395.14 of the Government Code is amended  
21 to read:

22 53395.14. After receipt of a copy of the resolution of intention  
23 to establish a district, the official designated pursuant to Section  
24 53395.13 shall prepare a proposed infrastructure financing plan.  
25 The infrastructure financing plan shall be consistent with the  
26 general plan of the city within which the district is located and  
27 shall include all of the following:

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

31 (b) A description of the public facilities required to serve the  
32 development proposed in the area of the district including those  
33 to be provided by the private sector, those to be provided by  
34 governmental entities without assistance under this chapter, those  
35 public improvements and facilities to be financed with assistance  
36 from the proposed district, and those to be provided jointly. The  
37 description shall include the proposed location, timing, and costs  
38 of the public improvements and facilities.

- 1 (c) A finding that the public facilities ~~are of communitywide~~  
2 ~~significance~~ and provide significant benefits to an area larger than  
3 the area of the district.
- 4 (d) A financing section, which shall contain all of the following  
5 information:
  - 6 (1) A specification of the maximum portion of the incremental  
7 tax revenue of the city and of each affected taxing entity proposed  
8 to be committed to the district for each year during which the  
9 district will receive incremental tax revenue. The portion need not  
10 be the same for all affected taxing entities. The portion may change  
11 over time.
  - 12 (2) A projection of the amount of tax revenues expected to be  
13 received by the district in each year during which the district will  
14 receive tax revenues, including an estimate of the amount of tax  
15 revenues attributable to each affected taxing entity for each year.
  - 16 (3) A plan for financing the public facilities to be assisted by  
17 the district, including a detailed description of any intention to  
18 incur debt.
  - 19 (4) A limit on the total number of dollars of taxes which may  
20 be allocated to the district pursuant to the plan.
  - 21 (5) A date on which the district will cease to exist, by which  
22 time all tax allocation to the district will end. The date shall not  
23 be more than 40 years from the date the legislative body adopted  
24 the resolution adopting the infrastructure ~~finance~~ *financing* plan  
25 pursuant to Section 53395.20.
  - 26 (6) An analysis of the costs to the city of providing facilities  
27 and services to the area of the district while the area is being  
28 developed and after the area is developed. The plan shall also  
29 include an analysis of the tax, fee, charge, and other revenues  
30 expected to be received by the city as a result of expected  
31 development in the area of the district.
  - 32 (7) An analysis of the projected fiscal impact of the district and  
33 the associated development upon each affected taxing entity.
- 34 (e) If any dwelling units occupied by persons or families of low  
35 or moderate income are proposed to be removed or destroyed in  
36 the course of private development or public works construction  
37 within the area of the district, a plan providing for replacement of  
38 those units and relocation of those persons or families consistent  
39 with the requirements of Section 53395.5.



1 (f) *The goals the district proposes to achieve by financing public*  
2 *facilities.*

3 ~~SEC. 5.~~

4 *SEC. 11.* Section 53395.19 of the Government Code is amended  
5 to read:

6 53395.19. (a) The legislative body shall not enact a resolution  
7 forming a district and providing for the division of taxes of any  
8 affected taxing entity pursuant to Article 3 (commencing with  
9 Section 53396) unless a resolution approving the plan has been  
10 adopted by the governing body of each affected taxing entity which  
11 is proposed to be subject to division of taxes pursuant to Article  
12 3 (commencing with Section 53396) has been filed with the  
13 legislative body at or prior to the time of the hearing.

14 (b) *In the case of an affected taxing entity that is a special*  
15 *district which provides fire protection services and where the*  
16 *county board of supervisors is the governing authority or has*  
17 *appointed itself as the governing board of the district, the plan*  
18 *shall be adopted by a separate resolution approved by the district's*  
19 *governing authority or governing board.*

20 ~~(b)~~

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

27 ~~SEC. 6.~~

28 *SEC. 12.* Section 53395.20 of the Government Code is amended  
29 to read:

30 53395.20. (a) At the conclusion of the hearing required by  
31 Section 53395.17, the legislative body may adopt a resolution  
32 adopting the infrastructure financing plan, as modified, and  
33 approving the formation of the infrastructure financing district in  
34 a manner consistent with Section 53395.19, or it may abandon the  
35 ~~proceedings~~ *proceedings.*

36 (b) *No later than June 30 of each year after the adoption of the*  
37 *infrastructure financing plan, the legislative body shall direct the*  
38 *clerk to mail an annual report to each owner of land within the*  
39 *district and each affected taxing entity. The legislative body shall*  
40 *direct the clerk to post this annual report in an easily identifiable*

1 *and accessible location on the legislative body’s Internet Web site.*

2 *The annual report shall contain all of the following:*

3 *(1) A summary of the district’s expenditures.*

4 *(2) A description of the progress made towards the district’s*  
5 *adopted goals.*

6 *(3) An assessment of the status regarding completion of the*  
7 *district’s public works projects.*

8 *(c) If the district fails to provide the annual report required by*  
9 *subdivision (b), the district shall not spend any funds to construct*  
10 *public works projects until the annual report is submitted.*

11 *(d) If the district fails to produce evidence of progress made*  
12 *towards achieving its adopted goals for five consecutive years, the*  
13 *district shall not spend any funds to construct any new public*  
14 *works projects; provided, however, the district may complete any*  
15 *public works projects that it had started. Any excess property tax*  
16 *increment revenues that had been allocated for new public works*  
17 *projects shall be reallocated to the affected taxing entities.*

18 ~~SEC. 7.~~

19 *SEC. 13.* Section 53395.21 of the Government Code is repealed.

20 ~~SEC. 8.~~

21 *SEC. 14.* Section 53395.22 of the Government Code is repealed.

22 ~~SEC. 9.~~

23 *SEC. 15.* Section 53395.23 of the Government Code is repealed.

24 ~~SEC. 10.~~

25 *SEC. 16.* Section 53395.24 of the Government Code is repealed.

26 ~~SEC. 11.~~

27 *SEC. 17.* Section 53395.25 of the Government Code is repealed.

28 ~~SEC. 12.~~

29 *SEC. 18.* Section 53396 of the Government Code is amended  
30 to read:

31 53396. Any infrastructure financing plan may contain a  
32 provision that taxes, if any, levied upon taxable property in the  
33 area included within the infrastructure financing district each year  
34 by or for the benefit of the State of California, or any affected  
35 taxing entity after the effective date of the resolution adopted  
36 pursuant to Section 53395.20 to create the district, shall be divided  
37 as follows:

38 (a) That portion of the taxes which would be produced by the  
39 rate upon which the tax is levied each year by or for each of the  
40 affected taxing entities upon the total sum of the assessed value

1 of the taxable property in the district as shown upon the assessment  
2 roll used in connection with the taxation of the property by the  
3 affected taxing entity, last equalized prior to the effective date of  
4 the resolution adopted pursuant to Section 53395.20 to create the  
5 district, shall be allocated to, and when collected shall be paid to,  
6 the respective affected taxing entities as taxes by or for the affected  
7 taxing entities on all other property are paid.

8 (b) That portion of the levied taxes each year specified in the  
9 adopted infrastructure financing plan for the city and each affected  
10 taxing entity which has agreed to participate pursuant to Section  
11 53395.19 in excess of the amount specified in subdivision (a) shall  
12 be allocated to, and when collected shall be paid into a special  
13 fund of, the district for all lawful purposes of the district. Unless  
14 and until the total assessed valuation of the taxable property in a  
15 district exceeds the total assessed value of the taxable property in  
16 the district as shown by the last equalized assessment roll referred  
17 to in subdivision (a), all of the taxes levied and collected upon the  
18 taxable property in the district shall be paid to the respective  
19 affected taxing entities. When the district ceases to exist pursuant  
20 to the adopted infrastructure financing plan, all moneys thereafter  
21 received from taxes upon the taxable property in the district shall  
22 be paid to the respective affected taxing entities as taxes on all  
23 other property are paid.

24 ~~SEC. 13.~~

25 *SEC. 19.* Section 53397.1 of the Government Code is amended  
26 to read:

27 53397.1. The legislative body may, by majority vote, authorize  
28 the issuance of bonds pursuant to this chapter by adopting a  
29 resolution.

30 ~~SEC. 14.~~

31 *SEC. 20.* Section 53397.2 of the Government Code is amended  
32 to read:

33 53397.2. The resolution adopted pursuant to Section 53397.1  
34 shall contain all of the following information:

35 (a) A description of the facilities to be financed with the  
36 proceeds of the bond issue.

37 (b) The estimated cost of the facilities, the estimated cost of  
38 preparing and issuing the bonds, and the principal amount of the  
39 bond issuance.

- 1 (c) The maximum interest rate and discount on the bond
- 2 issuance.
- 3 (d) A determination of the amount of tax revenue available or
- 4 estimated to be available, for the payment of the principal of, and
- 5 interest on, the bonds.
- 6 (e) A finding that the amount necessary to pay the principal of,
- 7 and interest on, the bond issuance will be less than, or equal to,
- 8 the amount determined pursuant to subdivision (d).
- 9 (f) The issuance of the bonds in one or more series.
- 10 (g) The date the bonds will bear.
- 11 (h) The denomination of the bonds.
- 12 (i) The form of the bonds.
- 13 (j) The manner and execution of the bonds.
- 14 (k) The medium of payment in which the bonds are payable.
- 15 (l) The place or manner of payment and any requirements for
- 16 registration of the bonds.
- 17 (m) The terms or call of redemption, with or without premium.
- 18 ~~SEC. 15.~~
- 19 *SEC. 21.* Section 53397.4 of the Government Code is repealed.
- 20 ~~SEC. 16.~~
- 21 *SEC. 22.* Section 53397.5 of the Government Code is repealed.
- 22 ~~SEC. 17.~~
- 23 *SEC. 23.* Section 53397.6 of the Government Code is repealed.
- 24 ~~SEC. 18.~~
- 25 *SEC. 24.* Section 53397.7 of the Government Code is repealed.