

AMENDED IN ASSEMBLY JUNE 21, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 214

Introduced by Senator Wolk
(*Coauthor: Assembly Member Williams*)

February 8, 2011

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 *revise the provisions governing the public facilities that may be financed. The 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 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4 and federal governments have withdrawn in whole or in part from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 infrastructure, including highways
6 and interchanges, sewage treatment and water reclamation works,
7 water supply and treatment works, flood control and drainage
8 works, schools, libraries, parks, parking facilities, open space, and
9 seismic retrofit and rehabilitation of public facilities.

10 (b) The Legislature further finds and declares that the methods
11 available to local agencies to finance public works often place an
12 undue and unfair burden on buyers of new homes, especially for
13 public works that benefit the broader community.

14 (c) The Legislature further finds and declares that the absence
15 of practical and equitable methods for financing public works leads
16 to a declining standard of public works, a reduced quality of life
17 and decreased safety for affected citizens, increased objection to
18 otherwise desirable development, and excessive costs for
19 homebuyers.

20 (d) The Legislature further finds and declares that because
21 California's disadvantaged communities, as defined in Section
22 75005 of the Public Resources Code, may not be beneficiaries of
23 quality public works, these communities are neglected and, thus,
24 isolated from and deprived of the basic facilities needed for public
25 health and safety.

26 (e) The Legislature further finds and declares that it is equitable
27 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 shall not finance routine maintenance, repair work, or
18 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 *structural or nonstructural*
22 public capital facilities, including, but not limited to, all of the
23 following:

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

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

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

30 (4) ~~Flood control levees and~~ *management, including levees,*
31 *bypasses, dams, retention basins, and drainage channels.*

32 (5) Child care facilities.

33 (6) Libraries.

34 (7) Parks, recreational facilities, ~~and open space~~ *open space,*
35 *and habitat restoration.*

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

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

15 53395.4. (a) A district shall not provide any form of financial
16 assistance to a vehicle dealer or a big box retailer, or a business
17 entity that sells or leases land to a vehicle dealer or big box retailer,
18 that is relocating from the territorial jurisdiction of one local agency
19 to the territorial jurisdiction of another local agency but within the
20 same market area, as those terms are used in Section 53084.

21 (b) A district may finance only the facilities authorized in this
22 chapter to the extent that the facilities are in addition to those
23 provided in the territory of the district before the district was
24 created. The additional facilities may not supplant facilities already
25 available within that territory when the district was created but
26 may supplement those facilities as needed to serve new
27 developments.

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

29 SEC. 4. Section 53395.5 of the Government Code is amended
30 to read:

31 53395.5. It is the intent of the Legislature that the establishment
32 of a district should not ordinarily lead to the removal of existing
33 dwelling units. If, however, any dwelling units are proposed to be
34 removed or destroyed in the course of private development or
35 public works construction within the area of the district, the
36 legislative body shall do all of the following:

37 (a) Within four years of the removal or destruction, cause or
38 require the construction or rehabilitation, for rental or sale to
39 persons or families of low or moderate income, of an equal number
40 of replacement dwelling units at affordable housing cost, as defined

1 in Section 50052.5 of the Health and Safety Code, within the
2 territory of the district if the dwelling units removed were inhabited
3 by persons or families of low or moderate income, as defined in
4 Section 50093 of the Health and Safety Code.

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

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

19 (d) Ensure that removal or destruction of any dwelling units
20 occupied by persons or families of low or moderate income not
21 take place unless and until there are suitable housing units, at
22 comparable cost to the units from which the persons or families
23 were displaced, available and ready for occupancy by the residents
24 of the units at the time of their displacement. The housing units
25 shall be suitable to the needs of these displaced persons or families
26 and shall be decent, safe, sanitary, and otherwise standard
27 dwellings.

28 SEC. 5. Section 53395.6 of the Government Code is amended
29 to read:

30 53395.6. Any action or proceeding to attack, review, set aside,
31 void, or annul the creation of a district, adoption of an infrastructure
32 financing plan, including a division of taxes thereunder, shall be
33 commenced within 30 days after the date the legislative body
34 adopted the resolution adopting the infrastructure financing plan
35 pursuant to Section 53395.20. Consistent with the time limitations
36 of this section, such an action or proceeding with respect to a
37 division of taxes under this chapter may be brought pursuant to
38 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
39 the Code of Civil Procedure, except that Section 869 of the Code
40 of Civil Procedure shall not apply.

1 SEC. 6. Section 53395.7 of the Government Code is amended
2 to read:

3 53395.7. An action to determine the validity of the issuance
4 of bonds pursuant to this chapter may be brought pursuant to
5 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
6 the Code of Civil Procedure. However, notwithstanding the time
7 limits specified in Section 860 of the Code of Civil Procedure, the
8 action shall be commenced within 30 days after the date the
9 legislative body adopted the resolution authorizing the issuance
10 of the bonds pursuant to Section 53397.1, if the action is brought
11 by an interested person pursuant to Section 863 of the Code of
12 Civil Procedure. Any appeal from a judgment in that action or
13 proceeding shall be commenced within 30 days after entry of
14 judgment.

15 SEC. 7. Section 53395.10 of the Government Code is amended
16 to read:

17 53395.10. A legislative body of a city may designate one or
18 more proposed infrastructure financing districts pursuant to this
19 chapter. Proceedings for the establishment of a district shall be
20 instituted by the adoption of a resolution of intention to establish
21 the proposed district and shall do all of the following:

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

26 (b) State the type of public facilities proposed to be financed
27 by the district. The district may only finance public facilities
28 authorized by Section 53395.3.

29 (c) State the need for the district and the goals the district
30 proposes to achieve by financing public facilities.

31 (d) State that incremental property tax revenue from the city
32 and some or all affected taxing entities within the district may be
33 used to finance these public facilities.

34 (e) Fix a time and place for a public hearing on the proposal.

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

37 53395.11. The legislative body shall direct the clerk to mail a
38 copy of the resolution of intention to create the district to each
39 owner of land within the district and to each affected taxing entity.

1 SEC. 9. Section 53395.12 of the Government Code is amended
2 to read:

3 53395.12. The legislative body shall direct the clerk to post a
4 copy of the resolution of intention to create the district in an easily
5 identifiable and accessible location on the legislative body's
6 Internet Web site.

7 SEC. 10. Section 53395.14 of the Government Code is amended
8 to read:

9 53395.14. After receipt of a copy of the resolution of intention
10 to establish a district, the official designated pursuant to Section
11 53395.13 shall prepare a proposed infrastructure financing plan.
12 The infrastructure financing plan shall be consistent with the
13 general plan of the city within which the district is located and
14 shall include all of the following:

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

18 (b) A description of the public facilities required to serve the
19 development proposed in the area of the district including those
20 to be provided by the private sector, those to be provided by
21 governmental entities without assistance under this chapter, those
22 public improvements and facilities to be financed with assistance
23 from the proposed district, and those to be provided jointly. The
24 description shall include the proposed location, timing, and costs
25 of the public improvements and facilities.

26 (c) A finding that the public facilities provide significant benefits
27 to an area larger than the area of the district.

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

30 (1) A specification of the maximum portion of the incremental
31 tax revenue of the city and of each affected taxing entity proposed
32 to be committed to the district for each year during which the
33 district will receive incremental tax revenue. The portion need not
34 be the same for all affected taxing entities. The portion may change
35 over time.

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

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

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

6 (5) A date on which the district will cease to exist, by which
7 time all tax allocation to the district will end. The date shall not
8 be more than 40 years from the date the legislative body adopted
9 the resolution adopting the infrastructure financing plan pursuant
10 to Section 53395.20.

11 (6) An analysis of the costs to the city of providing facilities
12 and services to the area of the district while the area is being
13 developed and after the area is developed. The plan shall also
14 include an analysis of the tax, fee, charge, and other revenues
15 expected to be received by the city as a result of expected
16 development in the area of the district.

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

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

25 (f) The goals the district proposes to achieve by financing public
26 facilities.

27 SEC. 11. Section 53395.19 of the Government Code is amended
28 to read:

29 53395.19. (a) The legislative body shall not enact a resolution
30 forming a district and providing for the division of taxes of any
31 affected taxing entity pursuant to Article 3 (commencing with
32 Section 53396) unless a resolution approving the plan has been
33 adopted by the governing body of each affected taxing entity which
34 is proposed to be subject to division of taxes pursuant to Article
35 3 (commencing with Section 53396) has been filed with the
36 legislative body at or prior to the time of the hearing.

37 (b) In the case of an affected taxing entity that is a special district
38 which provides fire protection services and where the county board
39 of supervisors is the governing authority or has appointed itself as
40 the governing board of the district, the plan shall be adopted by a

1 separate resolution approved by the district’s governing authority
2 or governing board.

3 (c) Nothing in this section shall be construed to prevent the
4 legislative body from amending its infrastructure financing plan
5 and adopting a resolution forming the infrastructure financing
6 district without allocation of the tax revenues of any affected taxing
7 entity that has not approved the infrastructure financing plan by
8 resolution of the governing body of the affected taxing entity.

9 SEC. 12. Section 53395.20 of the Government Code is amended
10 to read:

11 53395.20. (a) At the conclusion of the hearing required by
12 Section 53395.17, the legislative body may adopt a resolution
13 adopting the infrastructure financing plan, as modified, and
14 approving the formation of the infrastructure financing district in
15 a manner consistent with Section 53395.19, or it may abandon the
16 proceedings.

17 (b) No later than June 30 of each year after the adoption of the
18 infrastructure financing plan, the legislative body shall direct the
19 clerk to mail an annual report to each owner of land within the
20 district and each affected taxing entity. The legislative body shall
21 direct the clerk to post this annual report in an easily identifiable
22 and accessible location on the legislative body’s Internet Web site.
23 The annual report shall contain all of the following:

- 24 (1) A summary of the district’s expenditures.
- 25 (2) A description of the progress made towards the district’s
26 adopted goals.
- 27 (3) An assessment of the status regarding completion of the
28 district’s public works projects.

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

32 (d) If the district fails to produce evidence of progress made
33 towards achieving its adopted goals for five consecutive years, the
34 district shall not spend any funds to construct any new public works
35 projects; provided, however, the district may complete any public
36 works projects that it had started. Any excess property tax
37 increment revenues that had been allocated for new public works
38 projects shall be reallocated to the affected taxing entities.

39 SEC. 13. Section 53395.21 of the Government Code is
40 repealed.

1 SEC. 14. Section 53395.22 of the Government Code is
2 repealed.

3 SEC. 15. Section 53395.23 of the Government Code is
4 repealed.

5 SEC. 16. Section 53395.24 of the Government Code is
6 repealed.

7 SEC. 17. Section 53395.25 of the Government Code is
8 repealed.

9 SEC. 18. Section 53396 of the Government Code is amended
10 to read:

11 53396. Any infrastructure financing plan may contain a
12 provision that taxes, if any, levied upon taxable property in the
13 area included within the infrastructure financing district each year
14 by or for the benefit of the State of California, or any affected
15 taxing entity after the effective date of the resolution adopted
16 pursuant to Section 53395.20 to create the district, shall be divided
17 as follows:

18 (a) That portion of the taxes which would be produced by the
19 rate upon which the tax is levied each year by or for each of the
20 affected taxing entities upon the total sum of the assessed value
21 of the taxable property in the district as shown upon the assessment
22 roll used in connection with the taxation of the property by the
23 affected taxing entity, last equalized prior to the effective date of
24 the resolution adopted pursuant to Section 53395.20 to create the
25 district, shall be allocated to, and when collected shall be paid to,
26 the respective affected taxing entities as taxes by or for the affected
27 taxing entities on all other property are paid.

28 (b) That portion of the levied taxes each year specified in the
29 adopted infrastructure financing plan for the city and each affected
30 taxing entity which has agreed to participate pursuant to Section
31 53395.19 in excess of the amount specified in subdivision (a) shall
32 be allocated to, and when collected shall be paid into a special
33 fund of, the district for all lawful purposes of the district. Unless
34 and until the total assessed valuation of the taxable property in a
35 district exceeds the total assessed value of the taxable property in
36 the district as shown by the last equalized assessment roll referred
37 to in subdivision (a), all of the taxes levied and collected upon the
38 taxable property in the district shall be paid to the respective
39 affected taxing entities. When the district ceases to exist pursuant
40 to the adopted infrastructure financing plan, all moneys thereafter

1 received from taxes upon the taxable property in the district shall
2 be paid to the respective affected taxing entities as taxes on all
3 other property are paid.

4 SEC. 19. Section 53397.1 of the Government Code is amended
5 to read:

6 53397.1. The legislative body may, by majority vote, authorize
7 the issuance of bonds pursuant to this chapter by adopting a
8 resolution.

9 SEC. 20. Section 53397.2 of the Government Code is amended
10 to read:

11 53397.2. The resolution adopted pursuant to Section 53397.1
12 shall contain all of the following information:

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

15 (b) The estimated cost of the facilities, the estimated cost of
16 preparing and issuing the bonds, and the principal amount of the
17 bond issuance.

18 (c) The maximum interest rate and discount on the bond
19 issuance.

20 (d) A determination of the amount of tax revenue available or
21 estimated to be available, for the payment of the principal of, and
22 interest on, the bonds.

23 (e) A finding that the amount necessary to pay the principal of,
24 and interest on, the bond issuance will be less than, or equal to,
25 the amount determined pursuant to subdivision (d).

26 (f) The issuance of the bonds in one or more series.

27 (g) The date the bonds will bear.

28 (h) The denomination of the bonds.

29 (i) The form of the bonds.

30 (j) The manner and execution of the bonds.

31 (k) The medium of payment in which the bonds are payable.

32 (l) The place or manner of payment and any requirements for
33 registration of the bonds.

34 (m) The terms or call of redemption, with or without premium.

35 SEC. 21. Section 53397.4 of the Government Code is repealed.

36 SEC. 22. Section 53397.5 of the Government Code is repealed.

37 SEC. 23. Section 53397.6 of the Government Code is repealed.

38 SEC. 24. Section 53397.7 of the Government Code is repealed.

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