

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 310

Introduced by Senator Hancock

February 14, 2011

An act to amend Sections 53395.3, 53395.6, 53395.7, 53395.14, 53395.19, 53395.20, 53396, 53397.1, and 53397.2 of, to add Article 9 (commencing with Section 65470) to Chapter 3 of Division 1 of Title 7 ~~to~~ 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 local development.

LEGISLATIVE COUNSEL'S DIGEST

SB 310, as amended, Hancock. Local development.

(1) Existing law authorizes the legislative body of a city or county to adopt an infrastructure financing plan, which is required to contain specified information, for the purpose of financing certain infrastructure facilities, if specified procedural requirements are met, and requires the legislative body, if it adopts the plan, to submit the proposal to the voters. Existing law authorizes the legislative body to create an infrastructure financing district, by ordinance, if $\frac{2}{3}$ of the qualified electors of the proposed district vote in favor of adoption of the plan, and also authorizes the legislative body to initiate proceedings to issue bonds to finance the infrastructure facilities if $\frac{2}{3}$ of those electors vote in favor of the issuance. Existing law authorizes infrastructure finance districts to finance specified projects, including financing certain infrastructure facilities.

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.

This bill would, in addition, authorize a district to reimburse a developer that meets specified requirements for permit expenses or expenses related to the construction of affordable housing units. This bill would also require that an infrastructure ~~finance~~ *financing* plan also include a plan to finance any potential costs for reimbursing a developer that meets specified requirements for permit expenses.

(2) The Transit Village Development Planning Act of 1994 authorizes a city or county to create a transit village plan for a transit village development district that addresses specified characteristics. In order to increase transit ridership and to reduce vehicle traffic on the highways, the act encourages local, regional, and state plans to direct new development close to transit stations and provide financial incentives to implement these plans.

This bill would establish the Transit Priority Project Program, and authorize a city or county to participate in the program by adopting an ordinance indicating its intent to participate in the program. The bill would require a city or county that elects to participate in the program to ~~adopt streamlined permitting procedures for development projects that meet specified requirements and provide specified zoning variances.~~ *The bill would provide that a development project that takes advantage of the streamlined permitting procedures developed pursuant to the program is exempt from specified requirements amend its general plan, and community plan, if the city or county has one, to authorize participating developers to build at an increased height of a minimum of 3 stories.* This bill would also provide that if a development project takes advantage of the streamlined permitting procedures and is located entirely within a *an* Infrastructure Finance District, then the district may ~~reimburse the developer of a project for any permit expenses incurred or to offset additional expenses incurred by the developer in constructing affordable housing units~~ *pay for specified fees relating to the development, and may reimburse a developer for the cost of constructing housing units affordable to low- or moderate-income persons and families.*

This bill would also make various conforming changes.

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 53395.3 of the Government Code is
2 amended to read:

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

16 (b) The district shall finance only public capital facilities of
17 communitywide significance, which provide significant benefits
18 to an area larger than the area of the district, including, but not
19 limited to, all of the following:

20 (1) Highways, interchanges, ramps and bridges, arterial streets,
21 parking facilities, and transit facilities.

22 (2) Sewage treatment and water reclamation plants and
23 interceptor pipes.

24 (3) Facilities for the collection and treatment of water for urban
25 uses.

26 (4) Flood control levees and dams, retention basins, and drainage
27 channels.

28 (5) Child care facilities.

29 (6) Libraries.

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

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

33 (c) Any district that constructs dwelling units shall set aside not
34 less than 20 percent of those units to increase and improve the
35 community's supply of low- and moderate-income housing
36 available at an affordable housing cost, as defined by Section
37 50052.5 of the Health and Safety Code, to persons and families of

1 low- and moderate-income, as defined in Section 50093 of the
2 Health and Safety Code.

3 (d) Notwithstanding subdivision (b), a district may reimburse
4 a developer of a project that is both located entirely within the
5 boundaries of that district and qualifies for the streamlined permit
6 procedures established pursuant to Article 9 (commencing with
7 Section 65470) of Chapter 3 of Division 1 of Title 7, for any permit
8 expenses incurred pursuant to that program or to offset additional
9 expenses incurred by the developer in constructing affordable
10 housing units.

11 SEC. 2. Section 53395.6 of the Government Code is amended
12 to read:

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

24 SEC. 3. Section 53395.7 of the Government Code is amended
25 to read:

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

38 SEC. 4. Section 53395.14 of the Government Code is amended
39 to read:

1 53395.14. After receipt of a copy of the resolution of intention
2 to establish a district, the official designated pursuant to Section
3 53395.13 shall prepare a proposed infrastructure financing plan.
4 The infrastructure financing plan shall be consistent with the
5 general plan of the city that the district is located in and shall
6 include all of the following:

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

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

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

21 (d) A financing section, that shall contain all of the following
22 information:

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

28 (2) A projection of the amount of tax revenues expected to be
29 received by the district in each year that the district will receive
30 tax revenues, including an estimate of the amount of tax revenues
31 attributable to each affected taxing entity for each year.

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

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

37 (5) A date that the district will cease to exist, by that time all
38 tax allocation to the district will end. The date shall not be more
39 than ~~30~~ 40 years from the date the legislative body adopted the

1 resolution adopting the infrastructure—~~finance~~ *financing* plan
2 pursuant to Section 53395.20.

3 (6) An analysis of the costs to the city of providing facilities
4 and services to the area of the district while the area is being
5 developed and after the area is developed. The plan shall also
6 include an analysis of the tax, fee, charge, and other revenues
7 expected to be received by the city as a result of expected
8 development in the area of the district.

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

11 (8) A plan for financing any potential costs that may be incurred
12 by reimbursing a developer of a project that is both located entirely
13 within the boundaries of that district and qualifies for the
14 streamlined permit procedures established pursuant to Article 9
15 (commencing with Section 65470) of Chapter 3 of Division 1 of
16 Title 7, for any permit expenses incurred pursuant to that program.

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

23 SEC. 5. Section 53395.19 of the Government Code is amended
24 to read:

25 53395.19. (a) The legislative body shall not enact a resolution
26 forming a district and providing for the division of taxes of any
27 affected taxing entity pursuant to Article 3 (commencing with
28 Section 53396) unless a resolution approving the plan has been
29 adopted by the governing body of each affected taxing entity that
30 is proposed to be subject to division of taxes pursuant to Article
31 3 (commencing with Section 53396) has been filed with the
32 legislative body at or prior to the time of the hearing.

33 (b) Nothing in this section shall be construed to prevent the
34 legislative body from amending its infrastructure financing plan
35 and adopting a resolution forming the infrastructure financing
36 district without allocation of the tax revenues of any affected taxing
37 entity that has not approved the infrastructure financing plan by
38 resolution of the governing body of the affected taxing entity.

39 SEC. 6. Section 53395.20 of the Government Code is amended
40 to read:

1 53395.20. At the conclusion of the hearing required by Section
2 53395.17, the legislative body may adopt a resolution adopting
3 the infrastructure financing plan, as modified, and approving the
4 formation of the infrastructure financing district in a manner
5 consistent with Section 53395.19, or it may abandon the
6 proceedings.

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

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

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

10 SEC. 10. Section 53395.24 of the Government Code is
11 repealed.

12 SEC. 11. Section 53395.25 of the Government Code is
13 repealed.

14 SEC. 12. Section 53396 of the Government Code is amended
15 to read:

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

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

33 (b) That portion of the levied taxes each year specified in the
34 adopted infrastructure financing plan for the city and each affected
35 taxing entity which has agreed to participate pursuant to Section
36 53395.19 in excess of the amount specified in subdivision (a) shall
37 be allocated to, and when collected shall be paid into a special
38 fund of, the district for all lawful purposes of the district. Unless
39 and until the total assessed valuation of the taxable property in a
40 district exceeds the total assessed value of the taxable property in

1 the district as shown by the last equalized assessment roll referred
2 to in subdivision (a), all of the taxes levied and collected upon the
3 taxable property in the district shall be paid to the respective
4 affected taxing entities. When the district ceases to exist pursuant
5 to the adopted infrastructure financing plan, all moneys thereafter
6 received from taxes upon the taxable property in the district shall
7 be paid to the respective affected taxing entities as taxes on all
8 other property are paid.

9 SEC. 13. Section 53397.1 of the Government Code is amended
10 to read:

11 53397.1. The legislative body may, by majority vote, authorize
12 the issuance of bonds pursuant to this chapter by adopting a
13 resolution.

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

16 53397.2. The resolution adopted pursuant to Section 53397.1
17 shall contain all of the following information:

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

20 (b) The estimated cost of the facilities, the estimated cost of
21 preparing and issuing the bonds, and the principal amount of the
22 bond issuance.

23 (c) The maximum interest rate and discount on the bond
24 issuance.

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

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

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

32 (g) The date the bonds will bear.

33 (h) The denomination of the bonds.

34 (i) The form of the bonds.

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

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

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

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

40 SEC. 15. Section 53397.4 of the Government Code is repealed.

1 SEC. 16. Section 53397.5 of the Government Code is repealed.

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

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

4 SEC. 19. Article 9 (commencing with Section 65470) is added
5 to Chapter 3 of Division 1 of Title 7 of the Government Code, to
6 read:

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8

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Article 9. Transit Priority Project Program

10 65470. (a) It is the intent of the Legislature to provide a process
11 for cities and counties to create development patterns in the form
12 of transit priority projects that comply with Chapter 4.2
13 (commencing with Section 21155) of Division 13 of the Public
14 Resources Code, create good jobs, reduce vehicle miles traveled,
15 *expand the availability of accessible open-space*, build the density
16 needed for transit viability, and meet regional housing targets.

17 (b) A city or county may participate in the Transit Priority
18 Project Program by adopting an ordinance indicating its intent to
19 participate in the program.

20 (c) If a city or county elects to participate in the program by
21 adopting the ordinance described in subdivision (b), the city or
22 county shall ~~do all of the following~~:

23 ~~(1) Adopt streamlined permitting procedures for development~~
24 ~~projects that meet all of the requirements of subdivision (e).~~

25 ~~(2) Allow developers to construct one additional story for each~~
26 ~~story permitted to be constructed in adherence to the city's zoning~~
27 ~~laws as a matter of right for buildings within residential and~~
28 ~~mixed-use zones within the portion of a transit priority project in~~
29 ~~which the program is applicable. amend the general plan and~~
30 ~~community plan, if the city or county has one, to authorize~~
31 ~~participating developers to build at an increased height of a~~
32 ~~minimum of three stories.~~

33 (d) A development project shall ~~be eligible for the streamlined~~
34 ~~permitting procedures required pursuant to paragraph (1) of~~
35 ~~subdivision (b) if the development project meets~~ *meet* all of the
36 following requirements:

37 (1) Is located in a designated transit priority project and within
38 one-half of one mile of a transit station, pursuant to Section 21155
39 of the Public Resources Code.

- 1 (2) Is located within a zone in which buildings of three stories
2 or more are authorized.
- 3 (3) Meets State Air Resources Board land use guidelines with
4 respect to distance from major emitters.
- 5 (4) Is built in compliance with the requirements for Gold
6 certification standard under the ~~USGBC LEED~~ *United States Green*
7 *Building Council Leadership in Energy and Environmental Design*
8 *(USGBC LEED)* program or the requirements of Standard 189.1
9 of the American Society of Heating, Refrigerating and Air
10 Conditioning Engineers (ASHRAE).
- 11 (5) Provides onsite bicycle parking.
- 12 (6) Provides for car sharing if a car sharing program is available
13 in the city or county. The car sharing area may be onsite, or the
14 developer may pay a fee to the city or county to cover the cost of
15 providing for car sharing at an offsite location near the project.
16 The developer shall provide one car share for the first 20 units and
17 one car share for every 50 units thereafter.
- 18 (7) ~~Rents~~ *Provides unbundled parking. For purposes of this*
19 *paragraph, “unbundled parking” means renting a parking space*
20 *for the residential units separately from the residential units, or*
21 *pays a fee to the appropriate local transit management fund to*
22 *cover one-half of the cost of providing a parking space.*
- 23 (8) Provides to all units transit passes for 10 years as part of the
24 rent or condo fees if transit passes are available from local
25 providers.
- 26 (9) Provides to tenants recycling for bottles, cans, paper, and
27 plastic containers.
- 28 (10) Provides open space onsite, including, but not limited to,
29 accessible roof gardens, or pays a fee into a fund established for
30 local open space. The fee shall not exceed 10 cents (\$0.10) per
31 square foot.
- 32 (11) Provides 20 percent affordable units in rental or owner
33 occupied housing *for low- or moderate-income persons and*
34 *families*, or pays a fee in an amount equivalent to the cost to
35 provide ~~an affordable unit~~ *affordable units* elsewhere within the
36 city’s or county’s jurisdiction, as determined by the city or county.
37 *The developer shall require, by covenants or restrictions, that the*
38 *housing units built pursuant to this paragraph shall remain*
39 *available at affordable housing cost to, and occupied by, persons*
40 *and families of low- or moderate-income households for the longest*

1 *feasible time, but for not less than 55 years for rental units and*
2 *45 years for owner-occupied units.*

3 (12) Pays prevailing wages to construction workers for
4 residential projects over 100 units *pursuant to Sections 1770, 1773,*
5 *and 1773.1 of the Labor Code.*

6 (13) *Meets the standards for expedited review under paragraph*
7 *(2) of subdivision (a) of Section 65950.*

8 (e) The following shall be applicable to a development project
9 that is eligible for the streamlined permitting procedures required
10 pursuant to paragraph (1) of subdivision (c):

11 ~~(1) The project may be eligible for the exemption provided for~~
12 ~~in Section 21155.1 of the Public Resources Code.~~

13 ~~(2)~~

14 ~~(1) The project shall only be subject to local design review of~~
15 ~~the building exterior and shall comply with any local design~~
16 ~~guidelines that were adopted prior to the submission of the project~~
17 ~~application.~~

18 ~~(3)~~

19 (2) If the project is located entirely within the boundaries of an
20 Infrastructure Finance District created pursuant to Chapter 2.8
21 (commencing with Section 53395) of Part 1 of Division 2 of Title
22 5, the district may reimburse the developer for any permit expenses
23 incurred pursuant to this article *pay for any fees charged pursuant*
24 *to Section 65104.*

25 ~~(f) Design review for a development project that takes advantage~~
26 ~~of the streamlined permitting procedures required pursuant to~~
27 ~~paragraph (1) of subdivision (c) shall be completed by a~~
28 ~~participating city or county within 90 days of plan submittal. The~~
29 ~~design review recommendation shall be forwarded directly to the~~
30 ~~governing body of the city or county.~~

31 (3) *If the project is located entirely within the boundaries of an*
32 *infrastructure finance district created pursuant to Chapter 2.8*
33 *(commencing with Section 53395) of Part 1 of Division 2 of Title*
34 *5, the district may reimburse developers for the cost of constructing*
35 *housing units that are affordable to low- or moderate-income*
36 *persons and families of.*

37 (f) *This article shall not apply to a city or county that has*
38 *adopted language in its charter or by ordinance or resolution that*
39 *does either of the following:*

40 (1) *Prohibits the payment of prevailing wages for public works.*

1 (2) *Prohibits a contractor, subcontractor, material supplier,*
2 *carrier, or other person or firm engaged in the construction,*
3 *rehabilitation, alteration, conversion, extension, maintenance,*
4 *repair, or improvement of public works, from executing or*
5 *otherwise becoming a party to any prehire, collective bargaining,*
6 *or similar agreement entered into with one or more labor*
7 *organizations, employees, or employee representatives that*
8 *establishes the terms and conditions of employment on a*
9 *construction project.*

O