

AMENDED IN ASSEMBLY APRIL 23, 2013

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 294**

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**Introduced by Assembly Member Holden**

February 11, 2013

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An act to add and repeal Article 5.5 (commencing with Section 63047.55) of Chapter 2 of Division 1 of Title 6.7 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 294, as amended, Holden. Local-State Joint Investment Partnership Pilot Program.

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the Infrastructure and Economic Development Bank within the Governor's Office of Business and Economic Development. The bank is authorized to, among other things, issue bonds, approve the issuance of certain bonds, invest moneys, and make loans, as specified.

This bill would, until January 1, ~~2025~~ 2020, establish a pilot program whereby certain local ~~governmental~~ *government* entities, upon the approval and oversight of the bank, are authorized to reallocate their *annual payments of property tax revenue* directed to the Educational Revenue Augmentation Fund to instead finance certain kinds of public works that further state policy, as specified. This bill would require each local ~~governmental~~ *government* entity operating a project under the pilot program and the bank to submit annual reports, as specified, on the results of the pilot program.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that the  
2 purpose of this act is to create a pilot program whereby certain  
3 local-governmental government entities, upon the approval and  
4 oversight of the Infrastructure and Economic Development Bank,  
5 are authorized to reallocate their payments of property tax revenue  
6 directed to the Educational Revenue Augmentation Fund to instead  
7 finance certain kinds of public works.

8 SEC. 2. Article 5.5 (commencing with Section 63047.55) is  
9 added to Chapter 2 of Division 1 of Title 6.7 of the Government  
10 Code, to read:

11  
12 Article 5.5. Local-State Joint Investment Partnership Pilot  
13 Program  
14

15 63047.55. There is in state government the Local-State Joint  
16 Investment Partnership Pilot Program.

17 63047.60. Only a local-governmental government entity,  
18 including, but not limited to, an infrastructure financing district  
19 established pursuant to Chapter 2.8 (commencing with Section  
20 53395) of Part 1 of Division 2 of Title 5 or any special district,  
21 but excluding a city, county, or city and county, may file an  
22 application for financing a public works project with, and for  
23 approval by, the bank pursuant to the program.

24 63047.65. Only the following public works that further state  
25 policy objectives shall be financed under the program:

26 (a) "City streets," "county highways," and "state highways," as  
27 those terms are used in paragraphs (1), (2), and (15), respectively,  
28 of subdivision (q) of Section 63010.

29 (b) "Sewage collection and treatment," as that term is used in  
30 paragraph (10) of subdivision (q) of Section 63010.

31 (c) "Water treatment and distribution," as that term is used in  
32 paragraph (12) of subdivision (q) of Section 63010.

33 (d) Facilities for the collection and treatment of water for urban  
34 uses.

1 (e) “Drainage, water supply, and flood control,” as that term is  
2 used in paragraph (3) of subdivision (q) of Section 63010.

3 (f) “Educational facilities,” as that term is used in paragraph (4)  
4 of subdivision (q) of Section 63010.

5 (g) “Parks and recreational facilities,” as that term is used in  
6 paragraph (6) of subdivision (q) of Section 63010.

7 (h) “Solid waste collection and disposal,” as that term is used  
8 in paragraph (11) of subdivision (q) of Section 63010.

9 (i) “Public transit,” as that term is used in paragraph (9) of  
10 subdivision (q) of Section 63010.

11 (j) “Power and communications,” as that term is used in  
12 paragraph (8) of subdivision (q) of Section 63010.

13 (k) (1) Brownfield cleanup that promotes infill housing  
14 development and other related infill development consistent with  
15 regional and local plans.

16 (2) For purposes of this subdivision, “brownfield” has the same  
17 meaning as in paragraph (2) of subdivision (a) of Section 25395.20  
18 of the Health and Safety Code.

19 (l) *“Economic development facilities” as that term is used in*  
20 *subdivision (g) of Section 63010.*

21 (m) *Development of affordable housing.*

22 63047.70. (a) An application for financing approval filed with  
23 the bank pursuant to the program shall include all of the following  
24 information in a manner prescribed by the bank:

25 (1) An economic analysis of the project *that includes a*  
26 *determination that the development to be financed would result in*  
27 *an amount of revenue to the General Fund with a net present value*  
28 *that is greater than the net present value of the amount of property*  
29 *tax increment revenues that would be diverted from the Educational*  
30 *Augmentation Revenue Fund over a 35-year period, taking into*  
31 *consideration all pertinent data.*

32 (2) A description of how the project will further local and  
33 statewide policy objectives.

34 (3) A description of all local resources available to invest in the  
35 project and an analysis of the reduced scope or feasibility of the  
36 project based on the investment of only those local resources.

37 (4) *A statement of the availability of matching funds from the*  
38 *applicant local government entity. The application shall not request*  
39 *funding greater than required to complete the project.*

40 (4)

1 (5) The annual amount of property taxes otherwise allocated to  
2 the Educational Augmentation Revenue Fund, from the tax rate  
3 areas within the territorial jurisdiction of the applicant, that the  
4 applicant proposes to reallocate to finance the project, and whether  
5 the applicant proposes to issue debt to fund the project.

6 ~~(5)~~

7 (6) A demonstration, to a reasonable probability, that the project  
8 would result in an amount of tax revenue to the state General Fund  
9 with a net present value that is greater than the net present value  
10 of the amount of property tax increment revenues that would be  
11 reallocated from the Educational Revenue Augmentation Fund  
12 over the term of the project, taking into consideration all pertinent  
13 data.

14 (b) The bank may circulate an application for financing to other  
15 state agencies, including, but not limited to, the Department of  
16 Finance, the Department of Housing and Community Development,  
17 and the Office of Planning and Research.

18 (c) The bank may establish a process for the public to comment  
19 on an application for financing.

20 (d) The legislative body of the applicant shall reimburse the  
21 bank for the reasonable cost of the bank’s review of its application  
22 for financing.

23 (e) For purposes of this article, “public works project” means  
24 the entire plan for developing the public works specified in Section  
25 63047.65, within a specified geographical area, as set forth by the  
26 applicant.

27 63047.75. (a) On and after January 1, 2015, the bank may  
28 approve up to a maximum of ~~25~~ 15 applications for financing  
29 pursuant to the program *or a total of fifty million dollars*  
30 *(\$50,000,000) in allocations for all approved projects, whichever*  
31 *comes first.*

32 (b) The bank shall not approve an application for financing  
33 unless it determines that approving a public works project proposed  
34 in an application is necessary either to make the project financially  
35 feasible or to significantly enhance the scope and potential benefits  
36 of the project.

37 (c) In reviewing the economic analysis in an application for  
38 financing, the bank shall consider the increase in state General  
39 Fund tax revenues that would occur because of the proposed  
40 economic activity. *The bank shall not approve an application*

1 *unless the bank determines that the development to be financed*  
2 *would result in an amount of revenue to the General Fund with a*  
3 *net present value that is greater than the net present value of the*  
4 *amount of property tax increment revenues that would be diverted*  
5 *from the Educational Augmentation Revenue Fund over a 35-year*  
6 *period, taking into consideration all pertinent data.*

7 (d) In making its decision to approve an application for  
8 financing, the bank may give weight to any established state policy  
9 objective or benefit identified by a state agency reviewing the  
10 application.

11 (e) The bank shall only approve *a level of* financing that  
12 reallocates tax revenue that would otherwise be allocated to the  
13 Educational Revenue Augmentation Fund from ~~each affected~~  
14 ~~taxing entity making the application, and the reallocation shall be~~  
15 ~~made in proportion to the percentage share of property taxes that~~  
16 ~~each affected taxing entity would otherwise contribute to the~~  
17 ~~Educational Revenue Augmentation Fund~~ *the tax rate areas within*  
18 *the territorial jurisdiction of the applicant, for which the bank has*  
19 *received verification from the county auditor that the level of*  
20 *financing approved by the bank would not prevent the county*  
21 *auditor from making all distributions to cities, counties, and special*  
22 *districts from the Educational Revenue Augmentation Fund as*  
23 *required by law. The local government agency shall only receive*  
24 *its share of the Educational Augmentation Revenue Fund funds*  
25 *for projects approved pursuant to the program.*

26 (f) *The bank may approve an amount less than the amount*  
27 *requested by the applicant. The bank shall not approve an*  
28 *application unless it finds that the local government will be able*  
29 *to provide matching funds in an amount equal to the approved*  
30 *funding.*

31 63047.80. (a) To approve an application for financing under  
32 the program, the bank shall issue a written statement that  
33 establishes, but is not limited to, the total amount of tax revenue  
34 that would have been directed to the Educational Revenue  
35 Augmentation Fund that is reallocated to finance specific public  
36 works projects proposed in the application, the amount of each  
37 affected taxing agency's payment to the Educational Revenue  
38 Augmentation Fund that is being reallocated, and the duration of  
39 those reallocations. *The written statement shall include a statement*  
40 *that the maximum amount that may be diverted from the*

1 *Educational Augmentation Revenue Fund shall not exceed the*  
2 *total amount of the Educational Augmentation Revenue Fund*  
3 *contributions by each local agency participating in an*  
4 *infrastructure financing district, or in the case of a special district,*  
5 *that special district's the Educational Augmentation Revenue Fund*  
6 *share. The statement shall additionally specify that the Educational*  
7 *Augmentation Revenue Fund reallocations pursuant to the program*  
8 *shall only be used for projects of the applicant that are approved*  
9 *projects pursuant to this program. The bank shall transmit the*  
10 *statement to the county tax collector or the official responsible for*  
11 *the allocation of property tax revenues within the county.*

12 (b) Upon receiving the bank's written statement described in  
13 subdivision (a), the county tax collector or the official responsible  
14 for the allocation of tax revenues within the county shall direct the  
15 tax revenues as prescribed in the bank's statement.

16 63047.83. *Upon approval by the bank, the local government*  
17 *entity may issue bonds, including, but not limited to, general*  
18 *obligation bonds, against the Educational Augmentation Revenue*  
19 *Fund funds, the proceeds of which shall only be used for a project*  
20 *approved pursuant to this program.*

21 63047.85. (a) On or before December 31, 2016, and annually  
22 thereafter, each applicant that has received financing pursuant to  
23 the program for any fiscal year shall provide a report to the bank  
24 that includes all of the following information for that fiscal year:

25 (1) The amount of money that the county auditor reallocated  
26 from the Educational Revenue Augmentation Fund for financing  
27 under the program.

28 (2) The purposes for which that allocated money was used.

29 (3) The actions taken during the fiscal year to implement the  
30 applicant's project.

31 (b) On or before March 1, 2017, and annually thereafter, the  
32 bank shall provide a report to the Joint Legislative Budget  
33 Committee that includes all of the following information for the  
34 preceding fiscal year:

35 (1) The name, location, and general description of each  
36 application for financing approved under the program.

37 (2) The total amount of money that county auditors reallocated  
38 from the Educational Revenue Augmentation Fund under the  
39 program.

1 (3) An evaluation of the extent to which the implementation of  
2 the approved financing has achieved the purposes and intent of  
3 the program. In preparing this evaluation, the bank may solicit  
4 advice and assistance from other state entities, including, but not  
5 limited to, the departments within the Transportation Agency, the  
6 Business, Consumer Services, and Housing Agency, and the  
7 Natural Resources Agency, the Department of Finance, and the  
8 Office of Planning and Research.

9 63047.90. This article shall remain in effect only until January  
10 1, ~~2025~~ 2020, and as of that date is repealed, unless a later enacted  
11 statute, that is enacted before January 1, ~~2025~~ 2020, deletes or  
12 extends that date. However, the repeal of this article shall not affect  
13 the continuing annual reallocation of property taxes for financing  
14 approved by the bank prior to the repeal of this article.

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