

AMENDED IN ASSEMBLY AUGUST 26, 2013

AMENDED IN SENATE MARCH 6, 2013

SENATE BILL

No. 33

Introduced by Senator Wolk

(~~Coauthor~~ *Coauthors: Assembly Member Members Frazier and
V. Manuel Pérez*)

December 3, 2012

An act to amend Sections 53395, 53395.1, 53395.2, 53395.3, 53395.4, 53395.5, 53395.6, 53395.7, 53395.10, 53395.11, 53395.12, 53395.13, 53395.14, 53395.16, 53395.17, 53395.19, 53395.20, 53396, 53397.1, and 53397.2 of, to repeal Sections 53395.22, 53395.23, 53395.24, 53395.25, 53397.5, 53397.6, and 53397.7 of, and to repeal and add Section 53395.21 of, the Government Code, relating to infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 33, 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. Existing law authorizes an infrastructure financing district to fund infrastructure projects through tax increment financing, pursuant to the infrastructure financing plan and agreement of affected taxing entities, as defined.

This bill would revise and recast the provisions governing infrastructure financing districts. The bill would eliminate the requirement of voter approval for creation of the district and for bond issuance, and would authorize the legislative body to create the district

subject to specified procedures. The bill would instead authorize a newly created public financing authority, consisting of 5 members, 3 of whom are members of the city council or board of supervisors that established the district, and 2 of whom are members of the public, to adopt the infrastructure financing plan, subject to approval by the legislative body, and issue bonds by majority vote of the authority by resolution. The bill would authorize a public financing authority to enter into joint powers agreements with affected taxing entities with regard to nontaxing authority or powers only. 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. *The bill would prohibit a district from financing any project or portion of a project within the boundaries of a former redevelopment agency until the successor agency to the former redevelopment agency has received a finding of completion.* The bill would create a public accountability committee, as specified, to review the actions of the public financing authority.

(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 public financing authority 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: yes.
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

1 works, schools, libraries, parks, parking facilities, open space, and
2 seismic retrofit and rehabilitation of public facilities.

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

7 (c) The Legislature further finds and declares that the absence
8 of practical and equitable methods for financing public works leads
9 to a declining standard of public works, a reduced quality of life
10 and decreased safety for affected citizens, increased objection to
11 otherwise desirable development, and excessive costs for
12 homebuyers.

13 (d) The Legislature further finds and declares that because
14 California’s disadvantaged communities, as defined in Section
15 75005 of the Public Resources Code, may not be beneficiaries of
16 quality public works, these communities are neglected and, thus,
17 isolated from and deprived of the basic facilities needed for public
18 health and safety.

19 (e) The Legislature further finds and declares that it is equitable
20 and in the public interest to provide alternative procedures for
21 financing public works and services needed to meet the needs of
22 new housing, disadvantaged communities, and other development
23 projects.

24 (f) The Legislature further finds and declares that it is in the
25 public interest to develop a mechanism that allows public agencies
26 to jointly dedicate their revenues to projects that support sustainable
27 communities.

28 (g) The Legislature further finds and declares that infrastructure
29 financing districts implement and fulfill the intent of Article 2
30 (commencing with Section 53395.10) and of Article XIII B of the
31 California Constitution, and are consistent with the conclusion of
32 California courts that tax increment revenues are not “proceeds of
33 taxes” for purposes of Article XIII B of the California Constitution.
34 The allocation and payment to a district of the portion of taxes
35 specified in this section for the purpose of paying principal of, or
36 interest on, loans, advances, or indebtedness incurred for facilities
37 or the cost of acquisition and construction of facilities under this
38 section shall not be deemed the receipt by a district of proceeds
39 of taxes levied by or on behalf of the district within the meaning
40 or for the purposes of Article XIII B of the California Constitution,

1 nor shall this portion of taxes be deemed receipt of proceeds of
2 taxes by, or an appropriation subject to limitation of, any other
3 public body within the meaning or for the purposes of Article XIII
4 B of the California Constitution or any statutory provision enacted
5 in the implementation of Article XIII B of the California
6 Constitution. The allocation and payment to a district of this portion
7 of taxes shall not be deemed the appropriation by a district of
8 proceeds of taxes levied by or on behalf of a district within the
9 meaning or for the purposes of Article XIII B of the California
10 Constitution.

11 SEC. 2. Section 53395.1 of the Government Code is amended
12 to read:

13 53395.1. Unless the context otherwise requires, the definitions
14 contained in this article shall govern the construction of this
15 chapter.

16 (a) “Affected taxing entity” means any governmental taxing
17 agency which levied or had levied on its behalf a property tax on
18 all or a portion of the property located in the proposed district in
19 the fiscal year prior to the designation of the district, but not
20 including any county office of education, school district, or
21 community college district.

22 (b) “City” means a city, a county, or a city and county.

23 (c) “Debt” means any binding obligation to repay a sum of
24 money, including obligations in the form of bonds, certificates of
25 participation, long-term leases, loans from government agencies,
26 or loans from banks, other financial institutions, private businesses,
27 or individuals.

28 (d) “Designated official” means the city engineer or other
29 appropriate official designated pursuant to Section 53395.13.

30 (e) (1) “District” means an infrastructure financing district.

31 (2) An infrastructure financing district is a “district” within the
32 meaning of Section 1 of Article XIII A of the California
33 Constitution.

34 (f) “Infrastructure financing district” means a legally constituted
35 public and corporate governmental entity separate and distinct
36 from the city that established it pursuant to this chapter for the sole
37 purpose of financing public facilities. An infrastructure financing
38 district shall be a “local agency” for purposes of Chapter 9
39 (commencing with Section 54950).

1 (g) “Landowner” or “owner of land” means any person shown
2 as the owner of land on the last equalized assessment roll or
3 otherwise known to be the owner of the land by the legislative
4 body. The legislative body has no obligation to obtain other
5 information as to the ownership of land, and its determination of
6 ownership shall be final and conclusive for the purposes of this
7 chapter. A public agency is not a landowner or owner of land for
8 purposes of this chapter, unless the public agency owns all of the
9 land to be included within the proposed district.

10 (h) “Legislative body” means the city council or board of
11 supervisors.

12 (i) “Public capital facilities of communitywide significance”
13 means facilities that benefit all areas within the district or serve or
14 are made available to those areas.

15 (j) “Public financing authority” means the legislative body of
16 the infrastructure financing district established pursuant to this
17 chapter. The public financing authority shall be comprised of five
18 people, three of whom shall be members of the city council or
19 board of supervisors that established the district pursuant to this
20 chapter and two of whom shall be public members. The three
21 members of the city council or board of supervisors shall appoint
22 the two public members in accordance with Chapter 11
23 (commencing with Section 54970) of Part 1 of Division 2 of Title
24 5.

25 (k) *“Net available revenue” means periodic distributions to the*
26 *city, county, or special district from the Redevelopment Property*
27 *Tax Trust Fund, created pursuant to Section 34170.5 of the Health*
28 *and Safety Code, that are available to the city, county, or special*
29 *district after all preexisting legal commitments and statutory*
30 *obligations funded from that revenue are made pursuant to Part*
31 *1.85 (commencing with Section 34170) of Division 24 of the Health*
32 *and Safety Code. Net available revenue shall not include any funds*
33 *deposited by the county auditor-controller into the Redevelopment*
34 *Property Tax Trust Fund or funds remaining in the Redevelopment*
35 *Property Tax Trust Fund, prior to distribution. Net available*
36 *revenues shall not include any moneys payable to a school district*
37 *that maintains kindergarten and grades 1 to 12, inclusive, or to*
38 *the Educational Revenue Augmentation Fund, pursuant to*
39 *paragraph (4) of subdivision (a) of Section 34183 of the Health*
40 *and Safety Code.*

1 SEC. 3. Section 53395.2 of the Government Code is amended
2 to read:

3 53395.2. (a) The revenues available pursuant to Article 3
4 (commencing with Section 53396) may be used directly for work
5 allowed pursuant to Section 53395.3, may be accumulated for a
6 period not to exceed five years to provide a fund for that work,
7 may be pledged to pay the principal of, and interest on, bonds
8 issued pursuant to Article 4 (commencing with Section 53397),
9 or may be pledged to pay the principal of, and interest on, bonds
10 issued pursuant to the Improvement Bond Act of 1915 (Division
11 10 (commencing with Section 8500) of the Streets and Highways
12 Code) or the Mello-Roos Community Facilities Act of 1982
13 (Chapter 2.5 (commencing with Section 53311)), the proceeds of
14 which have been or will be used entirely for allowable purposes
15 of the district. The revenue of the district may also be advanced
16 for allowable purposes of the district to an integrated financing
17 district established pursuant to Chapter 1.5 (commencing with
18 Section 53175), in which case the district may be party to a
19 reimbursement agreement established pursuant to that chapter.
20 The revenues of the district may also be committed to paying for
21 any completed public facility acquired pursuant to Section 53395.3
22 over a period of time, including the payment of a rate of interest
23 not to exceed the bond buyer index rate on the day that the
24 agreement to repay is entered into by the district.

25 (b) The public financing authority may enter into an agreement
26 with any affected taxing entity providing for the construction of,
27 or assistance in, financing activities pursuant to Section 53395.3.

28 SEC. 4. Section 53395.3 of the Government Code is amended
29 to read:

30 53395.3. (a) A district may finance (1) the purchase,
31 construction, expansion, improvement, seismic retrofit, or
32 rehabilitation of any real or other tangible property with an
33 estimated useful life of 15 years or longer that satisfies the
34 requirements of subdivision (b), (2) may finance planning and
35 design work that is directly related to the purchase, construction,
36 expansion, or rehabilitation of that property, (3) the costs described
37 in Sections 53395.5 and 53396.5, and (4) may contribute to the
38 cost of maintaining facilities that are financed pursuant to
39 subdivision (b). A district may only finance the purchase of
40 facilities for which construction has been completed, as determined

1 by the legislative body. The facilities need not be physically located
2 within the boundaries of the district. Except as specifically provided
3 in this section, a district shall not finance routine maintenance,
4 repair work, or the costs of ongoing operation or providing services
5 of any kind. A district shall not compensate the members of the
6 legislative body of the city or the district for any activities
7 undertaken pursuant to this chapter.

8 (b) The district shall finance only structural or nonstructural
9 public capital facilities of communitywide significance, including,
10 but not limited to, all of the following:

11 (1) Highways, interchanges, ramps and bridges, arterial streets,
12 parking facilities, and transit facilities.

13 (2) Sewage treatment and water reclamation plants and
14 interceptor pipes.

15 (3) Facilities and watershed lands used for the collection and
16 treatment of water for urban uses.

17 (4) Flood control management including levees, bypasses, dams,
18 retention basins, and drainage channels.

19 (5) Child care facilities.

20 (6) Libraries.

21 (7) Parks, recreational facilities, open space, and habitat
22 restoration.

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

25 (c) The district shall be a local agency within the meaning of
26 subdivision (d) of Section 33459 of the Health and Safety Code
27 and may finance any actions necessary to implement the Polanco
28 Redevelopment Act (Article 12.5 (commencing with Section
29 33459) of Chapter 4 of Part 1 of Division 24 of the Health and
30 Safety Code).

31 (d) The district may finance any project that implements a transit
32 priority project pursuant to Section 65470, regional transportation
33 plan, or other projects that are consistent with the general use
34 designation, density, building intensity, and applicable policies
35 specified for the project area in either a sustainable communities
36 strategy or an alternative planning strategy, for which the State
37 Air Resources Board, pursuant to Chapter 2.5 (commencing with
38 Section 65080) of Division 2 of Title 7, has accepted a metropolitan
39 planning organization's determination that the sustainable
40 communities strategy or the alternative planning strategy would,

1 if implemented, achieve the greenhouse gas emission reduction
2 targets.

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

10 (f) Projects financed pursuant to this section that involve
11 construction, alteration, demolition, installation, or repair work
12 and dwelling units constructed by a district pursuant to this section,
13 shall be subject to Chapter 1 (commencing with Section 1720) of
14 Part 7 of Division 2 of the Labor Code.

15 SEC. 5. Section 53395.4 of the Government Code is amended
16 to read:

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

23 (b) A district may finance only the facilities authorized in this
24 chapter to the extent that the facilities are in addition to those
25 provided in the territory of the district before the district was
26 created. The additional facilities may not supplant facilities already
27 available within that territory when the district was created but
28 may supplement, rehabilitate, upgrade, or make more sustainable
29 those facilities.

30 (c) A district may include areas that are not contiguous.

31 (d) *If the boundaries of a district overlap with the boundaries*
32 *of a former redevelopment agency, a participating city, county, or*
33 *special district may allocate its share of net available revenue, as*
34 *defined by subdivision (k) of Section 53395.1 of the Government*
35 *Code, from within the boundaries of the former redevelopment*
36 *agency to the district.*

37 (e) *A district shall not finance any project or portion of a project*
38 *within the boundaries of a former redevelopment agency until the*
39 *successor agency to the former redevelopment agency has received*
40 *a finding of completion, as defined by Section 34179.7 of the Health*

1 *and Safety Code, and has no pending litigation against the state*
2 *related to Part 1.8 (commencing with Section 34161) or Part 1.85*
3 *(commencing with Section 34170) of the Health and Safety Code.*

4 SEC. 6. Section 53395.5 of the Government Code is amended
5 to read:

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

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

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

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

34 (d) Ensure that removal or destruction of any dwelling units
35 occupied by persons or families of low or moderate income not
36 take place unless and until there are suitable housing units, at
37 comparable cost to the units from which the persons or families
38 were displaced, available and ready for occupancy by the residents
39 of the units at the time of their displacement. The housing units
40 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. 7. 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 or adoption of an
7 infrastructure financing plan, including a division of taxes
8 thereunder, shall be commenced within 30 days after the date the
9 legislative body adopted the resolution adopting the infrastructure
10 financing plan pursuant to Section 53395.20. Consistent with the
11 time limitations of this section, such an action or proceeding with
12 respect to a division of taxes under this chapter may be brought
13 pursuant to Chapter 9 (commencing with Section 860) of Title 10
14 of Part 2 of the Code of Civil Procedure, except that Section 869
15 of the Code of Civil Procedure shall not apply.

16 SEC. 8. Section 53395.7 of the Government Code is amended
17 to read:

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

30 SEC. 9. Section 53395.10 of the Government Code is amended
31 to read:

32 53395.10. A legislative body of a city may designate one or
33 more proposed infrastructure financing districts pursuant to this
34 chapter. Proceedings for the establishment of a district shall be
35 instituted by the adoption of a resolution of intention to establish
36 the proposed district and shall do all of the following:

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

1 (b) State the type of public facilities and development proposed
2 to be financed or assisted by the district in accordance with Section
3 53395.3.

4 (c) State the need for the district and the goals the district
5 proposes to achieve.

6 (d) State that incremental property tax revenue from the city
7 and some or all affected taxing entities within the district, if
8 approved by resolution pursuant to Section 53395.19, may be used
9 to implement the plan adopted pursuant to Section 53395.14.

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

11 SEC. 10. Section 53395.11 of the Government Code is amended
12 to read:

13 53395.11. The legislative body shall direct the clerk to mail a
14 copy of the resolution of intention to create the district to each
15 owner of land within the district and to each affected taxing entity.

16 SEC. 11. Section 53395.12 of the Government Code is amended
17 to read:

18 53395.12. (a) The legislative body shall direct the clerk to post
19 a copy of the resolution of intention to create the district in an
20 easily identifiable and accessible location on the legislative body's
21 Internet Web site.

22 (b) At the conclusion of the public hearing scheduled pursuant
23 to subdivision (e) of Section 53395.10, the legislative body of the
24 city may adopt a resolution establishing the infrastructure financing
25 district and the public financing authority of the district based upon
26 a finding that (1) the goals of the district are consistent with the
27 general plan; and (2) the financing programs undertaken by the
28 district are an efficient means of implementing the goals of the
29 district.

30 SEC. 12. Section 53395.13 of the Government Code is amended
31 to read:

32 53395.13. After adopting the resolution pursuant to Section
33 53395.12, the legislative body shall send a copy of the resolution
34 to the public financing authority. Upon receipt of the resolution,
35 the public financing authority shall designate and direct the city
36 engineer or other appropriate official to prepare an infrastructure
37 plan pursuant to Section 53395.14.

38 SEC. 13. Section 53395.14 of the Government Code is amended
39 to read:

1 53395.14. The official designated pursuant to Section 53395.13
2 shall prepare a proposed infrastructure financing plan. The
3 infrastructure financing plan shall be consistent with the general
4 plan of the city within which the district is located and shall include
5 all of the following:

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

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

17 (c) If funding from affected taxing entities is incorporated into
18 the financing plan, a finding that the public facilities provide
19 significant benefits to an area larger than the area of the district.

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

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

28 (2) A projection of the amount of tax revenues expected to be
29 received by the district in each year during which the district will
30 receive tax revenues, including an estimate of the amount of tax
31 revenues 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 on which the district will cease to exist, by which
38 time all tax allocation to the district will end. The date shall not
39 be more than 40 years from the date the public financing authority

1 adopted the resolution adopting the infrastructure 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 Transit
14 Priority Project Program, pursuant to Section 65470, including
15 any permit and affordable housing expenses and additional
16 expenses related to the project or the developer of a project that
17 implements a transit priority project.

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

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

26 (g) The goals the district proposes to achieve by assisting the
27 development described in paragraph (8) of subdivision (d).

28 (h) If funding from affected taxing entities is included in the
29 plan, the creation of the public accountability committee, pursuant
30 to Section 53395.21.

31 SEC. 14. Section 53395.16 of the Government Code is amended
32 to read:

33 53395.16. The designated official shall consult with the city
34 and each affected taxing entity, and, at the request of any affected
35 taxing entity, shall meet with representatives of an affected taxing
36 entity. Any affected taxing entity may suggest revisions to the
37 plan.

38 SEC. 15. Section 53395.17 of the Government Code is amended
39 to read:

1 53395.17. The public financing authority shall conduct a public
2 hearing prior to adopting the proposed infrastructure financing
3 plan. The public hearing shall be called no sooner than 60 days
4 after the plan has been sent to each affected taxing entity. In
5 addition to the notice given to landowners and affected taxing
6 entities pursuant to Sections 53395.11 and 53395.12, notice of the
7 public hearing shall be given by publication not less than once a
8 week for four successive weeks in a newspaper of general
9 circulation published in the city in which the proposed district is
10 located. The notice shall state that the district will be used to
11 finance public works, briefly describe the public works, briefly
12 describe the proposed financial arrangements, including the
13 proposed commitment of incremental tax revenue, describe the
14 boundaries of the proposed district and state the day, hour, and
15 place when and where any persons having any objections to the
16 proposed infrastructure financing plan, or the regularity of any of
17 the prior proceedings, may appear before the public financing
18 authority and object to the adoption of the proposed plan by the
19 public financing authority.

20 SEC. 16. Section 53395.19 of the Government Code is amended
21 to read:

22 53395.19. (a) The public financing authority shall not enact
23 a resolution approving a financing plan that provides for the
24 division of taxes of any affected taxing entity pursuant to Article
25 3 (commencing with Section 53396), unless a resolution approving
26 the plan has been adopted by the governing body of each affected
27 taxing entity that is proposed to be subject to division of taxes
28 pursuant to Article 3 (commencing with Section 53396) has been
29 filed with the public financing authority at or prior to the time of
30 the hearing.

31 (b) In the case of an affected taxing entity that is a special district
32 that provides fire protection services and where the county board
33 of supervisors is the governing authority or has appointed itself as
34 the governing board of the district, the plan shall be adopted by a
35 separate resolution approved by the district's governing authority
36 or governing board.

37 (c) Nothing in this section shall be construed to prevent the
38 public financing authority from amending its infrastructure
39 financing plan and adopting a resolution forming the infrastructure
40 financing district without allocation of the tax revenues of any

1 affected taxing entity that has not approved the infrastructure
2 financing plan by resolution of the governing body of the affected
3 taxing entity.

4 (d) A public financing authority may enter into a joint powers
5 agreement pursuant to Section 6500 with an affected taxing entity
6 to carry out the purposes of this chapter with regard to nontaxing
7 authority or powers only.

8 (e) An infrastructure financing plan that provides for the division
9 of taxes of any affected taxing entity shall not be implemented
10 until the date on which the public accountability committee is
11 created pursuant to Section 53395.21.

12 SEC. 17. Section 53395.20 of the Government Code is amended
13 to read:

14 53395.20. (a) At the conclusion of the hearing required by
15 Section 53395.17, the public financing authority may adopt a
16 resolution adopting the infrastructure financing plan, as modified,
17 and approving the formation of the infrastructure financing district
18 in a manner consistent with Sections 53395.10 and 53395.19, or
19 it may abandon the proceedings. The public financing authority
20 shall forward a copy of the plan to the legislative body to review
21 and approve the financing section of the plan described in
22 subdivision (d) of Section 53395.14. The infrastructure financing
23 plan shall not take effect until approved by the legislative body.

24 (b) No later than June 30 of each year after the adoption of the
25 infrastructure financing plan, the public financing authority shall
26 mail an annual report to each owner of land within the district and
27 each affected taxing entity. The public financing authority shall
28 post this annual report in an easily identifiable and accessible
29 location on the legislative body's Internet Web site. The annual
30 report shall contain all of the following:

31 (1) A summary of the district's expenditures.

32 (2) A description of the progress made towards the district's
33 adopted goals.

34 (3) An assessment of the status regarding completion of the
35 district's public works projects.

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

39 (d) If the district fails to produce evidence of progress made
40 towards achieving its adopted goals for five consecutive years, the

1 district shall not spend any funds to construct any new public works
2 projects; provided, however, the district may complete any public
3 works projects that it had started. Any excess property tax
4 increment revenues that had been allocated for new public works
5 projects shall be reallocated to the affected taxing entities.

6 SEC. 18. Section 53395.21 of the Government Code is
7 repealed.

8 SEC. 19. Section 53395.21 is added to the Government Code,
9 to read:

10 53395.21. (a) If an infrastructure financing plan contains a
11 provision that provides for the division of taxes of any affected
12 taxing entity, a public accountability committee shall be established
13 pursuant to this section.

14 (b) A public accountability committee shall be comprised of a
15 representative of each affected taxing entity that has agreed to the
16 division of its taxes, a representative of the public financing
17 authority, and one or more public members.

18 (c) The legislative body of each affected taxing entity and the
19 legislative body of the public financing authority shall each appoint
20 one of its members, or their designee, to the public accountability
21 committee. Those persons appointed pursuant to this subdivision
22 shall, by lot, appoint one or more public members to ensure that
23 the public accountability committee consists of an odd number of
24 members for voting purposes.

25 (d) The purposes of the public accountability committee shall
26 be to conduct or have conducted an annual performance review
27 and an annual independent financial review of the public financing
28 authority. The costs of the audits required pursuant to this
29 subdivision shall be paid from revenues of the public financing
30 authority.

31 SEC. 20. Section 53395.22 of the Government Code is
32 repealed.

33 SEC. 21. Section 53395.23 of the Government Code is
34 repealed.

35 SEC. 22. Section 53395.24 of the Government Code is
36 repealed.

37 SEC. 23. Section 53395.25 of the Government Code is
38 repealed.

39 SEC. 24. Section 53396 of the Government Code is amended
40 to read:

1 53396. Any infrastructure financing plan may contain a
2 provision that taxes, if any, levied upon taxable property in the
3 area included within the infrastructure financing district each year
4 by or for the benefit of the State of California, or any affected
5 taxing entity after the effective date of the resolution adopted
6 pursuant to Section 53395.20 to create the district, shall be divided
7 as follows:

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

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

34 SEC. 25. Section 53397.1 of the Government Code is amended
35 to read:

36 53397.1. The public financing authority may, by majority vote,
37 authorize the issuance of bonds pursuant to this chapter by adopting
38 a resolution.

39 SEC. 26. Section 53397.2 of the Government Code is amended
40 to read:

- 1 53397.2. The resolution adopted pursuant to Section 53397.1
- 2 shall contain all of the following information:
- 3 (a) A description of the facilities to be financed with the
- 4 proceeds of the bond issue.
- 5 (b) The estimated cost of the facilities, the estimated cost of
- 6 preparing and issuing the bonds, and the principal amount of the
- 7 bond issuance.
- 8 (c) The maximum interest rate and discount on the bond
- 9 issuance.
- 10 (d) A determination of the amount of tax revenue available or
- 11 estimated to be available, for the payment of the principal of, and
- 12 interest on, the bonds.
- 13 (e) A finding that the amount necessary to pay the principal of,
- 14 and interest on, the bond issuance will be less than, or equal to,
- 15 the amount determined pursuant to subdivision (d).
- 16 (f) The issuance of the bonds in one or more series.
- 17 (g) The date the bonds will bear.
- 18 (h) The denomination of the bonds.
- 19 (i) The form of the bonds.
- 20 (j) The manner and execution of the bonds.
- 21 (k) The medium of payment in which the bonds are payable.
- 22 (l) The place or manner of payment and any requirements for
- 23 registration of the bonds.
- 24 (m) The terms or call of redemption, with or without premium.
- 25 SEC. 27. Section 53397.5 of the Government Code is repealed.
- 26 SEC. 28. Section 53397.6 of the Government Code is repealed.
- 27 SEC. 29. Section 53397.7 of the Government Code is repealed.

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