

ASSEMBLY BILL

No. 313

Introduced by Assembly Member Atkins

February 12, 2015

An act to amend Sections 53398.52, 53398.56, 53398.57, 53398.62, 53398.63, 53398.66, 53398.67, 53398.68, 53398.69, and 53398.75 of, and to repeal and add Section 53398.74 of, the Government Code, relating to enhanced infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 313, as introduced, Atkins. Enhanced infrastructure financing districts.

Existing law authorizes the legislative body of a city or a county, defined to include a city and county, to establish an enhanced infrastructure financing district to finance public capital facilities or other specified projects of communitywide significance, including, but not limited to, the acquisition, construction, or rehabilitation of housing for persons of low and moderate income for rent or purchase. Existing law requires proceedings for the establishment of a district to be instituted by the adoption of a resolution of intention to establish the proposed district, and imposes specified duties on the legislative body with respect to the preparation, proposal, and adoption of an infrastructure financing plan after that resolution of intent is adopted.

Existing law also requires the legislative body to establish a public financing authority, defined as the governing board of the enhanced infrastructure financing authority, prior to the adoption of a resolution to form an enhanced infrastructure district and infrastructure financing plan.

This bill would require, after the adoption of a resolution of intention to establish the proposed district, the legislative body to send a copy of the resolution to the public financing authority. This bill would revise the duties of the public financing authority after the resolution of intention to establish the proposed district has been adopted, so that the public financing authority, instead of the legislative body, will perform the specified duties related to the preparation, proposal, and adoption of the infrastructure financing plan and the adoption of the formation of the district.

This bill would provide that if a resolution is adopted to abandon proceedings to adopt the infrastructure financing plan, then the public financing authority ceases to exist and the legislative body is prohibited from enacting a resolution of intent to establish a district that includes the same geographic area within one year of the date of the resolution abandoning the proceedings.

This bill would authorize the enhanced infrastructure financing district to finance the acquisition, construction, or rehabilitation of housing for persons of very low income for rent or purchase, as provided.

Existing law authorizes an enhanced infrastructure financing district to utilize any powers under the Polanco Redevelopment Act, which authorizes a redevelopment agency to take action to remedy or remove a release of hazardous substances on, under, or from property, subject to specified conditions. Existing law also authorizes a local agency to take any action similar to that authorized under the Polanco Redevelopment Act.

This bill would instead authorize an enhanced infrastructure financing district to utilize any powers under either law.

Existing law requires the infrastructure financing plan to provided for specific actions if any dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, including, but not limited to, causing or requiring the construction or rehabilitation, for rent or sale to persons or families of low or moderate income, of an equal number of replacement dwelling units at affordable housing cost within the territory of the district and providing relocation assistance to persons displaced by any public or private development occurring within the territory of the district.

This bill would revise and recast those provisions, and would require the infrastructure financing plan to contain those provisions if any dwelling units are proposed to be removed or destroyed either in the

course of private development that is financed by the district or by public works construction resulting from the infrastructure financing plan.

Article XIII B of the California Constitution (Article XIII B) prohibits the annual appropriations subject to limitation of a local government, defined to include a special district, from exceeding its annual appropriations limit, but allows for that appropriations limit to be established or changed by the electors of that entity in conformity with existing constitutional and statutory laws. Article XIII B defines “appropriations subject to limitation” as any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity. Existing law allows the public financing authority to submit a proposition to establish or change the appropriations limit of an enhanced infrastructure financing district to the qualified electors of a proposed or established district, which is effective if approved by the qualified electors.

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

This bill would repeal those provisions allowing the public financing authority to submit a proposition to establish or change the appropriations limit of the district, and instead provide that the allocation and payment to an enhanced infrastructure district of tax increment for the purpose of paying specified amounts incurred by the district is not the receipt by a district of proceeds of taxes levied by or on behalf of the district within the meaning or for the purposes of Article XIII B, and is not the receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B.

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 53398.52 of the Government Code is
- 2 amended to read:
- 3 53398.52. (a) (1) A district may finance any of the following:
- 4 (A) The purchase, construction, expansion, improvement,
- 5 seismic retrofit, or rehabilitation of any real or other tangible

1 property with an estimated useful life of 15 years or longer that
 2 satisfies the requirements of subdivision (b).

3 (B) The planning and design work that is directly related to the
 4 purchase, construction, expansion, or rehabilitation of property.

5 (C) The costs described in Sections 53398.56 and 53398.57.

6 (2) The facilities need not be physically located within the
 7 boundaries of the district. However, any facilities financed outside
 8 of a district must have a tangible connection to the work of the
 9 district, as detailed in the infrastructure financing plan adopted
 10 pursuant to Section 53398.69.

11 (3) A district may not finance routine maintenance, repair work,
 12 or the costs of an ongoing operation or providing services of any
 13 kind.

14 (b) The district shall finance only public capital facilities or
 15 other specified projects of communitywide significance that
 16 provide significant benefits to the district or the surrounding
 17 community, including, but not limited to, all of the following:

18 (1) Highways, interchanges, ramps and bridges, arterial streets,
 19 parking facilities, and transit facilities.

20 (2) Sewage treatment and water reclamation plants and
 21 interceptor pipes.

22 (3) Facilities for the collection and treatment of water for urban
 23 uses.

24 (4) Flood control levees and dams, retention basins, and drainage
 25 channels.

26 (5) Child care facilities.

27 (6) Libraries.

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

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

31 (9) Brownfield restoration and other environmental mitigation.

32 (10) The development of projects on a former military base,
 33 provided that the projects are consistent with the military base
 34 authority reuse plan and are approved by the military base reuse
 35 authority, if applicable.

36 (11) The repayment of the transfer of funds to a military base
 37 reuse authority pursuant to Section 67851 that occurred on or after
 38 the creation of the district.

39 (12) The acquisition, construction, or rehabilitation of housing
 40 for persons of ~~low~~ very low, low, and moderate income, as defined

1 in ~~Section~~ *Sections 50105 and 50093* of the Health and Safety
2 Code, for rent or purchase.

3 (13) Acquisition, construction, or repair of industrial structures
4 for private use.

5 (14) Transit priority projects, as defined in Section 21155 of
6 the Public Resources Code, that are located within a transit priority
7 project area. For purposes of this paragraph, a transit priority
8 project area may include a military base reuse plan that meets the
9 definition of a transit priority project area and it may include a
10 contaminated site within a transit priority project area.

11 (15) Projects that implement a sustainable communities strategy,
12 when the State Air Resources Board, pursuant to Chapter 2.5
13 (commencing with Section 65080) of Division 2 of Title 7, has
14 accepted a metropolitan planning organization's determination
15 that the sustainable communities strategy or the alternative planning
16 strategy would, if implemented, achieve the greenhouse gas
17 emission reduction targets.

18 (c) The district shall require, by recorded covenants or
19 restrictions, that housing units built pursuant to this section shall
20 remain available at affordable housing costs to, and occupied by,
21 persons and families of ~~low-~~ *very low, low, or moderate-income*
22 households for the longest feasible time, but for not less than 55
23 years for rental units and 45 years for owner-occupied units.

24 (d) The district may finance mixed-income housing
25 developments, but may finance only those units in such a
26 development that are restricted to occupancy by persons of ~~low~~
27 *very low, low, or moderate incomes* as defined in ~~Section~~ *Sections*
28 *50105 and 50093* of the Health and Safety Code, and those onsite
29 facilities for child care, after-school care, and social services that
30 are integrally linked to the tenants of the restricted units.

31 (e) A district may utilize any powers under *either* the Polanco
32 Redevelopment Act (Article 12.5 (commencing with Section
33 33459) of Chapter 4 of Part 1 of Division 24 of the Health and
34 Safety Code) *or Chapter 6.10 (commencing with Section 25403)*
35 *of Division 20 of the Health and Safety Code*, and finance any
36 action necessary to implement that act.

37 SEC. 2. Section 53398.56 of the Government Code is amended
38 to read:

39 53398.56. It is the intent of the Legislature that the creation of
40 the districts should not ordinarily lead to the removal of existing

1 dwelling units. If, however, any dwelling units are proposed to be
 2 removed or destroyed in the course of private development *that is*
 3 *financed by the district* or public works construction ~~within the~~
 4 ~~area of the district, as a result of~~ the infrastructure financing plan
 5 adopted pursuant to Section 53398.69, *then that infrastructure*
 6 *financing plan* shall contain provisions to do all of the following:

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

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

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

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

38 *(a) If the dwelling units to be removed or destroyed are or were*
 39 *inhabited by persons or families of very low, low, or moderate*
 40 *income, as defined in Sections 50105 and 50093 of the Health and*

1 *Safety Code, at any time within five years prior to establishment*
2 *of the district, cause or require the construction or rehabilitation*
3 *of an equal number of replacement dwelling units, within one-half*
4 *mile of the location of the units to be removed or destroyed, that*
5 *have an equal or greater number of bedrooms as those removed*
6 *or destroyed units, within two years of the removal or destruction*
7 *of the dwelling units. The replacement dwelling units shall be*
8 *available for rent or sale to persons or families of very low, low,*
9 *or moderate income, at affordable rent, as defined in Section 50053*
10 *of the Health and Safety Code, or at affordable housing cost, as*
11 *defined in Section 50052.5 of the Health and Safety Code, to*
12 *persons in the same or a lower income category (extremely low,*
13 *very low, low, or moderate), as the persons displaced from, or*
14 *who last occupied, the removed or destroyed dwelling units.*

15 *(b) If the dwelling units to be removed or destroyed were not*
16 *inhabited by persons of low or moderate income within the period*
17 *of time specified in subdivision (a), cause or require the*
18 *construction or rehabilitation within one-half mile of the location*
19 *of the units to be removed or destroyed of at least one unit but not*
20 *less than 25 percent of the total dwelling units removed or*
21 *destroyed, within two years of the removal or destruction of the*
22 *dwelling units. The units constructed or rehabilitated pursuant to*
23 *this subdivision shall be of equivalent size and type to the units to*
24 *be removed or destroyed. An equal percentage of the replacement*
25 *dwelling units constructed or rehabilitated pursuant to this*
26 *subdivision shall be available for rent or sale at affordable rent,*
27 *as defined in Section 50053 of the Health and Safety Code, or*
28 *affordable housing cost, as defined in Section 50052.5 of the Health*
29 *and Safety Code, to extremely low and very low income persons*
30 *or families, as defined in Sections 50106 and 50105 of the Health*
31 *and Safety Code.*

32 *(c) Comply with all relocation assistance requirements of*
33 *Chapter 16 (commencing with Section 7260) of Division 7 of Title*
34 *1, for persons displaced from dwelling units by any public or*
35 *private action occurring as a result of the infrastructure financing*
36 *plan adopted pursuant to Section 53398.69. The displacement of*
37 *any persons from a dwelling unit as a result of the plan shall be*
38 *deemed to be the result of public action.*

39 *(d) Ensure that removal or destruction of any dwelling units*
40 *occupied by persons or families of low or moderate income not*

1 *take place unless and until there has been full compliance with*
 2 *the relocation assistance requirements of this section, Section*
 3 *53398.63, and Chapter 16 (commencing with Section 7260) of*
 4 *Division 7 of Title 1.*

5 (e) (1) The district shall require, by recorded covenants or
 6 restrictions, that ~~housing all dwelling units built constructed or~~
 7 *rehabilitated* pursuant to this section shall remain available at
 8 *affordable rent or housing costs cost* to, and occupied by, persons
 9 and families of ~~low- or moderate-income households the same~~
 10 *income categories as required by subdivision (a) or (b), as*
 11 *applicable*, for the longest feasible time, but for not less than 55
 12 years for rental units and 45 years for owner-occupied units.

13 ~~(2) In lieu of a 45-year covenant or restriction, the district may~~
 14 ~~subject owner-occupied units to an equity sharing agreement~~
 15 ~~described in paragraph (2) of subdivision (c) of Section 65915.~~

16 (2) *The district may permit sales of owner-occupied units prior*
 17 *to the expiration of the 45-year period for a price in excess of that*
 18 *otherwise permitted under this subdivision pursuant to an adopted*
 19 *program which protects the district's investment of moneys in the*
 20 *unit or units, including, but not limited to, an equity sharing*
 21 *program, not in conflict with another public funding source or*
 22 *law, which establishes a schedule of equity sharing that permits*
 23 *retention by the seller of a portion of those excess proceeds based*
 24 *on the length of occupancy. For purposes of this paragraph, the*
 25 *terms of the equity sharing program shall be consistent with the*
 26 *provisions of paragraph (2) of subdivision (c) of Section 65915,*
 27 *provided, however, that the program shall require any amounts*
 28 *recaptured by the district to be used within five years for any of*
 29 *the affordable housing purposes described in Section 34176.1 of*
 30 *the Health and Safety Code.*

31 SEC. 3. Section 53398.57 of the Government Code is amended
 32 to read:

33 53398.57. Any action or proceeding to attack, review, set aside,
 34 void, or annul the creation of a district, adoption of an infrastructure
 35 financing plan, including a division of taxes thereunder, or an
 36 election pursuant to this chapter shall be commenced within 30
 37 days after the enactment of the resolution creating the district
 38 pursuant to Section 53398.69. Consistent with the time limitations
 39 of this section, such an action or proceeding with respect to a
 40 division of taxes under this chapter may be brought pursuant to

1 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
2 the Code of Civil Procedure, ~~except that Section 869 of the Code~~
3 ~~of Civil Procedure shall not apply.~~ *Procedure.*

4 SEC. 4. Section 53398.62 of the Government Code is amended
5 to read:

6 53398.62. After adopting the resolution pursuant to Section
7 53398.59, the legislative body shall *send a copy of the resolution*
8 *to the public financing authority. The public financing authority*
9 *shall designate and direct the city or county engineer or other*
10 *appropriate official to prepare an infrastructure plan pursuant to*
11 *Section 53398.63.*

12 SEC. 5. Section 53398.63 of the Government Code is amended
13 to read:

14 53398.63. After receipt of a copy of the resolution of intention
15 to establish a district, the official designated pursuant to Section
16 53395.62 shall prepare a proposed infrastructure financing plan.
17 The infrastructure financing plan shall be consistent with the
18 general plan of the city or county within which the district is
19 located and shall include all of the following:

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

23 (b) A description of the public facilities and other forms of
24 development or financial assistance that is proposed in the area of
25 the district, including those to be provided by the private sector,
26 those to be provided by governmental entities without assistance
27 under this chapter, those public improvements and facilities to be
28 financed with assistance from the proposed district, and those to
29 be provided jointly. The description shall include the proposed
30 location, timing, and costs of the development and financial
31 assistance.

32 (c) If funding from affected taxing entities is incorporated into
33 the financing plan, a finding that the development and financial
34 assistance are of communitywide significance and provide
35 significant benefits to an area larger than the area of the district.

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

38 (1) A specification of the maximum portion of the incremental
39 tax revenue of the city or county and of each affected taxing entity
40 proposed to be committed to the district for each year during which

1 the district will receive incremental tax revenue. The portion need
2 not be the same for all affected taxing entities. The portion may
3 change over time.

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

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

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

13 (5) A date on which the district will cease to exist, by which
14 time all tax allocation to the district will end. The date shall not
15 be more than 45 years from the date on which the issuance of bonds
16 is approved pursuant to subdivision (a) of Section 53398.81, or
17 the issuance of a loan is approved by the governing board of a
18 local agency pursuant to Section 53398.87.

19 (6) An analysis of the costs to the city or county of providing
20 facilities and services to the area of the district while the area is
21 being developed and after the area is developed. The plan shall
22 also include an analysis of the tax, fee, charge, and other revenues
23 expected to be received by the city or county as a result of expected
24 development in the area of the district.

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

27 (8) A plan for financing any potential costs that may be incurred
28 by reimbursing a developer of a project that is both located entirely
29 within the boundaries of that district and qualifies for the Transit
30 Priority Project Program, pursuant to Section 65470, including
31 any permit and affordable housing expenses related to the project.

32 (e) If any dwelling units ~~occupied by persons or families~~ *within*
33 *the territory of the district* are proposed to be removed or destroyed
34 in the course of private development or public works construction
35 within the ~~area~~ *territory* of the district, a plan providing for
36 replacement of those units and relocation of those persons or
37 families consistent with the requirements of Section 53398.56.

38 (f) The goals the district proposes to achieve for each project
39 financed pursuant to Section 53398.52.

1 SEC. 6. Section 53398.66 of the Government Code is amended
2 to read:

3 53398.66. ~~The legislative body~~ *public financing authority* shall
4 conduct a public hearing prior to adopting the proposed
5 infrastructure financing plan. The public hearing shall be called
6 no sooner than 60 days after the plan has been sent to each affected
7 taxing entity. In addition to the notice given to landowners and
8 affected taxing entities pursuant to Sections 53398.60 and
9 53398.61, notice of the public hearing shall be given by publication
10 not less than once a week for four successive weeks in a newspaper
11 of general circulation published in the city or county in which the
12 proposed district is located. The notice shall state that the district
13 will be used to finance public facilities or development, briefly
14 describe the public facilities or development, briefly describe the
15 proposed financial arrangements, including the proposed
16 commitment of incremental tax revenue, describe the boundaries
17 of the proposed district and state the day, hour, and place when
18 and where any persons having any objections to the proposed
19 infrastructure financing plan, or the regularity of any of the prior
20 proceedings, may appear before the ~~legislative body~~ *public*
21 *financing authority* and object to the adoption of the proposed plan
22 by the ~~legislative body~~ *public financing authority*.

23 SEC. 7. Section 53398.67 of the Government Code is amended
24 to read:

25 53398.67. At the hour set in the required notices, the ~~legislative~~
26 ~~body~~ *public financing authority* shall proceed to hear and pass
27 upon all written and oral objections. The hearing may be continued
28 from time to time. The ~~legislative body~~ *public financing authority*
29 shall consider the recommendations, if any, of affected taxing
30 entities, and all evidence and testimony for and against the adoption
31 of the plan. The ~~legislative body~~ *public financing authority* may
32 modify the plan by eliminating or reducing the size and cost of
33 proposed facilities or development, by reducing the amount of
34 proposed debt, or by reducing the portion, amount, or duration of
35 incremental tax revenues to be committed to the district.

36 SEC. 8. Section 53398.68 of the Government Code is amended
37 to read:

38 53398.68. (a) The ~~legislative body~~ *public financing authority*
39 shall not enact a resolution proposing formation of a district and
40 providing for the division of taxes of any affected taxing entity

1 pursuant to Article 3 (commencing with Section 53398.75) unless
2 a resolution approving the plan has been adopted by the governing
3 body of each affected taxing entity which is proposed to be subject
4 to division of taxes pursuant to Article 3 (commencing with Section
5 53398.75) and has been filed with the legislative body at or prior
6 to the time of the hearing.

7 (b) Nothing in this section shall be construed to prevent the
8 ~~legislative body~~ *public financing authority* from amending its
9 infrastructure financing plan and adopting a resolution proposing
10 formation of the enhanced infrastructure financing district without
11 allocation of the tax revenues of any affected taxing entity that has
12 not approved the infrastructure financing plan by resolution of the
13 governing body of the affected taxing entity.

14 SEC. 9. Section 53398.69 of the Government Code is amended
15 to read:

16 53398.69. (a) At the conclusion of the hearing, the ~~legislative~~
17 ~~body~~ *public financing authority* may adopt a resolution proposing
18 adoption of the infrastructure financing plan, as modified, and
19 formation of the enhanced infrastructure financing district in a
20 manner consistent with Section 53398.68, or it may ~~abandon~~ *adopt*
21 *a resolution abandoning* the proceedings. *If the proceedings are*
22 *abandoned, then the public financing authority shall cease to exist*
23 *by operation of this section with no further action required of the*
24 *legislative body and the legislative body may not enact a resolution*
25 *of intention to establish a district that includes the same geographic*
26 *area within one year of the date of the resolution abandoning the*
27 *proceedings.*

28 (b) The infrastructure financing plan ~~and the formation of the~~
29 ~~enhanced infrastructure financing district~~ shall take effect upon
30 the ~~legislative body's~~ adoption of the resolution. The infrastructure
31 financing plan shall specify if the district shall be funded solely
32 through the district's share of tax increment, governmental or
33 private loans, grants, bonds, assessments, fees, or some
34 combination thereof. However, the public financing authority may
35 not issue bonds or levy assessments or fees that may be included
36 in the infrastructure financing plan prior to one or more of the
37 following:

38 (1) An affirmative vote, pursuant to subdivision (a) of Section
39 53398.81, to issue bonds to finance the infrastructure financing
40 plan.

1 (2) ~~Without compliance~~—*Compliance* with the procedures
2 required in subdivision (f) of Section 53398.75, to levy assessments
3 or fees to finance the infrastructure financing plan.

4 (c) In addition the district may expend up to 10 percent of any
5 accrued tax increment in the first two years of the effective date
6 of the enhanced infrastructure financing district on planning and
7 dissemination of information to the residents within the district's
8 boundaries about the infrastructure financing plan and planned
9 activities to be funded by the district.

10 SEC. 10. Section 53398.74 of the Government Code is
11 repealed.

12 ~~53398.74. The public financing authority may submit a~~
13 ~~proposition to establish or change the appropriations limit, as~~
14 ~~defined by subdivision (h) of Section 8 of Article XIII B of the~~
15 ~~California Constitution, of a district to the qualified electors of a~~
16 ~~proposed or established district. The proposition establishing or~~
17 ~~changing the appropriations limit shall become effective if~~
18 ~~approved by the qualified electors voting on the proposition and~~
19 ~~shall be adjusted for changes in the cost of living and changes in~~
20 ~~populations, as defined by subdivisions (b) and (c) of Section 7901,~~
21 ~~except that the change in population may be estimated by the~~
22 ~~legislative body in the absence of an estimate by the Department~~
23 ~~of Finance, and in accordance with Section 1 of Article XIII B of~~
24 ~~the California Constitution. For purposes of adjusting for changes~~
25 ~~in population, the population of the district shall be deemed to be~~
26 ~~at least one person during each calendar year. Any election held~~
27 ~~pursuant to this section may be combined with any election held~~
28 ~~pursuant to Section 53398.80 in any convenient manner.~~

29 SEC. 11. Section 53398.74 is added to the Government Code,
30 to read:

31 53398.74. This section implements and fulfills the intent of
32 this chapter and of Article XIII B of the California Constitution.
33 The allocation and payment to a district of the portion of taxes
34 specified in Section 53398.75 for the purpose of paying principal
35 of, or interest on, loans, advances, or indebtedness incurred by the
36 district pursuant to this chapter, shall not be deemed the receipt
37 by a district of proceeds of taxes levied by or on behalf of the
38 district within the meaning or for the purposes of Article XIII B
39 of the California Constitution, nor shall that portion of taxes be
40 deemed receipt of proceeds of taxes by, or an appropriation subject

1 to limitation of, any other public body within the meaning or for
2 purposes of Article XIII B of the California Constitution or any
3 statutory provision enacted in implementation of Article XIII B
4 of the California Constitution.

5 SEC. 12. Section 53398.75 of the Government Code is amended
6 to read:

7 53398.75. (a) Any infrastructure financing plan may contain
8 a provision that taxes, if any, levied upon taxable property in the
9 area included within the enhanced infrastructure financing district
10 each year by or for the benefit of the State of California, or any
11 affected taxing entity after the effective date of the ordinance
12 adopted pursuant to Section 53398.69 to create the district, shall
13 be divided as follows:

14 (1) That portion of the taxes that would be produced by the rate
15 upon which the tax is levied each year by or for each of the affected
16 taxing entities upon the total sum of the assessed value of the
17 taxable property in the district as shown upon the assessment roll
18 used in connection with the taxation of the property by the affected
19 taxing entity, last equalized prior to the effective date of the
20 ordinance adopted pursuant to Section 53398.69 to create the
21 district, shall be allocated to, and when collected shall be paid to,
22 the respective affected taxing entities as taxes by or for the affected
23 taxing entities on all other property are paid.

24 (2) That portion of the levied taxes each year specified in the
25 adopted infrastructure financing plan for the city or county and
26 each affected taxing entity that has agreed to participate pursuant
27 to Section 53398.68 in excess of the amount specified in *paragraph*
28 *(1) of subdivision (a)* shall be allocated to, and when collected
29 shall be paid into a special fund of, the district for all lawful
30 purposes of the district. Unless and until the total assessed valuation
31 of the taxable property in a district exceeds the total assessed value
32 of the taxable property in the district as shown by the last equalized
33 assessment roll referred to in *paragraph (1) of subdivision (a)*, all
34 of the taxes levied and collected upon the taxable property in the
35 district shall be paid to the respective affected taxing entities. When
36 the district ceases to exist pursuant to the adopted infrastructure
37 financing plan, all moneys thereafter received from taxes upon the
38 taxable property in the district shall be paid to the respective
39 affected taxing entities as taxes on all other property are paid.

1 (b) Notwithstanding subdivision (a), where any district
2 boundaries overlap with the boundaries of any former
3 redevelopment project area, any debt or obligation of a district
4 shall be subordinate to any and all enforceable obligations of the
5 former redevelopment agency, as approved by the Oversight Board
6 and the Department of Finance. For the purposes of this chapter,
7 the division of taxes allocated to the district pursuant to subdivision
8 (a) of this section or of subdivision (b) of Section 53396 shall not
9 include any taxes required to be deposited by the county
10 auditor-controller into the Redevelopment Property Tax Trust Fund
11 created pursuant to subdivision (b) of Section 34170.5 of the Health
12 and Safety Code.

13 (c) The legislative body of the city or county forming the district
14 may choose to dedicate any portion of its net available revenue to
15 the district through the financing plan described in Section
16 53398.63.

17 (d) For the purposes of this section, “net available revenue”
18 means periodic distributions to the city or county from the
19 Redevelopment Property Tax Trust Fund, created pursuant to
20 Section 34170.5 of the Health and Safety Code, that are available
21 to the city or county after all preexisting legal commitments and
22 statutory obligations funded from that revenue are made pursuant
23 to Part 1.85 (commencing with Section 34170) of Division 24 of
24 the Health and Safety Code. “Net available revenue” shall not
25 include any funds deposited by the county auditor-controller into
26 the Redevelopment Property Tax Trust Fund or funds remaining
27 in the Redevelopment Property Tax Trust Fund prior to distribution.
28 Net available revenues shall not include any moneys payable to a
29 school district that maintains kindergarten and grades 1 to 12,
30 inclusive, community college districts, county office of education,
31 or to the Educational Revenue Augmentation Fund, pursuant to
32 paragraph (4) of subdivision (a) of Section 34183 of the Health
33 and Safety Code.

34 (e) (1) That portion of any ad valorem property tax revenue
35 annually allocated to a city or county pursuant to Section 97.70 of
36 the Revenue and Taxation Code that is specified in the adopted
37 infrastructure financing plan for the city or county that has agreed
38 to participate pursuant to Section 53398.68, and that corresponds
39 to the increase in the assessed valuation of taxable property shall

1 be allocated to, and when collected shall be apportioned to a special
2 fund of the district for all lawful purposes of the district.

3 (2) When the district ceases to exist pursuant to the adopted
4 infrastructure financing plan, the revenues described in this
5 subdivision shall be allocated to, and when collected, shall be
6 apportioned to the respective city or county.

7 (f) This section shall not be construed to prevent a district from
8 utilizing revenues from any of the following sources to support its
9 activities provided that the applicable voter approval has been
10 obtained, and the infrastructure financing plan has been approved
11 pursuant to Section 53398.69:

12 (1) The Improvement Act of 1911 (Division 7 (commencing
13 with Section 5000) of the Streets and Highways Code).

14 (2) The Municipal Improvement Act of 1913 (Division 12
15 (commencing with Section 10000) of the Streets and Highways
16 Code).

17 (3) The Improvement Bond Act of 1915 (Division 10
18 (commencing with Section 8500) of the Streets and Highways
19 Code).

20 (4) The Landscaping and Lighting Act of 1972 (Part 2
21 (commencing with Section 22500) of Division 15 of the Streets
22 and Highways Code).

23 (5) The Vehicle Parking District Law of 1943 (Part 1
24 (commencing with Section 31500) of Division 18 of the Streets
25 and Highways Code).

26 (6) The Parking District Law of 1951 (Part 4 (commencing with
27 Section 35100) of Division 18 of the Streets and Highways Code).

28 (7) The Park and Playground Act of 1909 (Chapter 7
29 (commencing with Section 38000) of Part 2 of Division 3 of Title
30 4 of this code).

31 (8) The Mello-Roos Community Facilities Act of 1982 (Chapter
32 2.5 (commencing with Section 53311) of Part 1 of Division 2 of
33 this title).

34 (9) The Benefit Assessment Act of 1982 (Chapter 6.4
35 (commencing with Section 54703) of Part 1 of Division 2 of this
36 title).

37 (10) The so-called facilities benefit assessment levied by the
38 charter city of San Diego or any substantially similar assessment

- 1 levied for the same purpose by any other charter city pursuant to
- 2 any ordinance or charter provision.

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