

AMENDED IN SENATE JUNE 30, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 313

Introduced by Assembly Member Atkins

February 12, 2015

An act to amend Sections 53398.51, 53398.51.1, 53398.52, 53398.56, 53398.57, 53398.62, 53398.63, 53398.64, 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 amended, 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. *The bill would also require the legislative body to establish the public financing authority at the same time that it adopts a resolution of intention.*

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.~~ *entities. Existing law defines “affected taxing entity” as any governmental taxing agency which levied or had levied on its behalf a property tax on all or a portion of the property located in the proposed district in the fiscal year prior to the designation of the district, but not including any county office of education, school district, or community college district.*

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.

This bill would also expand the definition of “affected taxing entity” to include a special district, as defined, if the special district is providing any portion of the funding included in the infrastructure financing plan.

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

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

1 SECTION 1. Section 53398.51 of the Government Code is
 2 amended to read:

3 53398.51. Unless the context otherwise requires, the definitions
 4 contained in this article shall govern the construction of this
 5 chapter.

6 (a) “Affected taxing entity” means any governmental taxing
 7 agency which levied or had levied on its behalf a property tax on
 8 all or a portion of the property located in the proposed district in
 9 the fiscal year prior to the designation of the district, but not
 10 including any county office of education, school district, or
 11 community college district. *An “affected taxing entity” may include*
 12 *a special district if the special district is providing any portion of*
 13 *the funding included in the infrastructure financing plan adopted*
 14 *pursuant to Section 53398.63. For the purposes of this section,*
 15 *“special district” means an agency of the state formed for the*
 16 *performance of governmental or proprietary functions within*
 17 *limited geographic boundaries, and shall not include a school*
 18 *district or community college district.*

19 (b) “County” means a county or a city and county.

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

25 (d) “Designated official” means the city or county engineer or
 26 other appropriate official designated pursuant to Section 53398.62.

27 (e) (1) “District” means an enhanced infrastructure financing
 28 district.

29 (2) An enhanced infrastructure financing district is a district
 30 within the meaning of Section 1 of Article XIII A of the California
 31 Constitution.

1 (f) “Enhanced infrastructure financing district” means a legally
 2 constituted governmental entity separate and distinct from the city
 3 or county that established it pursuant to this chapter for the sole
 4 purpose of financing public facilities or other projects as authorized
 5 by this chapter. An enhanced infrastructure financing district shall
 6 be a local agency for purposes of Chapter 9 (commencing with
 7 Section 54950).

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

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

19 (i) “Public financing authority” means the governing board of
 20 the district established pursuant to this chapter.

21 *SEC. 2. Section 53398.51.1 of the Government Code is*
 22 *amended to read:*

23 53398.51.1. (a) The public financing authority shall have a
 24 membership consisting of one of the following, as appropriate:

25 (1) If a district has only one participating affected taxing entity,
 26 the public financing authority’s membership shall consist of three
 27 members of the legislative body of the participating entity, and
 28 two members of the public chosen by the legislative body. The
 29 appointment of the public members shall be subject to the
 30 provisions of Section 54974.

31 (2) If a district has two or more participating affected taxing
 32 entities, the public financing authority’s membership shall consist
 33 of a majority of members from the legislative bodies of the
 34 participating entities, and a minimum of two members of the public
 35 chosen by the legislative bodies of the participating entities. The
 36 appointment of the public members shall be subject to the
 37 provisions of Section 54974.

38 (b) The legislative body shall ensure the public financing
 39 authority is established ~~prior to adopting~~ *at the same time that it*
 40 *adopts* a resolution of intention pursuant to Section ~~53398.69 to~~

1 ~~adopt an infrastructure financing plan and to form a district.~~
2 ~~53398.59.~~

3 (c) Members of the public financing authority established
4 pursuant to this chapter shall not receive compensation but may
5 receive reimbursement for actual and necessary expenses incurred
6 in the performance of official duties pursuant to Article 2.3
7 (commencing with Section 53232) of Chapter 2.

8 (d) Members of the public financing authority are subject to
9 Article 2.4 (commencing with Section 53234) of Chapter 2.

10 (e) The public financing authority created pursuant to this
11 chapter shall be a local public agency subject to the Ralph M.
12 Brown Act (Chapter 9 (commencing with Section 54950)), the
13 California Public Records Act (Chapter 3.5 (commencing with
14 Section 6250) of Division 7 of Title 1), and the Political Reform
15 Act of 1974 (Title 9 (commencing with Section 81000)).

16 ~~SECTION 4.~~

17 *SEC. 3.* Section 53398.52 of the Government Code is amended
18 to read:

19 53398.52. (a) (1) A district may finance any of the following:

20 (A) The purchase, construction, expansion, improvement,
21 seismic retrofit, or rehabilitation of any real or other tangible
22 property with an estimated useful life of 15 years or longer that
23 satisfies the requirements of subdivision (b).

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

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

27 (2) The facilities need not be physically located within the
28 boundaries of the district. However, any facilities financed outside
29 of a district must have a tangible connection to the work of the
30 district, as detailed in the infrastructure financing plan adopted
31 pursuant to Section 53398.69.

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

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

39 (1) Highways, interchanges, ramps and bridges, arterial streets,
40 parking facilities, and transit facilities.

- 1 (2) Sewage treatment and water reclamation plants and
2 interceptor pipes.
- 3 (3) Facilities for the collection and treatment of water for urban
4 uses.
- 5 (4) Flood control levees and dams, retention basins, and drainage
6 channels.
- 7 (5) Child care facilities.
- 8 (6) Libraries.
- 9 (7) Parks, recreational facilities, and open space.
- 10 (8) Facilities for the transfer and disposal of solid waste,
11 including transfer stations and vehicles.
- 12 (9) Brownfield restoration and other environmental mitigation.
- 13 (10) The development of projects on a former military base,
14 provided that the projects are consistent with the military base
15 authority reuse plan and are approved by the military base reuse
16 authority, if applicable.
- 17 (11) The repayment of the transfer of funds to a military base
18 reuse authority pursuant to Section 67851 that occurred on or after
19 the creation of the district.
- 20 (12) The acquisition, construction, or rehabilitation of housing
21 for persons of very low, low, and moderate income, as defined in
22 Sections 50105 and 50093 of the Health and Safety Code, for rent
23 or purchase.
- 24 (13) Acquisition, construction, or repair of industrial structures
25 for private use.
- 26 (14) Transit priority projects, as defined in Section 21155 of
27 the Public Resources Code, that are located within a transit priority
28 project area. For purposes of this paragraph, a transit priority
29 project area may include a military base reuse plan that meets the
30 definition of a transit priority project area and it may include a
31 contaminated site within a transit priority project area.
- 32 (15) Projects that implement a sustainable communities strategy,
33 when the State Air Resources Board, pursuant to Chapter 2.5
34 (commencing with Section 65080) of Division 2 of Title 7, has
35 accepted a metropolitan planning organization's determination
36 that the sustainable communities strategy or the alternative planning
37 strategy would, if implemented, achieve the greenhouse gas
38 emission reduction targets.
- 39 (c) The district shall require, by recorded covenants or
40 restrictions, that housing units built pursuant to this section shall

1 remain available at affordable housing costs to, and occupied by,
 2 persons and families of very low, low, or moderate-income
 3 households for the longest feasible time, but for not less than 55
 4 years for rental units and 45 years for owner-occupied units.

5 (d) The district may finance mixed-income housing
 6 developments, but may finance only those units in such a
 7 development that are restricted to occupancy by persons of very
 8 low, low, or moderate incomes as defined in Sections 50105 and
 9 50093 of the Health and Safety Code, and those onsite facilities
 10 for child care, after-school care, and social services that are
 11 integrally linked to the tenants of the restricted units.

12 (e) A district may utilize any powers under either the Polanco
 13 Redevelopment Act (Article 12.5 (commencing with Section
 14 33459) of Chapter 4 of Part 1 of Division 24 of the Health and
 15 Safety Code) or Chapter 6.10 (commencing with Section 25403)
 16 of Division 20 of the Health and Safety Code, and finance any
 17 action necessary to implement that act.

18 ~~SEC. 2.~~

19 *SEC. 4.* Section 53398.56 of the Government Code is amended
 20 to read:

21 53398.56. It is the intent of the Legislature that the creation of
 22 the districts should not ordinarily lead to the removal of existing
 23 dwelling units. If, however, any dwelling units are proposed to be
 24 removed or destroyed in the course of private development that is
 25 financed by the district or public works construction as a result of
 26 the infrastructure financing plan adopted pursuant to Section
 27 53398.69, then that infrastructure financing plan shall contain
 28 provisions to do all of the following:

29 (a) If the dwelling units to be removed or destroyed are or were
 30 inhabited by persons or families of very low, low, or moderate
 31 income, as defined in Sections 50105 and 50093 of the Health and
 32 Safety Code, at any time within five years prior to establishment
 33 of the district, cause or require the construction or rehabilitation
 34 of an equal number of replacement dwelling units, within one-half
 35 mile of the location of the units to be removed or destroyed, that
 36 have an equal or greater number of bedrooms as those removed
 37 or destroyed units, within two years of the removal or destruction
 38 of the dwelling units. The replacement dwelling units shall be
 39 available for rent or sale to persons or families of very low, low,
 40 or moderate income, at affordable rent, as defined in Section 50053

1 of the Health and Safety Code, or at affordable housing cost, as
2 defined in Section 50052.5 of the Health and Safety Code, to
3 persons in the same or a lower income category (extremely low,
4 very low, low, or moderate), as the persons displaced from, or who
5 last occupied, the removed or destroyed dwelling units.

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

23 (c) Comply with all relocation assistance requirements of
24 Chapter 16 (commencing with Section 7260) of Division 7 of Title
25 1, for persons displaced from dwelling units by any public or
26 private action occurring as a result of the infrastructure financing
27 plan adopted pursuant to Section 53398.69. The displacement of
28 any persons from a dwelling unit as a result of the plan shall be
29 deemed to be the result of public action.

30 (d) Ensure that removal or destruction of any dwelling units
31 occupied by persons or families of low or moderate income not
32 take place unless and until there has been full compliance with the
33 relocation assistance requirements of this section, Section
34 53398.63, and Chapter 16 (commencing with Section 7260) of
35 Division 7 of Title 1.

36 (e) (1) The district shall require, by recorded covenants or
37 restrictions, that all dwelling units constructed or rehabilitated
38 pursuant to this section shall remain available at affordable rent
39 or housing cost to, and occupied by, persons and families of the
40 same income categories as required by subdivision (a) or (b), as

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

3 (2) The district may permit sales of owner-occupied units prior
 4 to the expiration of the 45-year period for a price in excess of that
 5 otherwise permitted under this subdivision pursuant to an adopted
 6 program which protects the district’s investment of moneys in the
 7 unit or units, including, but not limited to, an equity sharing
 8 program, not in conflict with another public funding source or law,
 9 which establishes a schedule of equity sharing that permits
 10 retention by the seller of a portion of those excess proceeds based
 11 on the length of occupancy. For purposes of this paragraph, the
 12 terms of the equity sharing program shall be consistent with the
 13 provisions of paragraph (2) of subdivision (c) of Section 65915,
 14 provided, however, that the program shall require any amounts
 15 recaptured by the district to be used within five years for any of
 16 the affordable housing purposes described in Section 34176.1 of
 17 the Health and Safety Code.

18 ~~SEC. 3.~~

19 SEC. 5. Section 53398.57 of the Government Code is amended
 20 to read:

21 53398.57. Any action or proceeding to attack, review, set aside,
 22 void, or annul the creation of a district, adoption of an infrastructure
 23 financing plan, including a division of taxes thereunder, or an
 24 election pursuant to this chapter shall be commenced within 30
 25 days after the enactment of the resolution creating the district
 26 pursuant to Section 53398.69. Consistent with the time limitations
 27 of this section, such an action or proceeding with respect to a
 28 division of taxes under this chapter may be brought pursuant to
 29 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
 30 the Code of Civil Procedure.

31 ~~SEC. 4.~~

32 SEC. 6. Section 53398.62 of the Government Code is amended
 33 to read:

34 53398.62. After adopting the resolution pursuant to Section
 35 53398.59, the legislative body shall send a copy of the resolution
 36 to the public financing authority. The public financing authority
 37 shall designate and direct the city or county engineer or other
 38 appropriate official to prepare an infrastructure *financing* plan
 39 pursuant to Section 53398.63.

1 ~~SEC. 5.~~

2 *SEC. 7.* Section 53398.63 of the Government Code is amended
3 to read:

4 53398.63. After receipt of a copy of the resolution of intention
5 to establish a district, the official designated pursuant to Section
6 53395.62 shall prepare a proposed infrastructure financing plan.
7 The infrastructure financing plan shall be consistent with the
8 general plan of the city or county within which the district is
9 located and shall include all of the following:

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

13 (b) A description of the public facilities and other forms of
14 development or financial assistance that is proposed in the area of
15 the district, including those to be provided by the private sector,
16 those to be provided by governmental entities without assistance
17 under this chapter, those public improvements and facilities to be
18 financed with assistance from the proposed district, and those to
19 be provided jointly. The description shall include the proposed
20 location, timing, and costs of the development and financial
21 assistance.

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

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

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

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

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

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

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

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

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

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

22 (e) If any dwelling units within the territory of the district are
 23 proposed to be removed or destroyed in the course of private
 24 development or public works construction within the territory of
 25 the district, a plan providing for replacement of those units and
 26 relocation of those persons or families consistent with the
 27 requirements of Section 53398.56.

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

30 *SEC. 8. Section 53398.64 of the Government Code is amended*
 31 *to read:*

32 53398.64. The infrastructure financing plan shall be sent to
 33 each owner of land within the proposed district and to each affected
 34 taxing entity together with any report required by the California
 35 Environmental Quality Act (Division 13 (commencing with Section
 36 21000) of the Public Resources Code) that pertains to the proposed
 37 public facilities or the proposed development project for which
 38 the public facilities are needed, and shall be made available for
 39 public inspection. The report shall also be sent to *the public*

1 *financing authority*, the ~~planning commission~~ *commission*, and
2 the legislative body.

3 ~~SEC. 6.~~

4 *SEC. 9.* Section 53398.66 of the Government Code is amended
5 to read:

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

25 ~~SEC. 7.~~

26 *SEC. 10.* Section 53398.67 of the Government Code is amended
27 to read:

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

1 ~~SEC. 8.~~

2 ~~SEC. 11.~~ Section 53398.68 of the Government Code is amended
3 to read:

4 53398.68. (a) The public financing authority shall not enact
5 a resolution proposing formation of a district and providing for
6 the division of taxes of any affected taxing entity pursuant to
7 Article 3 (commencing with Section 53398.75) unless a resolution
8 approving the plan has been adopted by the governing body of
9 each affected taxing entity which is proposed to be subject to
10 division of taxes pursuant to Article 3 (commencing with Section
11 53398.75) and has been filed with the legislative body at or prior
12 to the time of the hearing.

13 (b) Nothing in this section shall be construed to prevent the
14 public financing authority from amending its infrastructure
15 financing plan and adopting a resolution proposing formation of
16 the enhanced infrastructure financing district without allocation
17 of the tax revenues of any affected taxing entity that has not
18 approved the infrastructure financing plan by resolution of the
19 governing body of the affected taxing entity.

20 ~~SEC. 9.~~

21 ~~SEC. 12.~~ Section 53398.69 of the Government Code is amended
22 to read:

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

34 (b) The infrastructure financing plan shall take effect upon the
35 adoption of the resolution. The infrastructure financing plan shall
36 specify if the district shall be funded solely through the district's
37 share of tax increment, governmental or private loans, grants,
38 bonds, assessments, fees, or some combination thereof. However,
39 the public financing authority may not issue bonds or levy

1 assessments or fees that may be included in the infrastructure
2 financing plan prior to one or more of the following:

3 (1) An affirmative vote, pursuant to subdivision (a) of Section
4 53398.81, to issue bonds to finance the infrastructure financing
5 plan.

6 (2) Compliance with the procedures required in subdivision (f)
7 of Section 53398.75, to levy assessments or fees to finance the
8 infrastructure financing plan.

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

15 ~~SEC. 10.~~

16 *SEC. 13.* Section 53398.74 of the Government Code is repealed.

17 ~~SEC. 11.~~

18 *SEC. 14.* Section 53398.74 is added to the Government Code,
19 to read:

20 53398.74. This section implements and fulfills the intent of
21 this chapter and of Article XIII B of the California Constitution.
22 The allocation and payment to a district of the portion of taxes
23 specified in Section 53398.75 for the purpose of paying principal
24 of, or interest on, loans, advances, or indebtedness incurred by the
25 district pursuant to this chapter, shall not be deemed the receipt
26 by a district of proceeds of taxes levied by or on behalf of the
27 district within the meaning or for the purposes of Article XIII B
28 of the California Constitution, nor shall that portion of taxes be
29 deemed receipt of proceeds of taxes by, or an appropriation subject
30 to limitation of, any other public body within the meaning or for
31 purposes of Article XIII B of the California Constitution or any
32 statutory provision enacted in implementation of Article XIII B
33 of the California Constitution.

34 ~~SEC. 12.~~

35 *SEC. 15.* Section 53398.75 of the Government Code is amended
36 to read:

37 53398.75. (a) Any infrastructure financing plan may contain
38 a provision that taxes, if any, levied upon taxable property in the
39 area included within the enhanced infrastructure financing district
40 each year by or for the benefit of the State of California, or any

1 affected taxing entity after the effective date of the ordinance
2 adopted pursuant to Section 53398.69 to create the district, shall
3 be divided as follows:

4 (1) That portion of the taxes that would be produced by the rate
5 upon which the tax is levied each year by or for each of the affected
6 taxing entities upon the total sum of the assessed value of the
7 taxable property in the district as shown upon the assessment roll
8 used in connection with the taxation of the property by the affected
9 taxing entity, last equalized prior to the effective date of the
10 ordinance adopted pursuant to Section 53398.69 to create the
11 district, shall be allocated to, and when collected shall be paid to,
12 the respective affected taxing entities as taxes by or for the affected
13 taxing entities on all other property are paid.

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

30 (b) Notwithstanding subdivision (a), where any district
31 boundaries overlap with the boundaries of any former
32 redevelopment project area, any debt or obligation of a district
33 shall be subordinate to any and all enforceable obligations of the
34 former redevelopment agency, as approved by the Oversight Board
35 and the Department of Finance. For the purposes of this chapter,
36 the division of taxes allocated to the district pursuant to subdivision
37 (a) of this section or of subdivision (b) of Section 53396 shall not
38 include any taxes required to be deposited by the county
39 auditor-controller into the Redevelopment Property Tax Trust Fund

1 created pursuant to subdivision (b) of Section 34170.5 of the Health
2 and Safety Code.

3 (c) The legislative body of the city or county forming the district
4 may choose to dedicate any portion of its net available revenue to
5 the district through the financing plan described in Section
6 53398.63.

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

24 (e) (1) That portion of any ad valorem property tax revenue
25 annually allocated to a city or county pursuant to Section 97.70 of
26 the Revenue and Taxation Code that is specified in the adopted
27 infrastructure financing plan for the city or county that has agreed
28 to participate pursuant to Section 53398.68, and that corresponds
29 to the increase in the assessed valuation of taxable property shall
30 be allocated to, ~~and~~ *and*, when ~~collected~~ *collected*, shall be
31 apportioned ~~to~~ *to*, a special fund of the district for all lawful
32 purposes of the district.

33 (2) When the district ceases to exist pursuant to the adopted
34 infrastructure financing plan, the revenues described in this
35 subdivision shall be allocated to, ~~and~~ *and*, when collected, shall
36 be apportioned ~~to~~ *to*, the respective city or county.

37 (f) This section shall not be construed to prevent a district from
38 utilizing revenues from any of the following sources to support its
39 activities provided that the applicable voter approval has been

- 1 obtained, and the infrastructure financing plan has been approved
2 pursuant to Section 53398.69:
- 3 (1) The Improvement Act of 1911 (Division 7 (commencing
4 with Section 5000) of the Streets and Highways Code).
 - 5 (2) The Municipal Improvement Act of 1913 (Division 12
6 (commencing with Section 10000) of the Streets and Highways
7 Code).
 - 8 (3) The Improvement Bond Act of 1915 (Division 10
9 (commencing with Section 8500) of the Streets and Highways
10 Code).
 - 11 (4) The Landscaping and Lighting Act of 1972 (Part 2
12 (commencing with Section 22500) of Division 15 of the Streets
13 and Highways Code).
 - 14 (5) The Vehicle Parking District Law of 1943 (Part 1
15 (commencing with Section 31500) of Division 18 of the Streets
16 and Highways Code).
 - 17 (6) The Parking District Law of 1951 (Part 4 (commencing with
18 Section 35100) of Division 18 of the Streets and Highways Code).
 - 19 (7) The Park and Playground Act of 1909 (Chapter 7
20 (commencing with Section 38000) of Part 2 of Division 3 of Title
21 4 of this code).
 - 22 (8) The Mello-Roos Community Facilities Act of 1982 (Chapter
23 2.5 (commencing with Section 53311) of Part 1 of Division 2 of
24 this title).
 - 25 (9) The Benefit Assessment Act of 1982 (Chapter 6.4
26 (commencing with Section 54703) of Part 1 of Division 2 of this
27 title).
 - 28 (10) The so-called facilities benefit assessment levied by the
29 charter city of San Diego or any substantially similar assessment
30 levied for the same purpose by any other charter city pursuant to
31 any ordinance or charter provision.