

AMENDED IN SENATE AUGUST 25, 2015

AMENDED IN SENATE JUNE 30, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 313**

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**Introduced by Assembly Member Atkins**

February 12, 2015

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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~~ *public works construction or private development within the area of the district subject to a written agreement with the district or financed in whole or in part by the district.*

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. 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.

*This bill would incorporate additional changes in Sections 53398.52, 53398.62, and 53398.69 of the Government Code proposed by SB 63 that would become operative only if SB 63 and this bill are both chaptered and become effective on or before January 1, 2016, and this bill is chaptered last.*

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.

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

3 (e) (1) “District” means an enhanced infrastructure financing  
4 district.

5 (2) An enhanced infrastructure financing district is a district  
6 within the meaning of Section 1 of Article XIII A of the California  
7 Constitution.

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

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

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

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

28 SEC. 2. Section 53398.51.1 of the Government Code is  
29 amended to read:

30 53398.51.1. (a) The public financing authority shall have a  
31 membership consisting of one of the following, as appropriate:

32 (1) If a district has only one participating affected taxing entity,  
33 the public financing authority’s membership shall consist of three  
34 members of the legislative body of the participating entity, and  
35 two members of the public chosen by the legislative body. The  
36 appointment of the public members shall be subject to the  
37 provisions of Section 54974.

38 (2) If a district has two or more participating affected taxing  
39 entities, the public financing authority’s membership shall consist  
40 of a majority of members from the legislative bodies of the

1 participating entities, and a minimum of two members of the public  
2 chosen by the legislative bodies of the participating entities. The  
3 appointment of the public members shall be subject to the  
4 provisions of Section 54974.

5 (b) The legislative body shall ensure the public financing  
6 authority is established at the same time that it adopts a resolution  
7 of intention pursuant to Section 53398.59.

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

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

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

21 SEC. 3. Section 53398.52 of the Government Code is amended  
22 to read:

23 53398.52. (a) (1) A district may finance any of the following:

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

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

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

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

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

39 (b) The district shall finance only public capital facilities or  
40 other specified projects of communitywide significance that

- 1 provide significant benefits to the district or the surrounding  
2 community, including, but not limited to, all of the following:
- 3 (1) Highways, interchanges, ramps and bridges, arterial streets,  
4 parking facilities, and transit facilities.
  - 5 (2) Sewage treatment and water reclamation plants and  
6 interceptor pipes.
  - 7 (3) Facilities for the collection and treatment of water for urban  
8 uses.
  - 9 (4) Flood control levees and dams, retention basins, and drainage  
10 channels.
  - 11 (5) Child care facilities.
  - 12 (6) Libraries.
  - 13 (7) Parks, recreational facilities, and open space.
  - 14 (8) Facilities for the transfer and disposal of solid waste,  
15 including transfer stations and vehicles.
  - 16 (9) Brownfield restoration and other environmental mitigation.
  - 17 (10) The development of projects on a former military base,  
18 provided that the projects are consistent with the military base  
19 authority reuse plan and are approved by the military base reuse  
20 authority, if applicable.
  - 21 (11) The repayment of the transfer of funds to a military base  
22 reuse authority pursuant to Section 67851 that occurred on or after  
23 the creation of the district.
  - 24 (12) The acquisition, construction, or rehabilitation of housing  
25 for persons of very low, low, and moderate income, as defined in  
26 Sections 50105 and 50093 of the Health and Safety Code, for rent  
27 or purchase.
  - 28 (13) Acquisition, construction, or repair of industrial structures  
29 for private use.
  - 30 (14) Transit priority projects, as defined in Section 21155 of  
31 the Public Resources Code, that are located within a transit priority  
32 project area. For purposes of this paragraph, a transit priority  
33 project area may include a military base reuse plan that meets the  
34 definition of a transit priority project area and it may include a  
35 contaminated site within a transit priority project area.
  - 36 (15) Projects that implement a sustainable communities strategy,  
37 when the State Air Resources Board, pursuant to Chapter 2.5  
38 (commencing with Section 65080) of Division 2 of Title 7, has  
39 accepted a metropolitan planning organization's determination  
40 that the sustainable communities strategy or the alternative planning

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

3 (c) The district shall require, by recorded covenants or  
 4 restrictions, that housing units built pursuant to this section shall  
 5 remain available at affordable housing costs to, and occupied by,  
 6 persons and families of very low, low, or moderate-income  
 7 households for the longest feasible time, but for not less than 55  
 8 years for rental units and 45 years for owner-occupied units.

9 (d) The district may finance mixed-income housing  
 10 developments, but may finance only those units in such a  
 11 development that are restricted to occupancy by persons of very  
 12 low, low, or moderate incomes as defined in Sections 50105 and  
 13 50093 of the Health and Safety Code, and those onsite facilities  
 14 for child care, after-school care, and social services that are  
 15 integrally linked to the tenants of the restricted units.

16 (e) A district may utilize any powers under either the Polanco  
 17 Redevelopment Act (Article 12.5 (commencing with Section  
 18 33459) of Chapter 4 of Part 1 of Division 24 of the Health and  
 19 Safety Code) or Chapter 6.10 (commencing with Section 25403)  
 20 of Division 20 of the Health and Safety Code, and finance any  
 21 action necessary to implement that act.

22 *SEC. 3.5. Section 53398.52 of the Government Code is*  
 23 *amended to read:*

24 53398.52. (a) (1) A district may finance any of the following:

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

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

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

32 (2) The facilities ~~need~~ *are not required to* be physically located  
 33 within the boundaries of the district. However, any facilities  
 34 financed outside of a district ~~must~~ *shall* have a tangible connection  
 35 to the work of the district, as detailed in the infrastructure financing  
 36 plan adopted pursuant to Section 53398.69.

37 (3) A district ~~may~~ *shall* not finance routine maintenance, repair  
 38 work, or the costs of an ongoing operation or providing services  
 39 of any kind.

- 1 (b) The district shall finance only public capital facilities or  
2 other specified projects of communitywide significance that  
3 provide significant benefits to the district or the surrounding  
4 community, including, but not limited to, all of the following:
- 5 (1) Highways, interchanges, ramps and bridges, arterial streets,  
6 parking facilities, and transit facilities.
  - 7 (2) Sewage treatment and water reclamation plants and  
8 interceptor pipes.
  - 9 (3) Facilities for the collection and treatment of water for urban  
10 uses.
  - 11 (4) Flood control levees and dams, retention basins, and drainage  
12 channels.
  - 13 (5) Child care facilities.
  - 14 (6) Libraries.
  - 15 (7) Parks, recreational facilities, and open space.
  - 16 (8) Facilities for the transfer and disposal of solid waste,  
17 including transfer stations and vehicles.
  - 18 (9) Brownfield restoration and other environmental mitigation.
  - 19 (10) The development of projects on a former military base,  
20 provided that the projects are consistent with the military base  
21 authority reuse plan and are approved by the military base reuse  
22 authority, if applicable.
  - 23 (11) The repayment of the transfer of funds to a military base  
24 reuse authority pursuant to Section 67851 that occurred on or after  
25 the creation of the district.
  - 26 (12) The acquisition, construction, or rehabilitation of housing  
27 for persons of ~~low~~ *very low, low*, and moderate income, as defined  
28 in ~~Section~~ *Sections 50105 and 50093* of the Health and Safety  
29 Code, for rent or purchase.
  - 30 (13) Acquisition, construction, or repair of industrial structures  
31 for private use.
  - 32 (14) Transit priority projects, as defined in Section 21155 of  
33 the Public Resources Code, that are located within a transit priority  
34 project area. For purposes of this paragraph, a transit priority  
35 project area may include a military base reuse plan that meets the  
36 definition of a transit priority project area and it may include a  
37 contaminated site within a transit priority project area.
  - 38 (15) Projects that implement a sustainable communities strategy,  
39 when the State Air Resources Board, pursuant to Chapter 2.5  
40 (commencing with Section 65080) of Division-2 *1* of Title 7, has

1 accepted a metropolitan planning organization’s determination  
 2 that the sustainable communities strategy or the alternative planning  
 3 strategy would, if implemented, achieve the greenhouse gas  
 4 emission reduction targets.

5 *(16) Port or harbor infrastructure, as defined by Section 1698*  
 6 *of the Harbors and Navigation Code.*

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

13 (d) The district may finance mixed-income housing  
 14 developments, but may finance only those units in such a  
 15 development that are restricted to occupancy by persons of ~~low~~  
 16 *very low, low, or moderate incomes as defined in ~~Section~~ Sections*  
 17 *50105 and 50093 of the Health and Safety Code, and those onsite*  
 18 *facilities for child care, after-school care, and social services that*  
 19 *are integrally linked to the tenants of the restricted units.*

20 (e) A district may utilize any powers under *either* the Polanco  
 21 Redevelopment Act (Article 12.5 (commencing with Section  
 22 33459) of Chapter 4 of Part 1 of Division 24 of the Health and  
 23 ~~Safety Code~~, *Code*) *or Chapter 6.1 (commencing with Section*  
 24 *25403) of Division 20 of the Health and Safety Code, and finance*  
 25 *any action necessary to implement that act.*

26 SEC. 4. Section 53398.56 of the Government Code is amended  
 27 to read:

28 53398.56. It is the intent of the Legislature that the creation of  
 29 the districts should not ordinarily lead to the removal of existing  
 30 dwelling units. If, however, any dwelling units are proposed to be  
 31 removed or destroyed in the course of ~~private development that is~~  
 32 ~~financed by the district or public works construction as a result of~~  
 33 *public works construction within the area of the district or private*  
 34 *development within the area of the district that is subject to a*  
 35 *written agreement with the district or that is financed in whole or*  
 36 *in part by the district then the infrastructure financing plan adopted*  
 37 *pursuant to Section ~~53398.69, then that infrastructure financing~~*  
 38 *plan 53398.69 shall contain provisions to do all of the following:*

39 (a) If the dwelling units to be removed or destroyed are or were  
 40 inhabited by persons or families of very low, low, or moderate

1 income, as defined in Sections 50105 and 50093 of the Health and  
2 Safety Code, at any time within five years prior to establishment  
3 of the district, cause or require the construction or rehabilitation  
4 of an equal number of replacement dwelling units, within one-half  
5 mile of the location of the units to be removed or destroyed, that  
6 have an equal or greater number of bedrooms as those removed  
7 or destroyed units, within two years of the removal or destruction  
8 of the dwelling units. The replacement dwelling units shall be  
9 available for rent or sale to persons or families of very low, low,  
10 or moderate income, at affordable rent, as defined in Section 50053  
11 of the Health and Safety Code, or at affordable housing cost, as  
12 defined in Section 50052.5 of the Health and Safety Code, to  
13 persons in the same or a lower income category (extremely low,  
14 very low, low, or moderate), as the persons displaced from, or who  
15 last occupied, the removed or destroyed dwelling units.

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

33 (c) Comply with all relocation assistance requirements of  
34 Chapter 16 (commencing with Section 7260) of Division 7 of Title  
35 1, for persons displaced from dwelling units by any ~~public or~~  
36 ~~private action occurring~~ *public works construction within the area*  
37 *of the district or private development within the area of the district*  
38 *that is subject to a written agreement with the district or that is*  
39 *financed in whole or in part by the district as a result of the*  
40 *infrastructure financing plan adopted pursuant to Section 53398.69.*

1 The displacement of any persons from a dwelling unit as a result  
2 of the plan shall be deemed to be the result of public action.

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

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

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 law,  
22 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. 5. 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.

3 SEC. 6. Section 53398.62 of the Government Code is amended  
4 to read:

5 53398.62. After adopting the resolution pursuant to Section  
6 53398.59, the legislative body shall send a copy of the resolution  
7 to the public financing authority. The public financing authority  
8 shall designate and direct the city or county engineer or other  
9 appropriate official to prepare an infrastructure financing plan  
10 pursuant to Section 53398.63.

11 SEC. 6.5. *Section 53398.62 of the Government Code is*  
12 *amended to read:*

13 53398.62. ~~After~~ (a) *Except as provided in subdivision (b),*  
14 *after* adopting the resolution pursuant to Section 53398.59, the  
15 legislative body shall *send a copy of the resolution to the public*  
16 *financing authority. The public financing authority shall* designate  
17 and direct the city or county engineer or other appropriate official  
18 to prepare an infrastructure *financing* plan pursuant to Section  
19 53398.63.

20 (b) *In the case of a district proposed for port or harbor*  
21 *infrastructure, the legislative body shall designate and direct the*  
22 *harbor agency, except as provided in Section 1719 of the Harbors*  
23 *and Navigation Code, to prepare an infrastructure financing plan*  
24 *pursuant to Section 53398.63.*

25 SEC. 7. Section 53398.63 of the Government Code is amended  
26 to read:

27 53398.63. After receipt of a copy of the resolution of intention  
28 to establish a district, the official designated pursuant to Section  
29 53395.62 shall prepare a proposed infrastructure financing plan.  
30 The infrastructure financing plan shall be consistent with the  
31 general plan of the city or county within which the district is  
32 located and shall include all of the following:

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

36 (b) A description of the public facilities and other forms of  
37 development or financial assistance that is proposed in the area of  
38 the district, including those to be provided by the private sector,  
39 those to be provided by governmental entities without assistance  
40 under this chapter, those public improvements and facilities to be

1 financed with assistance from the proposed district, and those to  
2 be provided jointly. The description shall include the proposed  
3 location, timing, and costs of the development and financial  
4 assistance.

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

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

11 (1) A specification of the maximum portion of the incremental  
12 tax revenue of the city or county and of each affected taxing entity  
13 proposed to be committed to the district for each year during which  
14 the district will receive incremental tax revenue. The portion need  
15 not be the same for all affected taxing entities. The portion may  
16 change over time.

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

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

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

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

32 (6) An analysis of the costs to the city or county of providing  
33 facilities and services to the area of the district while the area is  
34 being developed and after the area is developed. The plan shall  
35 also include an analysis of the tax, fee, charge, and other revenues  
36 expected to be received by the city or county as a result of expected  
37 development in the area of the district.

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

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

6 (e) If any dwelling units within the territory of the district are  
7 proposed to be removed or destroyed in the course of ~~private~~  
8 ~~development or public works construction within the territory of~~  
9 ~~the district,~~ *public works construction within the area of the district*  
10 *or private development within the area of the district that is subject*  
11 *to a written agreement with the district or that is financed in whole*  
12 *or in part by the district,* a plan providing for replacement of those  
13 units and relocation of those persons or families consistent with  
14 the requirements of Section 53398.56.

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

17 SEC. 8. Section 53398.64 of the Government Code is amended  
18 to read:

19 53398.64. The infrastructure financing plan shall be sent to  
20 each owner of land within the proposed district and to each affected  
21 taxing entity together with any report required by the California  
22 Environmental Quality Act (Division 13 (commencing with Section  
23 21000) of the Public Resources Code) that pertains to the proposed  
24 public facilities or the proposed development project for which  
25 the public facilities are needed, and shall be made available for  
26 public inspection. The report shall also be sent to the public  
27 financing authority, the planning commission, and the legislative  
28 body.

29 SEC. 9. Section 53398.66 of the Government Code is amended  
30 to read:

31 53398.66. The public financing authority shall conduct a public  
32 hearing prior to adopting the proposed infrastructure financing  
33 plan. The public hearing shall be called no sooner than 60 days  
34 after the plan has been sent to each affected taxing entity. In  
35 addition to the notice given to landowners and affected taxing  
36 entities pursuant to Sections 53398.60 and 53398.61, notice of the  
37 public hearing shall be given by publication not less than once a  
38 week for four successive weeks in a newspaper of general  
39 circulation published in the city or county in which the proposed  
40 district is located. The notice shall state that the district will be

1 used to finance public facilities or development, briefly describe  
 2 the public facilities or development, briefly describe the proposed  
 3 financial arrangements, including the proposed commitment of  
 4 incremental tax revenue, describe the boundaries of the proposed  
 5 district and state the day, hour, and place when and where any  
 6 persons having any objections to the proposed infrastructure  
 7 financing plan, or the regularity of any of the prior proceedings,  
 8 may appear before the public financing authority and object to the  
 9 adoption of the proposed plan by the public financing authority.

10 SEC. 10. Section 53398.67 of the Government Code is amended  
 11 to read:

12 53398.67. At the hour set in the required notices, the public  
 13 financing authority shall proceed to hear and pass upon all written  
 14 and oral objections. The hearing may be continued from time to  
 15 time. The public financing authority shall consider the  
 16 recommendations, if any, of affected taxing entities, and all  
 17 evidence and testimony for and against the adoption of the plan.  
 18 The public financing authority may modify the plan by eliminating  
 19 or reducing the size and cost of proposed facilities or development,  
 20 by reducing the amount of proposed debt, or by reducing the  
 21 portion, amount, or duration of incremental tax revenues to be  
 22 committed to the district.

23 SEC. 11. Section 53398.68 of the Government Code is amended  
 24 to read:

25 53398.68. (a) The public financing authority shall not enact  
 26 a resolution proposing formation of a district and providing for  
 27 the division of taxes of any affected taxing entity pursuant to  
 28 Article 3 (commencing with Section 53398.75) unless a resolution  
 29 approving the plan has been adopted by the governing body of  
 30 each affected taxing entity which is proposed to be subject to  
 31 division of taxes pursuant to Article 3 (commencing with Section  
 32 53398.75) and has been filed with the legislative body at or prior  
 33 to the time of the hearing.

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

1 SEC. 12. Section 53398.69 of the Government Code is amended  
2 to read:

3 53398.69. (a) At the conclusion of the hearing, the public  
4 financing authority may adopt a resolution proposing adoption of  
5 the infrastructure financing plan, as modified, and formation of  
6 the enhanced infrastructure financing district in a manner consistent  
7 with Section 53398.68, or it may adopt a resolution abandoning  
8 the proceedings. If the proceedings are abandoned, then the public  
9 financing authority shall cease to exist by operation of this section  
10 with no further action required of the legislative body and the  
11 legislative body may not enact a resolution of intention to establish  
12 a district that includes the same geographic area within one year  
13 of the date of the resolution abandoning the proceedings.

14 (b) The infrastructure financing plan shall take effect upon the  
15 adoption of the resolution. The infrastructure financing plan shall  
16 specify if the district shall be funded solely through the district's  
17 share of tax increment, governmental or private loans, grants,  
18 bonds, assessments, fees, or some combination thereof. However,  
19 the public financing authority may not issue bonds or levy  
20 assessments or fees that may be included in the infrastructure  
21 financing plan prior to one or more of the following:

22 (1) An affirmative vote, pursuant to subdivision (a) of Section  
23 53398.81, to issue bonds to finance the infrastructure financing  
24 plan.

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

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

34 *SEC. 12.5. Section 53398.69 of the Government Code is*  
35 *amended to read:*

36 53398.69. (a) At the conclusion of the hearing, the legislative  
37 ~~body~~ *public financing authority* may adopt a resolution proposing  
38 adoption of the infrastructure financing plan, as modified, and  
39 formation of the enhanced infrastructure financing district in a  
40 manner consistent with Section 53398.68, or it may ~~abandon the~~

1 ~~proceedings.~~ *adopt a resolution abandoning the proceedings. If*  
 2 *the proceedings are abandoned, then the public financing authority*  
 3 *shall cease to exist by operation of this section with no further*  
 4 *action required of the legislative body and the legislative body*  
 5 *may not enact a resolution of intention to establish a district that*  
 6 *includes the same geographic area within one year of the date of*  
 7 *the resolution abandoning the proceedings.*

8 (b) ~~The infrastructure financing plan and the formation of the~~  
 9 ~~enhanced infrastructure financing district shall take effect upon~~  
 10 ~~the legislative body's adoption of the resolution. The infrastructure~~  
 11 ~~financing plan shall specify if the district shall be funded solely~~  
 12 ~~through the district's share of tax increment, governmental or~~  
 13 ~~private loans, grants, bonds, assessments, fees, or some~~  
 14 ~~combination thereof. However, the public financing authority may~~  
 15 ~~shall not issue bonds or levy assessments or fees that may be~~  
 16 ~~included in the infrastructure financing plan prior to before one or~~  
 17 ~~more of the following:~~

18 (1) An affirmative vote, pursuant to subdivision (a) of Section  
 19 ~~53398.81, 53398.81 and, if applicable, subdivision (c) of Section~~  
 20 ~~53398.80.5, to issue bonds to finance the infrastructure financing~~  
 21 ~~plan.~~

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

25 (c) ~~In addition~~ *addition*, the district may expend up to 10 percent  
 26 of any accrued tax increment in the first two years of the effective  
 27 date of the enhanced infrastructure financing district on planning  
 28 and dissemination of information to the residents within the  
 29 district's boundaries about the infrastructure financing plan and  
 30 planned activities to be funded by the district.

31 SEC. 13. Section 53398.74 of the Government Code is  
 32 repealed.

33 SEC. 14. Section 53398.74 is added to the Government Code,  
 34 to read:

35 53398.74. This section implements and fulfills the intent of  
 36 this chapter and of Article XIII B of the California Constitution.  
 37 The allocation and payment to a district of the portion of taxes  
 38 specified in Section 53398.75 for the purpose of paying principal  
 39 of, or interest on, loans, advances, or indebtedness incurred by the  
 40 district pursuant to this chapter, shall not be deemed the receipt

1 by a district of proceeds of taxes levied by or on behalf of the  
2 district within the meaning or for the purposes of Article XIII B  
3 of the California Constitution, nor shall that portion of taxes be  
4 deemed receipt of proceeds of taxes by, or an appropriation subject  
5 to limitation of, any other public body within the meaning or for  
6 purposes of Article XIII B of the California Constitution or any  
7 statutory provision enacted in implementation of Article XIII B of  
8 the California Constitution.

9 SEC. 15. Section 53398.75 of the Government Code is amended  
10 to read:

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

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

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

1 infrastructure financing plan, all moneys thereafter received from  
2 taxes upon the taxable property in the district shall be paid to the  
3 respective affected taxing entities as taxes on all other property  
4 are paid.

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

17 (c) The legislative body of the city or county forming the district  
18 may choose to dedicate any portion of its net available revenue to  
19 the district through the financing plan described in Section  
20 53398.63.

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

38 (e) (1) That portion of any ad valorem property tax revenue  
39 annually allocated to a city or county pursuant to Section 97.70 of  
40 the Revenue and Taxation Code that is specified in the adopted

1 infrastructure financing plan for the city or county that has agreed  
2 to participate pursuant to Section 53398.68, and that corresponds  
3 to the increase in the assessed valuation of taxable property shall  
4 be allocated to, and, when collected, shall be apportioned to, a  
5 special fund of the district for all lawful purposes of the district.

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

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

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

17 (2) The Municipal Improvement Act of 1913 (Division 12  
18 (commencing with Section 10000) of the Streets and Highways  
19 Code).

20 (3) The Improvement Bond Act of 1915 (Division 10  
21 (commencing with Section 8500) of the Streets and Highways  
22 Code).

23 (4) The Landscaping and Lighting Act of 1972 (Part 2  
24 (commencing with Section 22500) of Division 15 of the Streets  
25 and Highways Code).

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

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

31 (7) The Park and Playground Act of 1909 (Chapter 7  
32 (commencing with Section 38000) of Part 2 of Division 3 of Title  
33 4 of this code).

34 (8) The Mello-Roos Community Facilities Act of 1982 (Chapter  
35 2.5 (commencing with Section 53311) of Part 1 of Division 2 of  
36 this title).

37 (9) The Benefit Assessment Act of 1982 (Chapter 6.4  
38 (commencing with Section 54703) of Part 1 of Division 2 of this  
39 title).

1 (10) The so-called facilities benefit assessment levied by the  
2 charter city of San Diego or any substantially similar assessment  
3 levied for the same purpose by any other charter city pursuant to  
4 any ordinance or charter provision.

5 *SEC. 16. (a) Section 3.5 of this bill incorporates amendments*  
6 *to Section 53398.52 of the Government Code proposed by both*  
7 *this bill and Senate Bill 63. It shall only become operative if (1)*  
8 *both bills are enacted and become effective on or before January*  
9 *1, 2016, (2) each bill amends Section 53398.52 of the Government*  
10 *Code, and (3) this bill is enacted after Senate Bill 63, in which*  
11 *case Section 3 of this bill shall not become operative.*

12 *(b) Section 6.5 of this bill incorporates amendments to Section*  
13 *53398.62 of the Government Code proposed by both this bill and*  
14 *Senate Bill 63. It shall only become operative if (1) both bills are*  
15 *enacted and become effective on or before January 1, 2016, (2)*  
16 *each bill amends Section 53398.62 of the Government Code, and*  
17 *(3) this bill is enacted after Senate Bill 63, in which case Section*  
18 *6 of this bill shall not become operative.*

19 *(c) Section 12.5 of this bill incorporates amendments to Section*  
20 *53398.69 of the Government Code proposed by both this bill and*  
21 *Senate Bill 63. It shall only become operative if (1) both bills are*  
22 *enacted and become effective on or before January 1, 2016, (2)*  
23 *each bill amends Section 53398.69 of the Government Code, and*  
24 *(3) this bill is enacted after Senate Bill 63, in which case Section*  
25 *12 of this bill shall not become operative.*