

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2841

Introduced by Assembly Member Travis Allen

February 19, 2016

An act to amend Section 63025.1 of the Government Code, and to add Chapter 4 (commencing with Section 1719.1) to Part 1 of Division 6 of the Harbors and Navigation Code, relating to seaport infrastructure financing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2841, as amended, Travis Allen. State infrastructure financing for seaports.

Existing law authorizes ~~port or harbor infrastructure projects to be financed by an enhanced~~ *the formation of a seaport infrastructure financing district to finance port or harbor infrastructure projects*. Existing law requires that a harbor ~~agency~~ *agency, as defined*, prepare an infrastructure financing plan ~~for as part of a proposal to form a seaport infrastructure financing district, defined as an enhanced infrastructure financing district that finances port or harbor infrastructure~~, and requires that the plan meet specified requirements. Existing law authorizes ~~an enhanced~~ *a seaport infrastructure financing district to fund infrastructure projects through tax increment financing, pursuant to consistent with the infrastructure financing plan and with the agreement of the new seaport infrastructure financing district's* affected taxing entities.

Existing law, the Bergeson-Peace Infrastructure and Economic Development Bank ~~Act~~ *Act*, establishes the Infrastructure and Economic Development Bank within the Governor's Office of Business and

Economic Development, and requires the bank to establish criteria, priorities, and guidelines for the selection of projects to receive financial assistance from the bank, including, but not limited to, any combination of grants, loans, and the proceeds of bonds issued by the bank.

~~This bill would authorize a harbor agency, as defined, to prepare a proposed financing plan to be submitted to the bank to finance infrastructure development or equipment, and require the bank, after consulting with appropriate state and local agencies, to establish criteria, priorities, and guidelines for the selection of infrastructure development and equipment purchase projects submitted by harbor agencies, as defined, for assistance from the bank, as specified. The bill would require the plan to include harbor agency to adopt a resolution that includes specified information including information, including, among others, the state fiscal and economic impacts, including increased jobs and tax revenues and state fund savings, impacts estimated to result from the proposed project. infrastructure development or equipment purchase project. The bill would require the bank to consider a project proposal and to approve the financing of it infrastructure development and equipment purchase project if the project meets specified requirements, including that the State Lands Commission has verified that the proposed project is consistent with the state tidelands trust and any conditions of a grant of trust lands to a harbor agency and a finding by the bank finds that the project is more likely than not to result in the harbor agency's estimated state fiscal and economic impacts. The bill would limit the amount of financing provided, as specified, and would authorize the bank to provide require the harbor agency to meet a specified condition prior to providing the financing only upon an appropriation of funds for that purpose. moneys appropriated by the Legislature for the infrastructure development and equipment purchase project.~~

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The primary purpose of this act is to encourage the
- 4 development and growth of, and to encourage and help finance
- 5 the further investment in, and subsequent increased use of,

1 California's public port facilities and the introduction of
2 zero-emission and near-zero-emission equipment and supporting
3 infrastructure at California's public port facilities.

4 (b) The statewide interest in the need to continually invest in
5 California's public port infrastructure is predicated on the fact that
6 California's public seaports and the international trade that they
7 facilitate are critical components of the state economy, directly or
8 indirectly employing millions of Californians, contributing billions
9 of dollars in economic activity, and generating significant local
10 and state tax revenues as a result of this activity. As such, our ports
11 must be given the ability to successfully compete for cargo volume,
12 attract new trade, and continue to grow.

13 (c) The development, improvement, expansion, and maintenance
14 of the state's public ports and port infrastructure facilities, and the
15 utilization of public port facilities for the export and import of
16 cargo to or from distribution, manufacturing, fabrication, assembly,
17 processing, transloading, and warehousing sites in ~~California~~
18 *California*, are matters of statewide significance that are essential
19 to the growth of the state's economic well-being and the ability of
20 those businesses and workers associated with trade-related
21 industries to continue to compete cost-effectively on a regional,
22 national, and global scale.

23 (d) In addition to the vast matters of statewide significance in
24 the economic impacts derived from all of California's public ports,
25 the state's interest in the reduction of mobile source emissions
26 from the freight sector and supply chain, including those emissions
27 from sources that operate at ports, are also matters of statewide
28 significance. In consideration of these environmental matters, the
29 state has a paramount interest in creating incentives that will
30 precipitate early investment by the industry in the newest
31 generation of zero-emission and near-zero-emission equipment
32 and supporting infrastructure at marine terminals and port facilities.
33 Due to the costs of those investments over and above the use of
34 traditional equipment, this is an infrastructure need that cannot be
35 met by private investment alone, and therefore public financing
36 mechanisms and the implementation of public-private partnerships
37 are required to support this new investment.

38 *SEC. 2. Section 63025.1 of the Government Code is amended*
39 *to read:*

1 63025.1. The bank board may do or delegate the following to
2 the executive director:

3 (a) Sue and be sued in its own name.

4 (b) As provided in Chapter 5 (commencing with Section 63070),
5 issue bonds and authorize special purpose trusts to issue bonds,
6 including, at the option of the board, bonds bearing interest that
7 is taxable for the purpose of federal income taxation, or borrow
8 money to pay all or any part of the cost of any project, or to
9 otherwise carry out the purposes of this division.

10 (c) Engage the services of private consultants to render
11 professional and technical assistance and advice in carrying out
12 the purposes of this division.

13 (d) Employ attorneys, financial consultants, and other advisers
14 as may, in the bank's judgment, be necessary in connection with
15 the issuance and sale, or authorization of special purpose trusts for
16 the issuance and sale, of any bonds, notwithstanding Sections
17 11042 and 11043.

18 (e) Contract for engineering, architectural, accounting, or other
19 services of appropriate state agencies as may, in its judgment, be
20 necessary for the successful development of a project.

21 (f) Pay the reasonable costs of consulting engineers, architects,
22 accountants, and construction, land use, recreation, and
23 environmental experts employed by any sponsor or participating
24 party if, in the bank's judgment, those services are necessary for
25 the successful development of a project.

26 (g) Acquire, take title to, and sell by installment sale or
27 otherwise, lands, structures, real or personal property, rights,
28 rights-of-way, franchises, easements, and other interests in lands
29 that are located within the state, or transition property as the bank
30 may deem necessary or convenient for the financing of the project,
31 upon terms and conditions that it considers to be reasonable.

32 (h) Receive and accept from any source including, but not
33 limited to, the federal government, the state, or any agency thereof,
34 loans, contributions, or grants, in money, property, labor, or other
35 things of value, for, or in aid of, a project, or any portion thereof.

36 (i) Make loans to any sponsor or participating party, either
37 directly or by making a loan to a lending institution, in connection
38 with the financing of a project in accordance with an agreement
39 between the bank and the sponsor or a participating party, either
40 as a sole lender or in participation with other lenders. However,

1 no loan shall exceed the total cost of the project as determined by
2 the sponsor or the participating party and approved by the bank.

3 (j) Make loans to any sponsor or participating party, either
4 directly or by making a loan to a lending institution, in accordance
5 with an agreement between the bank and the sponsor or
6 participating party to refinance indebtedness incurred by the
7 sponsor or participating party in connection with projects
8 undertaken and completed prior to any agreement with the bank
9 or expectation that the bank would provide financing, either as a
10 sole lender or in participation with other lenders.

11 (k) Mortgage all or any portion of the bank's interest in a project
12 and the property on which any project is located, whether owned
13 or thereafter acquired, including the granting of a security interest
14 in any property, tangible or intangible.

15 (l) Assign or pledge all or any portion of the bank's interests in
16 transition property and the revenues therefrom, or assets, things
17 of value, mortgages, deeds of trust, bonds, bond purchase
18 agreements, loan agreements, indentures of mortgage or trust, or
19 similar instruments, notes, and security interests in property,
20 tangible or intangible and the revenues therefrom, of a sponsor or
21 a participating party to which the bank has made loans, and the
22 revenues therefrom, including payment or income from any interest
23 owned or held by the bank, for the benefit of the holders of bonds.

24 (m) Make, receive, or serve as a conduit for the making of, or
25 otherwise provide for, grants, contributions, guarantees, insurance,
26 credit enhancements or liquidity facilities, or other financial
27 enhancements to a sponsor or a participating party as financial
28 assistance for a project.

29 (n) Lease the project being financed to a sponsor or a
30 participating party, upon terms and conditions that the bank deems
31 proper but shall not be leased at a loss; charge and collect rents
32 therefor; terminate any lease upon the failure of the lessee to
33 comply with any of the obligations thereof; include in any lease,
34 if desired, provisions that the lessee shall have options to renew
35 the lease for a period or periods, and at rents determined by the
36 bank; purchase any or all of the project; or, upon payment of all
37 the indebtedness incurred by the bank for the financing of the
38 project, the bank may convey any or all of the project to the lessee
39 or lessees.

1 (o) Charge and equitably apportion among sponsors and
2 participating parties the bank's administrative costs and expenses
3 incurred in the exercise of the powers and duties conferred by this
4 division.

5 (p) Issue, obtain, or aid in obtaining, from any department or
6 agency of the United States, from other agencies of the state, or
7 from any private company, any insurance or guarantee to, or for,
8 the payment or repayment of interest or principal, or both, or any
9 part thereof, on any loan, lease, or obligation or any instrument
10 evidencing or securing the same, made or entered into pursuant to
11 this division.

12 (q) Notwithstanding any other provision of this division, enter
13 into any agreement, contract, or any other instrument with respect
14 to any insurance or guarantee; accept payment in the manner and
15 form as provided therein in the event of default by a sponsor or a
16 participating party; and issue or assign any insurance or guarantee
17 as security for the bank's bonds.

18 (r) Enter into any agreement or contract, execute any instrument,
19 and perform any act or thing necessary or convenient to, directly
20 or indirectly, secure the bank's bonds, the bonds issued by a special
21 purpose trust, or a sponsor's obligations to the bank or to a special
22 purpose trust, including, but not limited to, bonds of a sponsor
23 purchased by the bank or a special purpose trust for retention or
24 sale, with funds or moneys that are legally available and that are
25 due or payable to the sponsor by reason of any grant, allocation,
26 ~~apportionment~~ *apportionment*, or appropriation of the state or
27 agencies thereof, to the extent that the Controller shall be the
28 custodian at any time of these funds or moneys, or with funds or
29 moneys that are or will be legally available to the sponsor, the
30 bank, or the state or any agencies thereof by reason of any grant,
31 allocation, *apportionment*, or appropriation of the federal
32 government or agencies thereof; and in the event of written notice
33 that the sponsor has not paid or is in default on its obligations to
34 the bank or a special purpose trust, direct the Controller to withhold
35 payment of those funds or moneys from the sponsor over which
36 it is or will be custodian and to pay the same to the bank or special
37 purpose trust or their assignee, or direct the state or any agencies
38 thereof to which any grant, allocation, ~~apportionment~~
39 *apportionment*, or appropriation of the federal government or
40 agencies thereof is or will be legally available to pay the same

1 upon receipt by the bank or special purpose trust or their assignee,
2 until the default has been cured and the amounts then due and
3 unpaid have been paid to the bank or special purpose trust or their
4 assignee, or until arrangements satisfactory to the bank or special
5 purpose trust have been made to cure the default.

6 (s) Enter into any agreement or contract, execute any instrument,
7 and perform any act or thing necessary, convenient, or appropriate
8 to carry out any power expressly given to the bank by this division,
9 including, but not limited to, agreements for the sale of all or any
10 part, including principal, interest, redemption ~~rights~~ *rights*, or any
11 other rights or obligations, of bonds of the bank or of a special
12 purpose trust, liquidity agreements, contracts commonly known
13 as interest rate swap agreements, forward payment conversion
14 agreements, futures or contracts providing for payments based on
15 levels of, or changes in, interest rates or currency exchange rates,
16 or contracts to exchange ~~cash-flows~~ *cashflows* or a series of
17 payments, or contracts, including options, puts or calls to hedge
18 payments, rate, spread, currency exchange, or similar exposure,
19 or any other financial instrument commonly known as a structured
20 financial product.

21 (t) Purchase, with the proceeds of the bank's bonds, transition
22 property or bonds issued by, or for the benefit of, any sponsor in
23 connection with a project, pursuant to a bond purchase agreement
24 or otherwise. Bonds or transition property purchased pursuant to
25 this division may be held by the bank, pledged or assigned by the
26 bank, or sold to public or private purchasers at public or negotiated
27 sale, in whole or in part, separately or together with other bonds
28 issued by the bank, and notwithstanding any other provision of
29 law, may be bought by the bank at private sale.

30 (u) Enter into purchase and sale agreements with all entities,
31 public and private, including state and local government pension
32 funds, with respect to the sale or purchase of bonds or transition
33 property.

34 (v) Invest any moneys held in reserve or sinking funds, or any
35 moneys not required for immediate use or disbursement, in
36 obligations that are authorized by law for the investment of trust
37 funds in the custody of the Treasurer.

38 (w) Authorize a special purpose trust or trusts to purchase or
39 retain, with the proceeds of the bonds of a special purpose trust,
40 transition property or bonds issued by, or for the benefit of, any

1 sponsor in connection with a project or issued by the bank or a
2 special purpose trust, pursuant to a bond purchase agreement or
3 otherwise. Bonds or transition property purchased pursuant to this
4 title may be held by a special purpose entity, pledged or assigned
5 by a special purpose entity, or sold to public or private purchasers
6 at public or negotiated sale, in whole or in part, with or without
7 structuring, ~~subordination~~ *subordination*, or credit enhancement,
8 separately or together with other bonds issued by a special purpose
9 trust, and notwithstanding any other provision of law, may be
10 bought by the bank or by a special purpose trust at private sale.

11 (x) Approve the issuance of any bonds, notes, or other evidences
12 of indebtedness by the Rural Economic Development Infrastructure
13 Panel, established pursuant to Section 15373.7.

14 (y) Approve the issuance of rate reduction bonds by an entity
15 other than the bank or a special purpose trust to acquire transition
16 property upon approval of the transaction in a financing order by
17 the Public Utilities Commission, as provided in Article 5.5
18 (commencing with Section 840) of Chapter 4 of Part 1 of Division
19 1 of the Public Utilities Code.

20 (z) Apply for and accept subventions, grants, loans, advances,
21 and contributions from any source of money, property, labor, or
22 other things of value. The sources may include bond proceeds,
23 dedicated taxes, state appropriations, federal appropriations, federal
24 grant and loan funds, public and private sector retirement system
25 funds, and proceeds of loans from the Pooled Money Investment
26 Account.

27 (aa) Do all things necessary and convenient to carry out its
28 purposes and exercise its powers, provided, however, that nothing
29 herein shall be construed to authorize the bank to engage directly
30 in the business of a manufacturing, industrial, real estate
31 development, or nongovernmental service enterprise. Further, the
32 bank shall not be organized to accept deposits of money for time
33 or demand deposits or to constitute a bank or trust company.

34 *(ab) Do all things necessary to carry out the bank's duties*
35 *associated with Chapter 4 (commencing with Section 1719.1) of*
36 *Part 1 of Division 6 of the Harbors and Navigation Code.*

37 ~~SEC. 2.~~

38 *SEC. 3.* Chapter 4 (commencing with Section 1719.1) is added
39 to Part 1 of Division 6 of the Harbors and Navigation Code, to
40 read:

1 CHAPTER 4. STATE INFRASTRUCTURE FINANCING FOR SEAPORTS

2
3 1719.1. (a) The Legislature finds and declares all of the
4 following:

5 (1) It is equitable and in the public interest to provide alternative
6 procedures for financing public works and services needed to
7 support new commercial, environmental, and industrial
8 development in the state's seaports and harbors that would generate
9 significant new employment opportunities and economic
10 development, increase state and local tax revenues, enhance seaport
11 competitiveness in the international trade community, reduce
12 congestion and delay in the supply chain, and result in improved
13 environmental quality.

14 (2) Except as authorized in this part, seaports and harbors in
15 California generally do not levy or expend any funds generated
16 by local taxes, as most of their operations are funded directly
17 through fees, tariffs, leases, and other revenue the seaports and
18 harbors generate from their users and tenants, in addition to the
19 occasional state or federal grant.

20 (3) There is significant opportunity for development and
21 investment in our state's seaports and harbors and in their transition
22 to operations that are characterized by the use of new zero-emission
23 and near-zero-emission equipment and supporting infrastructure.
24 However, the state lacks the public infrastructure funding necessary
25 to support all of the new development and investment that ~~are~~ *is*
26 demanded.

27 (4) In addition to a lack of public infrastructure funding, our
28 state's waterfront has infrastructure and environmental needs that
29 cannot be met by private investment alone, and therefore creative
30 public financing mechanisms need to be developed. The absence
31 of practical and equitable methods for state financing of public
32 works, like the development of seaport infrastructure that is a
33 matter of statewide significance, leads to a declining standard of
34 seaport infrastructure, a failure to construct new public structures
35 and facilities needed to support new commercial and industrial
36 development in our seaports and harbors, increased congestion,
37 and a lack of tools to facilitate environmental improvements,
38 including the transition to zero-emission and near-zero-emission
39 equipment and supporting infrastructure.

(5) The seaports and harbors of California are valuable *public* assets of the state that provide special maritime, navigational, recreational, cultural, and historical benefits to the people of the state and the management and development of these seaports and harbors may not be subjugated. This ~~in turn~~ means that the management of the financial health, land use planning, waterfront assets, and environmental infrastructure in all of California's public ports are matters of statewide significance. This chapter will help to remediate these conditions that will otherwise result in underinvestment in the state's seaports and harbors by providing a new financing mechanism, through the use of leveraged future tax increment revenues, to facilitate matters of statewide importance and further the purposes of the public trust.

(b) The Legislature further finds and declares all of the following:

(1) The ability to capture future tax increment revenues to finance needed seaport and harbor infrastructure projects will provide direct benefits to the state. When harbor agencies are better funded to further the objectives of the state, the state's seaports and harbors, and the public trust and enjoyment of those trust lands by the people of the state, the state's economy and environment will also be improved.

(2) A seaport frequently generates large state tax benefits directly and indirectly as a result of the economic activity that is generated from its maritime operations and other economic development efforts.

(3) Investments by a seaport and its industry partners in environmental improvements generate long-term state benefits and *a* reduction in public costs with respect to the reduction of greenhouse gases, criteria pollutants, projected public health impacts, and overall improvements in the quality of life of Californians.

(4) The potential for increases in state tax revenues and decreases in costs to the state that will result from the improvement of seaport and harbor infrastructure and investment in environmental improvements should be ~~incentivized~~ *provided incentives* and leveraged through state financing, whenever possible, which supports the state's significant interest in the successful operation of its seaports and harbors.

1719.2 It is the intent of the Legislature that seaport infrastructure financing be developed pursuant to this chapter in a manner that improves public port assets, infrastructure, and operations and achieves the public goals of improving the state's waterborne commerce, enhancing economic prosperity, and financing the costs of environmental mitigation and improvement.

1719.3. (a) For purposes of this chapter, the following terms have the following meanings:

(a)

(1) "Bank" means the Infrastructure and Economic Development Bank, as established pursuant to Section 63021 of the Government Code.

(2) "Commission" means the State Lands Commission.

(3) "Department" means the Department of Finance.

(4) "Proposed project valuation" means the economic impact of the proposed infrastructure development or equipment purchase, as demonstrated through an economic impact report, as determined by the requirements of this chapter and the criteria, priorities, and guidelines adopted by the bank.

(b)

(5) "Project" has the same meaning as defined in Section 63010 of the Government Code.

(b) Unless the context otherwise requires, the definitions in this section shall govern the construction of this chapter. The definitions provided in this section shall apply to this chapter only and not to any other part or chapter of this division.

~~1719.4. A harbor agency may prepare a proposed financing plan for a project to be submitted to the bank as provided in Section 63041 of the Government Code, for consideration pursuant to the terms of this chapter.~~

1719.4. (a) After consulting with the appropriate state and local agencies, the bank shall establish criteria, priorities, and guidelines for the selection of projects to receive assistance from the bank. Projects shall comply with the criteria, priorities, and guidelines adopted by the bank.

(b) When the bank establishes or makes changes to the criteria, priorities, and guidelines, the bank shall notify the Governor, the appropriate fiscal and policy committees of the Legislature that exercise oversight of the bank, and the appropriate state and local agencies.

1 ~~1719.5. In addition to the requirements of Section 63041 of~~
2 ~~the Government Code, a proposed financing plan for a project~~
3 ~~submitted to the bank pursuant to Section 1719.4 shall include all~~
4 ~~of the following information:~~

5 *1719.5. The bank may accept applications for a proposed*
6 *project valuation consistent with the criteria, priorities, and*
7 *guidelines adopted by the board pursuant to Section 1719.4. At a*
8 *minimum, the application shall include all of the following*
9 *information:*

10 (a) ~~The proposed infrastructure development or equipment~~
11 ~~purchase to be financed through the proceeds of the proposed~~
12 ~~financing. purchases that are the subject of the proposed project~~
13 ~~valuation.~~

14 (b) (1) (A) If the harbor agency is acting on granted lands, a
15 finding that the project to be financed is consistent with the state
16 tidelands trust and the terms and conditions of any grant of trust
17 lands to the harbor agency. ~~A The harbor agency shall forward a~~
18 ~~copy of this finding shall be forwarded by the harbor agency to~~
19 ~~the State Lands Commission. commission.~~

20 (B) *Prior to making a finding pursuant to subparagraph (A),*
21 *the harbor agency shall consult with the commission. The harbor*
22 *agency shall reimburse the commission for all reasonable expenses*
23 *resulting from that consultation.*

24 (2) If the harbor agency was formed pursuant to this code, a
25 finding that the project to be financed is consistent with its charter
26 and the statewide interests in the operation of harbors and ports.

27 (c) ~~The state fiscal and economic impacts forecast estimates~~
28 ~~required by pursuant to Section 1719.6.~~

29 1719.6. (a) A harbor agency shall adopt a resolution setting
30 forth estimates of the state fiscal and economic impacts that will
31 result from the *proposed* project, including, but not be limited to,
32 the following:

33 (1) The total direct and indirect state tax revenues generated by
34 the impact of the infrastructure development or equipment ~~purchase~~
35 ~~to be financed through the bank. purchase.~~

36 (2) The total direct and indirect state ~~general fund~~ *General Fund*
37 and special fund expenditure savings generated by the impact of
38 the infrastructure development or equipment ~~purchase to be~~
39 ~~financed through the bank. purchase.~~

1 (3) The total local tax and user fee revenues generated by the
2 infrastructure development or equipment ~~purchase to be financed~~
3 ~~through the bank. purchase.~~

4 (4) The total jobs created by the infrastructure development or
5 equipment ~~purchase to be financed through the bank, purchase,~~
6 including the specific impact of the financing on the employment
7 of ~~California~~ residents.

8 ~~(b) (1) Prior to making findings upon which the resolution may~~
9 ~~be based, a harbor agency shall obtain an economic impact report~~
10 ~~that shall be completed by a third-party economist, based on a~~
11 ~~published economic impact methodology. The published economic~~
12 ~~impact methodology shall be incorporated into the findings of a~~
13 ~~peer review conducted pursuant to paragraph (2), and shall be~~
14 ~~adopted in a public meeting of the harbor agency with a finding~~
15 ~~that the guidelines and methodology were developed in a manner~~
16 ~~consistent with this section.~~

17 (5) *The total direct and indirect public health savings generated*
18 *by the infrastructure development or equipment purchase.*

19 *(b) (1) The estimates of the state fiscal and economic impacts*
20 *shall be based on an economic impact report that, among other*
21 *criteria that may be established by the bank, shall be completed*
22 *by an economist not in the direct employment of the harbor agency*
23 *and be based on a nationally recognized economic impact*
24 *methodology.*

25 (2) The economic impact report and the economic methodology
26 ~~to be adopted under this subdivision required pursuant to~~
27 ~~paragraph (1) shall be peer-reviewed peer-reviewed and evaluated~~
28 ~~by an independent party that who is without any financial~~
29 ~~association with the third party that economist who completed the~~
30 ~~economic impact report guidelines and developed the economic~~
31 ~~methodology. The peer review shall evaluate the adequacy of the~~
32 ~~guidelines economic impact report and make specific~~
33 ~~recommendations regarding the methodologies, which should shall~~
34 ~~be either incorporated into the peer review by the harbor agency~~
35 ~~upon adoption. economic impact report or submitted as additional~~
36 ~~information in the application to the bank.~~

37 (3) ~~A harbor agency may adopt guidelines for study preparation~~
38 ~~previously developed by a third party for another harbor agency~~
39 ~~under this section as long as the final guidelines are adopted~~
40 ~~pursuant to paragraph (1).~~

1 ~~(e) This section shall not require a harbor agency to prepare a~~
2 ~~report or adopt a resolution except at its discretion prior to~~
3 ~~submission of a proposed financing plan for a project.~~

4 *(c) Consistent with the criteria, priorities, and guidelines*
5 *approved by the bank, a harbor agency may adopt guidelines to*
6 *be used by a tenant, another harbor agency, or other public or*
7 *private entity for submitting information that may be used in the*
8 *development of the estimates in the resolution adopted pursuant*
9 *to subdivision (a) or the economic impact report developed*
10 *pursuant to subdivision (b).*

11 *(d) Participation in the proposed project valuation program*
12 *established in this chapter is voluntary on the part of a harbor*
13 *agency and the submission of an application to the bank is a*
14 *discretionary act.*

15 1719.7. ~~(a) Upon the receipt of a proposed financing plan for~~
16 ~~a project, project valuation, the bank shall consider the project and~~
17 ~~approve, require a modification of, or deny the proposed financing.~~
18 ~~project valuation.~~

19 ~~(b) When considering the approval of financing for a proposed~~
20 ~~project valuation submitted pursuant to this chapter, the bank shall~~
21 ~~do both of the following:~~

22 ~~(1) Review the proposed financing plan for the project project~~
23 ~~valuation prepared by the harbor agency pursuant to Section~~
24 ~~1719.4. agency.~~

25 ~~(2) Review the methodology and projections economic impact~~
26 ~~report and the economic methodology prepared for or by the harbor~~
27 ~~agency pursuant to Section 1719.6.~~

28 ~~(c) The bank shall approve a proposed project valuation if, after~~
29 ~~conducting its own evaluation of a harbor agency's application,~~
30 ~~including the economic impact report and methodology, it can~~
31 ~~make the finding that the execution of the project is more likely~~
32 ~~than not to result in the outcomes projected by the harbor agency~~
33 ~~pursuant to Section 1719.6.~~

34 ~~1719.8. The bank shall approve financing for a project if, after~~
35 ~~conducting its own evaluation of a harbor agency's methodology,~~
36 ~~it can make the finding that the execution of the project is more~~
37 ~~likely than not to result in the outcomes projected by the harbor~~
38 ~~agency pursuant to Section 1719.6.~~

39 1719.9. ~~The bank shall not approve financing for a proposed~~
40 ~~project valuation if the State Lands Commission commission~~

1 objects to a finding made by a harbor agency pursuant to paragraph
2 (1) of subdivision (b) of Section 1719.5.

3 ~~1719.10. Once financing for a project is approved, the bank~~
4 ~~shall submit a request to the Assembly Budget Committee and the~~
5 ~~Senate Committee on Budget and Fiscal Review for an~~
6 ~~appropriation in the following fiscal year in an amount equal to or~~
7 ~~less than the total estimated state tax revenues and state general~~
8 ~~fund savings approved by the bank pursuant to Section 1719.8.~~

9 *1719.10. The bank shall provide notice to the department within*
10 *30 days of approving a proposed project valuation. The notice*
11 *shall include, at a minimum, the dollar amount of the valuation*
12 *and any other information requested by the department. The*
13 *department shall include an amount equal to the approved project*
14 *valuation in the appropriation for the California Infrastructure*
15 *and Economic Development Bank Fund, created pursuant to*
16 *Section 63050 of the Government Code, in the Governor's*
17 *proposed annual budget.*

18 ~~1719.11. (a) The financing of the project shall be underwritten~~
19 ~~by the bank bank shall remit funding to the harbor agency only~~
20 ~~upon an appropriation by the Legislature of funds moneys for that~~
21 ~~purpose.~~

22 *(b) For the harbor agency to receive the remittance pursuant*
23 *to subdivision (a), the bank may require the harbor agency to*
24 *demonstrate it has sufficient resources to complete the*
25 *infrastructure development project or install the equipment*
26 *purchase.*

27 *(c) The bank shall prepare a report on its activities related to*
28 *this chapter and post that report on its Internet Web site. That*
29 *report may be included as part of the bank's annual report.*

30 ~~1719.12. The harbor agency shall reimburse the administrative~~
31 ~~expenses or direct operating expenses that are incurred by the bank~~
32 ~~as the direct result of the consideration, review, review and~~
33 ~~processing of the proposed financing of a project pursuant to this~~
34 ~~chapter.~~

35 ~~1719.13. To the extent that any provision of this chapter~~
36 ~~conflicts with any provision of Chapter 2.99 (commencing with~~
37 ~~Section 53398.50) of Part 1 of Division 2 of Title 5 of the~~
38 ~~Government Code with respect to a seaport infrastructure financing~~
39 ~~district, this chapter shall prevail.~~

1 1719.14. (a) All permanent fixtures and capital improvements
2 to the real property of a harbor agency that administers public trust
3 tidelands financed pursuant to this chapter shall be a trust asset *of*
4 *the state* once completed. This does not apply to fixtures and
5 improvements otherwise agreed as nonpermanent in a lease
6 between the harbor agency and a private tenant.

7 (b) Nothing in this chapter shall prohibit a harbor agency from
8 submitting a ~~proposed financing plan~~ *proposed project valuation*
9 for a project on behalf of a tenant or for the purchase of equipment
10 to be owned and operated by a tenant, if the assets are owned,
11 maintained, and used exclusively in California and, upon the
12 cessation of the lease, ownership and control of the assets shall
13 revert to the harbor agency on terms enforceable by contract
14 between the harbor agency and the tenant.