

AMENDED IN SENATE APRIL 7, 2015

AMENDED IN SENATE MARCH 23, 2015

SENATE BILL

No. 63

Introduced by Senator Hall

(Coauthors: Assembly Members Bonta and O'Donnell)

January 5, 2015

An act to amend Sections 53398.52, 53398.62, 53398.69, 53398.80, and 53398.81 of, and to add Section 53398.80.5 to, the Government Code, and to amend Sections 1690 and 1698 of, to add Section 1699 to, and to add Chapter 3 (commencing with Section 1710) to Part 1 of Division 6 of, the Harbors and Navigation Code, relating to seaport infrastructure financing.

LEGISLATIVE COUNSEL'S DIGEST

SB 63, as amended, Hall. Seaport infrastructure financing districts.

Existing law authorizes the legislative body of a city or county to establish an enhanced infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, upon approval by 55% of the voters and to finance public capital facilities or other specified projects of communitywide significance, including, but not limited to, among other things, environmental mitigation, military base reuse, low-income housing, and specified housing and transit projects. Existing law 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.

This bill would additionally include port or harbor infrastructure, as defined, among the projects that may be financed by an enhanced infrastructure financing district. The bill would require a harbor agency

to prepare an infrastructure financing plan for a seaport infrastructure financing district, defined as an enhanced infrastructure financing district that finances port or harbor infrastructure. The bill would increase the vote threshold for a seaport infrastructure financing district to issue bonds to $\frac{2}{3}$ of the voters, and would provide that for purposes of these voters, a “landowner” means the entity paying possessory interest tax on state-owned land. The bill would prescribe additional procedures and requirements for the establishment of a seaport enhanced infrastructure financing district, including approval by the harbor agency and the State Lands Commission before the proposal is submitted to the voters for approval. The bill would specify that the commission shall retain absolute discretion over the determination of whether or not investment of local resources in port or harbor infrastructure, the actions of a harbor agency, or any other action taken by a seaport infrastructure financing district is consistent with the state’s interest in tidelands and submerged lands.

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. (a) The Legislature finds and declares all of the
2 following:
- 3 (1) It is equitable and in the public interest to provide alternative
4 procedures for financing public works and services needed to
5 support new commercial, environmental, and industrial
6 development in the state’s ports and harbors that would generate
7 significant new employment opportunities and economic
8 development, increase state and local tax revenues, enhance port
9 competitiveness in the international trade community, reduce
10 congestion and delay in the supply chain, and result in improved
11 environmental quality.
- 12 (2) Ports and harbors in California generally do not levy or
13 expend any funds generated by local taxes, as most of their
14 operations are funded directly through fees, tariffs, leases, and
15 other revenue the ports and harbors generate from their users and
16 tenants, in addition to the occasional state or federal grant.
- 17 (3) There is significant opportunity for development in our
18 state’s ports and harbors. However, the state lacks the public

1 infrastructure funding and financing necessary to support all of
2 the new development that is demanded.

3 (4) Our state’s waterfront has infrastructure needs that cannot
4 be met by private investment alone, and therefore public financing
5 mechanisms are required to finance the remediating of deteriorating
6 conditions. The absence of practical and equitable methods for
7 financing both regional and local public works leads to a declining
8 standard of port infrastructure, a failure to construct new public
9 works needed to support new commercial and industrial
10 development in our ports and harbors, and increased congestion
11 and environmental degradation.

12 (5) The ports and harbors of California are valuable assets of
13 the state that provide special maritime, navigational, recreational,
14 cultural, and historical benefits to the people of the state and the
15 management and development of these ports and harbors are
16 matters of statewide significance. Remediating any condition that
17 will otherwise result in underinvestment in the state’s ports and
18 harbors by providing a financing mechanism, through the use of
19 incremental property tax revenues, is a matter of statewide
20 importance that will further the purposes of the public trust. Public
21 facilities along the state’s waterfront that are eligible for financing
22 pursuant to the enhanced infrastructure financing district law will
23 increase public access to, or use or enjoyment of, public trust lands
24 and are, therefore, facilities of statewide significance.

25 (b) The Legislature further finds and declares that in order to
26 adapt the provisions of Chapter 2.99 (commencing with Section
27 53398.50) of Part 1 of Division 2 of Title 5 of the Government
28 Code, relating to enhanced infrastructure financing districts, to the
29 unique circumstances that surround the state’s ports and harbors,
30 this special act is necessary.

31 (c) Due to the extraordinary capital needs of ports and harbors,
32 it is the intent of the Legislature to provide local governments that
33 may benefit from additional investment in the ports and harbors
34 in their jurisdiction the authority to create and fund enhanced
35 infrastructure financing districts in the manner that provides the
36 optimal financing options to construct needed public facilities on
37 public trust waterfront lands in order to meet the stated goals of
38 statewide significance.

39 SEC. 2. Section 53398.52 of the Government Code is amended
40 to read:

1 53398.52. (a) (1) A district may finance any of the following:
2 (A) The purchase, construction, expansion, improvement,
3 seismic retrofit, or rehabilitation of any real or other tangible
4 property with an estimated useful life of 15 years or longer that
5 satisfies the requirements of subdivision (b).
6 (B) The planning and design work that is directly related to the
7 purchase, construction, expansion, or rehabilitation of property.
8 (C) The costs described in Sections 53398.56 and 53398.57.
9 (2) The facilities are not required to be physically located within
10 the boundaries of the district. However, any facilities financed
11 outside of a district shall have a tangible connection to the work
12 of the district, as detailed in the infrastructure financing plan
13 adopted pursuant to Section 53398.69.
14 (3) A district shall not finance routine maintenance, repair work,
15 or the costs of an ongoing operation or providing services of any
16 kind.
17 (b) The district shall finance only public capital facilities or
18 other specified projects of communitywide significance that
19 provide significant benefits to the district or the surrounding
20 community, including, but not limited to, all of the following:
21 (1) Highways, interchanges, ramps and bridges, arterial streets,
22 parking facilities, and transit facilities.
23 (2) Sewage treatment and water reclamation plants and
24 interceptor pipes.
25 (3) Facilities for the collection and treatment of water for urban
26 uses.
27 (4) Flood control levees and dams, retention basins, and drainage
28 channels.
29 (5) Child care facilities.
30 (6) Libraries.
31 (7) Parks, recreational facilities, and open space.
32 (8) Facilities for the transfer and disposal of solid waste,
33 including transfer stations and vehicles.
34 (9) Brownfield restoration and other environmental mitigation.
35 (10) The development of projects on a former military base,
36 provided that the projects are consistent with the military base
37 authority reuse plan and are approved by the military base reuse
38 authority, if applicable.

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

4 (12) The acquisition, construction, or rehabilitation of housing
5 for persons of low and moderate income, as defined in Section
6 50093 of the Health and Safety Code, for rent or purchase.

7 (13) Acquisition, construction, or repair of industrial structures
8 for private use.

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

15 (15) Projects that implement a sustainable communities strategy,
16 when the State Air Resources Board, pursuant to Chapter 2.5
17 (commencing with Section 65080) of Division 1 of Title 7, has
18 accepted a metropolitan planning organization's determination
19 that the sustainable communities strategy or the alternative planning
20 strategy would, if implemented, achieve the greenhouse gas
21 emission reduction targets.

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

24 (c) The district shall require, by recorded covenants or
25 restrictions, that housing units built pursuant to this section shall
26 remain available at affordable housing costs to, and occupied by,
27 persons and families of low- or moderate-income households for
28 the longest feasible time, but for not less than 55 years for rental
29 units and 45 years for owner-occupied units.

30 (d) The district may finance mixed-income housing
31 developments, but may finance only those units in such a
32 development that are restricted to occupancy by persons of low or
33 moderate incomes as defined in Section 50093 of the Health and
34 Safety Code, and those onsite facilities for child care, after-school
35 care, and social services that are integrally linked to the tenants of
36 the restricted units.

37 (e) A district may utilize any powers under the Polanco
38 Redevelopment Act (Article 12.5 (commencing with Section
39 33459) of Chapter 4 of Part 1 of Division 24 of the Health and

1 Safety Code), and finance any action necessary to implement that
2 act.

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

5 53398.62. (a) Except as provided in subdivision (b), after
6 adopting the resolution pursuant to Section 53398.59, the legislative
7 body shall designate and direct the city or county engineer or other
8 appropriate official to prepare an infrastructure financing plan
9 pursuant to Section 53398.63.

10 (b) In the case of a district proposed for port or harbor
11 infrastructure, the legislative body shall designate and direct the
12 harbor agency to prepare an infrastructure financing plan pursuant
13 to Section 53398.63.

14 SEC. 4. Section 53398.69 of the Government Code is amended
15 to read:

16 53398.69. (a) At the conclusion of the hearing, the legislative
17 body may adopt a resolution proposing adoption of the
18 infrastructure financing plan, as modified, and formation of the
19 enhanced infrastructure financing district in a manner consistent
20 with Section 53398.68, or it may abandon the proceedings.

21 (b) The infrastructure financing plan and the formation of the
22 enhanced infrastructure financing district shall take effect upon
23 the legislative body's adoption of the resolution. The infrastructure
24 financing plan shall specify if the district shall be funded solely
25 through the district's share of tax increment, governmental or
26 private loans, grants, bonds, assessments, fees, or some
27 combination thereof. However, the public financing authority shall
28 not issue bonds or levy assessments or fees that may be included
29 in the infrastructure financing plan before one or more of the
30 following:

31 (1) An affirmative vote, pursuant to subdivision (a) of Section
32 53398.81 and, if applicable, subdivision (c) of Section 53398.80.5,
33 to issue bonds to finance the infrastructure financing plan.

34 (2) Without compliance with the procedures required in
35 subdivision (f) of Section 53398.75, to levy assessments or fees
36 to finance the infrastructure financing plan.

37 (c) In addition, the district may expend up to 10 percent of any
38 accrued tax increment in the first two years of the effective date
39 of the enhanced infrastructure financing district on planning and
40 dissemination of information to the residents within the district's

1 boundaries about the infrastructure financing plan and planned
2 activities to be funded by the district.

3 SEC. 5. Section 53398.80 of the Government Code is amended
4 to read:

5 53398.80. (a) The public financing authority shall submit the
6 proposal to issue the bonds to the voters who reside within the
7 district. If the public financing authority adopts a resolution
8 proposing initiation of proceedings to issue bonds pursuant to
9 Section 53398.77, it shall then submit that proposal, together with
10 the information specified in subdivisions (a) to (c), inclusive, of
11 Section 53398.78, to the qualified electors of the district in the
12 next general election or in a special election to be held,
13 notwithstanding any other requirement, including any requirement
14 that elections be held on specified dates, contained in the Elections
15 Code, at least 90 days but not more than 180 days following the
16 adoption of the resolution of bond issuance. The public financing
17 authority shall provide the resolution of bond issuance, a certified
18 map of sufficient scale and clarity to show the boundaries of the
19 district, and a sufficient description to allow the election official
20 to determine the boundaries of the district to the official conducting
21 the election within three business days after the adoption of the
22 resolution of bond issuance. The assessor's parcel numbers for the
23 land within the district shall be included if it is a landowner election
24 or the district does not conform to an existing district's boundaries
25 and if requested by the official conducting the election. If the
26 election is to be held less than 125 days following the adoption of
27 the resolution of bond issuance, the concurrence of the election
28 official conducting the election shall be required. However, any
29 time limit specified by this section or requirement pertaining to
30 the conduct of the election may be waived with the unanimous
31 consent of the qualified electors of the proposed district and the
32 concurrence of the election official conducting the election.

33 (b) (1) If at least 12 persons have been registered to vote within
34 the territory of the district for each of the 90 days preceding the
35 close of the hearing, the vote shall be by the registered voters of
36 the district, who need not necessarily be the same persons, with
37 each voter having one vote. Otherwise, the vote shall be by the
38 landowners of the district and each landowner who is the owner
39 of record at the close of the protest hearing, or the authorized
40 representative thereof, shall have one vote for each acre or portion

1 of an acre of land that he or she owns within the district. The
2 number of votes to be voted by a particular landowner shall be
3 specified on the ballot provided to that landowner.

4 (2) For purposes of this subdivision, for an entity paying
5 possessory interest tax on state-owned land, “landowner” means
6 the entity that is paying the possessory interest tax.

7 (c) Ballots for the special election authorized by subdivision (a)
8 may be distributed to qualified electors by mail with return postage
9 prepaid or by personal service by the election official. The official
10 conducting the election may certify the proper mailing of ballots
11 by an affidavit, which shall be exclusive proof of mailing in the
12 absence of fraud. The voted ballots shall be returned to the election
13 officer conducting the election not later than the hour specified in
14 the resolution calling the election. However, if all the qualified
15 voters have voted, the election shall be closed.

16 SEC. 6. Section 53398.80.5 is added to the Government Code,
17 to read:

18 53398.80.5. (a) If the public financing authority adopts a
19 resolution proposing initiation of proceedings to issue bonds
20 pursuant to Section 53398.77 for port or harbor infrastructure, it
21 shall, before submitting the proposal to the voters pursuant to
22 Section 53398.80, submit the proposal, together with the
23 information specified in subdivisions (a) to (c), inclusive, and (e)
24 and (f) of Section 53398.78, to the affected harbor agency pursuant
25 to Section 1713 of the Harbors and Navigation Code for its
26 preliminary approval.

27 (b) If the harbor agency grants preliminary approval, the
28 proposal shall be considered by the State Lands Commission for
29 final approval pursuant to Section 1714 of the Harbors and
30 Navigation Code.

31 (c) If the State Lands Commission votes in favor of the issuance
32 of the bonds as provided in Section 1714 of the Harbors and
33 Navigation Code, the public financing authority shall proceed with
34 the submission of the proposal to the voters.

35 SEC. 7. Section 53398.81 of the Government Code is amended
36 to read:

37 53398.81. (a) (1) Except as specified in paragraph (2), the
38 bonds may be issued if 55 percent of the voters voting on the
39 proposition vote in favor of issuing the bonds.

1 (2) For a seaport infrastructure financing district, the bonds may
2 be issued if two-thirds of the voters voting on the proposition vote
3 in favor of issuing the bonds.

4 (b) If the voters approve the issuance of the bonds as provided
5 by subdivision (a), the public financing authority shall proceed
6 with the issuance of the bonds by adopting a resolution that shall
7 provide for all of the following:

8 (1) The issuance of the bonds in one or more series.

9 (2) The principal amount of the bonds that shall be consistent
10 with the amount specified in subdivision (b) of Section 53398.78.

11 (3) The date the bonds will bear.

12 (4) The date of maturity of the bonds.

13 (5) The denomination of the bonds.

14 (6) The form of the bonds.

15 (7) The manner of execution of the bonds.

16 (8) The medium of payment in which the bonds are payable.

17 (9) The place or manner of payment and any requirements for
18 registration of the bonds.

19 (10) The terms of call or redemption, with or without premium.

20 SEC. 8. Section 1690 of the Harbors and Navigation Code is
21 amended to read:

22 1690. The Legislature finds and declares all of the following:

23 (a) The state has a compelling interest in the success of its ports
24 and harbors because they provide significant economic benefit to
25 the state in terms of jobs, personal income, business revenue, and
26 taxes. It is the policy of the state that, because of that compelling
27 interest, legislation in this area is a matter of statewide concern
28 and is necessary to develop the harbors and ports of this state for
29 the benefit of the people.

30 (b) Ports and harbors are the vital interface between water and
31 land transportation for trade with the Pacific Rim countries and
32 other trade. In this respect, the specific management of the state's
33 ports and harbors by specific harbor and port districts established
34 pursuant to Division 8 (commencing with Section 5800) are of
35 equal statewide concern and importance as the management of
36 granted lands held in trust for the state by a local port or harbor
37 district.

38 (c) Historically, California's ports and harbors have been
39 self-supporting. Most port and harbor districts do not levy or
40 expend funds generated by local taxes, as most of their operations

1 are funded directly through fees and other revenue the ports
2 generate from their users or tenants, in addition to occasional state
3 and federal grants.

4 (d) The report of the California Transportation Commission
5 entitled “Improving Access to California’s Ports,” dated February
6 1990, found that ~~\$897~~ *eight hundred ninety-seven million dollars*
7 (*\$897,000,000*) is needed for port access transportation projects.
8 By December 2014, the “California Freight Mobility Plan” report
9 of the Department of Transportation identified a comprehensive
10 list of freight projects in the state, including port access
11 transportation projects, with an estimated total cost of one hundred
12 thirty-eight billion dollars (\$138,000,000,000).

13 (e) In addition to port access transportation projects, there is a
14 need for new harbor facilities and infrastructure investments that
15 will enhance California’s competitiveness for international cargoes,
16 grow employment, yield significant economic development,
17 increase state and local tax revenues, and reduce impacts to
18 environmental quality from goods movement.

19 (f) Because of limited revenues from port operations, shrinking
20 federal and state funding and the increasing demand for those
21 limited funds, ports and harbors are no longer able to finance
22 projects of this magnitude without new funding mechanisms. One
23 such mechanism that can be used to finance port and harbor
24 development projects is the enhanced infrastructure financing
25 district.

26 (g) It is the intent of the Legislature to assist in the reduction of
27 local borrowing costs, help accelerate the construction, repair, and
28 maintenance of port capital improvements, and promote greater
29 use of existing and new financial instruments and mechanisms.

30 (h) It is further the intent of the Legislature to assert the state’s
31 plenary power over the financing of port and harbor infrastructure
32 by harbor agencies as matters of statewide concern and to authorize
33 the use of tax increment financing, as provided by in Chapter 2.99
34 (commencing with Section 53398.50) of Part 1 of Division 2 of
35 Title 5 of the Government Code, to support investment of tax
36 revenues in port and harbor infrastructure.

37 (i) The Legislature empowers local legislative bodies with
38 specific and exclusive delegated authority to manage the state’s
39 ports and harbors by legislative grant and by establishment of
40 special districts pursuant to this code. In addition, the Legislature

1 delegates to public financing authorities the power to establish
2 seaport infrastructure financing districts for the purpose of
3 leveraging investment in support of the statewide interest in
4 improving port and harbor infrastructure.

5 SEC. 9. Section 1698 of the Harbors and Navigation Code is
6 amended to read:

7 1698. (a) “Port or harbor infrastructure” means any of the
8 following, if its primary or predominant use is of direct benefit to
9 the port or harbor:

10 (1) Streets, roads, highways, bridges, sidewalks, curbs, gutters,
11 tunnels, subways, alleyways, viaducts, pipelines, rail lines, or other
12 facilities for the transportation or movement of people, vehicles,
13 equipment, or goods.

14 (2) Piers, docks, wharves, slips, quays, platforms, decks, cranes,
15 or other facilities for the mooring, docking, loading, or unloading
16 of vessels.

17 (3) Lands, tidelands, submerged lands, easements, port access
18 routes, channel improvements, rights-of-way, dredge disposal sites,
19 safety zones, breakwaters, levees, bulkheads, or walls of rock or
20 other material to protect property or traffic.

21 (4) Parking, warehouse, or storage facilities.

22 (5) Parks, recreation, or open space facilities.

23 (6) Remediation or any capital improvement that improves
24 environmental quality.

25 (7) Water, wastewater, drainage, electric, or telecommunication
26 systems or facilities.

27 (8) Buildings, structures, facilities, improvements, or equipment
28 necessary or convenient to any of paragraphs (1) to (7), inclusive,
29 or to the operation of a port or harbor.

30 (9) Public improvements authorized pursuant to the
31 Improvement Act of 1911 (Division 7 (commencing with Section
32 5000) of the Streets and Highways Code), the Improvement Bond
33 Act of 1915 (Division 10 (commencing with Section 8500) of the
34 Streets and Highways Code), and the Mello-Roos Community
35 Facilities Act of 1982 (Chapter 2.5 (commencing with Section
36 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

37 (b) Any port or harbor infrastructure may be privately operated.
38 Except for any port or harbor infrastructure financed or subsidized
39 with public trust revenues, any privately owned port or harbor
40 infrastructure may be eligible in whole or in part for financing or

1 other support or subsidy from money deposited in the infrastructure
2 fund pursuant to subdivision (a) of Section 1701.

3 (c) If a port or harbor infrastructure financed wholly or partly
4 with public funds is privately owned and if the use for which the
5 port or harbor infrastructure was originally constructed changes
6 or is incompatible with the port authority’s master plan, the private
7 owner shall pay the public agency the percentage of the full
8 appreciated value of the port or harbor infrastructure that was
9 originally financed with public funds.

10 (d) Any port or harbor infrastructure may be located within,
11 partly within and partly outside, or outside the boundaries of any
12 harbor agency.

13 (e) Any port or harbor infrastructure that has been purchased,
14 constructed, expanded, improved, or rehabilitated by the
15 expenditure or use of public trust revenues shall be held as an asset
16 of the trust in a share proportionate to the investment of public
17 trust revenues.

18 SEC. 10. Section 1699 is added to the Harbors and Navigation
19 Code, to read:

20 1699. “Seaport infrastructure financing district” means an
21 enhanced infrastructure financing district that finances port or
22 harbor infrastructure created in accordance with Chapter 3
23 (commencing with Section 1710) of this part and Chapter 2.99
24 (commencing with Section 53398.50) of Part 1 of Division 2 of
25 Title 5 of the Government Code.

26 SEC. 11. Chapter 3 (commencing with Section 1710) is added
27 to Part 1 of Division 6 of the Harbors and Navigation Code, to
28 read:

29
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31

32 1710. The Legislature finds and declares all of the following:

33 (a) In addition to the findings and declarations in Section
34 53398.50 of the Government Code, the ability to capture property
35 tax increment revenues to finance needed port and harbor
36 infrastructure projects will provide direct benefits to the state.
37 When harbor agencies are better funded to further the objectives
38 of the state, its ports and harbors, and the public trust and
39 enjoyment of those trust lands by the people of the state, local
40 economies and the local environment will also be improved.

1 (b) A port or harbor or its operation frequently generates large
2 local tax benefits directly as a result of the possessory interest taxes
3 paid on the value of leased port and harbor real property.

4 (c) The tax increment increases in possessory interest taxes that
5 will result from the improvement of port and harbor infrastructure
6 should be captured, whenever possible, and reinvested to support
7 the state’s significant interest in the successful operation of its
8 ports and harbors.

9 (d) The unique nature of the state’s public seaports and harbors,
10 including the nature of the statewide interest in their operations,
11 requires special rules if these ports and harbors are to be allowed
12 to participate in a seaport infrastructure financing district.

13 (e) The seaport infrastructure financing district is specifically
14 developed to include publicly owned property, to improve that
15 public property, and to achieve the public goals of improving the
16 state’s waterborne commerce, enhancing economic prosperity, and
17 financing the costs of environmental mitigation and improvement.

18 (f) This chapter is intended to maintain and enforce the state’s
19 retained rights, statewide interests, obligations and sovereign duties
20 in its ports, harbors, and tidelands, including protecting these same
21 assets from local control or excise, while simultaneously creating
22 an opportunity for public financing authorities to participate in
23 facilitating investment in the state’s public seaport infrastructure
24 and finance projects that will have the anticipated effect of not
25 only providing statewide benefits, but also local benefits such as
26 boosting local employment, local secondary economic
27 development, local environmental improvement, and increased
28 local tax revenues.

29 1711. As used in this chapter, “public financing authority” has
30 the same meaning as provided in Section 53398.51 of the
31 Government Code.

32 1712. When designated by the legislative body pursuant to
33 Section 53398.62 of the Government Code, the harbor agency
34 shall prepare a proposed infrastructure financing plan, as provided
35 in Section 53398.63 of the Government Code, for a seaport
36 infrastructure financing district covering a port or harbor
37 infrastructure.

38 1713. (a) Upon receipt of a resolution from the public financing
39 authority promulgated under subdivision (a) of Section 53398.80.5
40 of the Government Code, the harbor agency shall have 60 days to

1 consider the proposal. During this time, the harbor agency's
2 governing body shall act at a duly noticed meeting to either vote
3 to give preliminary approval of the proposal, subject to the
4 provisions of this section, or disapprove the proposal and return
5 it to the public financing authority.

6 (b) A harbor agency may give preliminary approval under this
7 section only if it makes all of the following affirmative findings:

8 (1) The harbor agency has prepared an infrastructure financing
9 plan pursuant to Section 1712.

10 (2) The improvements to the harbor agency's property to be
11 financed through the proceeds of a seaport infrastructure financing
12 district are solely for the support of port or harbor infrastructure.

13 (3) All publicly owned property that is leased to private parties
14 within the boundaries of the seaport infrastructure financing district
15 has been reported by the harbor agency to the local county assessor
16 to facilitate possessory interest taxation.

17 (4) (A) If the harbor agency is acting on granted lands, all of
18 the projects and uses proposed in the seaport infrastructure
19 financing district are consistent with the state tidelands trust and
20 the conditions of the harbor agency grant.

21 (B) If the harbor agency was formed pursuant to this code, all
22 of the projects and uses proposed in the seaport infrastructure
23 financing district are consistent with its charter and the statewide
24 interests in the operation of harbors and ports.

25 (c) (1) The harbor agency shall not grant preliminary approval
26 under this section unless both of the following apply:

27 (A) The seaport infrastructure financing district will operate
28 independently of any other prior or concurrent agreements between
29 the harbor agency and the public financing authority, or the local
30 governments that make up the public financing authority.

31 (B) No transfers of funds or obligations, or future transfers of
32 funds or obligations contingent on the approval of the seaport
33 infrastructure financing district, its financing, or projects within
34 the district, are created between the harbor agency and the public
35 financing authority, or the local governments that make up the
36 public financing authority.

37 (2) For purposes of this subdivision, "transfers of funds or
38 obligations" includes any direct or indirect transfer of harbor
39 agency resources to the public financing authority, or the local
40 governments that make up the public financing authority, except

1 for any of the following if agreed to between the harbor agency
2 and the public financing authority in writing:

3 (A) Harbor agency reimbursements of a public financing
4 authority for its direct administrative costs of establishing the
5 seaport infrastructure financing district.

6 (B) Public financing authority expenses for underwriting the
7 bond issuance for the identified projects in the seaport
8 infrastructure financing district.

9 (C) Any other administrative expenses or direct operating
10 expenses that are incurred as the direct result of creating the seaport
11 infrastructure financing district that are identified by both parties
12 at the time of preliminary approval and in advance of the expense
13 being incurred by the public financing authority.

14 (d) If a harbor agency votes to give preliminary approval to the
15 proposal, it shall immediately forward its preliminary approval to
16 the State Lands Commission for its consideration.

17 1714. (a) Upon receipt of a preliminary approval from a harbor
18 agency granted pursuant to Section 1713, the State Lands
19 Commission shall consider the proposal and either grant or deny
20 final approval.

21 (b) Prior to granting final approval the State Lands Commission
22 shall do both of the following:

23 (1) Review the infrastructure financing plan prepared by the
24 harbor agency pursuant to Section 1712.

25 (2) Review the findings of the harbor agency made in its
26 preliminary approval.

27 (c) The State Lands Commission shall grant final approval only
28 if it makes all of the following findings:

29 (1) The state's interests in its tidelands and its ports and harbors
30 are furthered by the funding of the seaport infrastructure financing
31 district.

32 (2) The principal purposes of the seaport infrastructure financing
33 district are to further port and harbor infrastructure.

34 (3) The execution of the financing section of the infrastructure
35 finance plan is more likely than not to result in the outcomes
36 proposed.

37 (4) No revenues shall be made available to local governments
38 as a result of the approval of the seaport infrastructure financing
39 district from state revenues, revenues derived from granted lands,
40 or from ports or harbors created under this code, except as

1 otherwise allowed under paragraph (2) of subdivision (c) of Section
2 1713.

3 (5) The harbor agency and the public financing authority
4 participating in the seaport infrastructure financing district have
5 each completed all procedural requirements, financial due
6 diligence, and made all findings required by this chapter and
7 Chapter 2.99 (commencing with Section 53398.50) of Part 1 of
8 Division 2 of Title 5 of the Government Code.

9 (6) All of the projects and uses proposed in the seaport
10 infrastructure financing district are consistent with the state
11 tidelands trust and the conditions of any grants, if applicable, and
12 the statewide interests in the operation of harbors and ports.

13 (7) No agreements by the harbor agency that may control the
14 discretion of the harbor agency to maintain its port or harbor
15 operations or to cede any such control to the discretion of a third
16 party were made as a condition of participation in the seaport
17 infrastructure financing district.

18 (d) If the State Lands Commission gives final approval to the
19 proposal, it shall immediately forward its approval to the public
20 financing authority for further action pursuant to subdivision (c)
21 of Section 53398.80.5 of the Government Code.

22 1715. (a) Except as provided in subdivision (b), Chapter 2.99
23 (commencing with Section 53398.50) of Part 1 of Division 2 of
24 Title 5 of the Government Code shall apply to this chapter.

25 (b) To the extent that any provision of this chapter conflicts
26 with any provision of Chapter 2.99 (commencing with Section
27 53398.50) of Part 1 of Division 2 of Title 5 of the Government
28 Code with respect to a seaport infrastructure financing district, this
29 chapter shall prevail.

30 1716. All permanent fixtures and capital improvements to the
31 real property of a harbor agency that administers public trust
32 tidelands made pursuant to a seaport infrastructure district's
33 approved infrastructure financing plan shall be a trust asset once
34 completed. This provision does not apply to fixtures and
35 improvements otherwise agreed as nonpermanent in a lease
36 between the harbor agency and a private tenant.

37 1717. If a harbor agency administering granted public trust
38 property is a department of a local governmental body, any
39 negotiations between the two entities with respect to any
40 infrastructure financing, operations, or any other activity requiring

1 action by the harbor agency shall be undertaken at arm's length
2 in recognition of the duties of the harbor agency to effectuate
3 statewide interests.

4 1718. (a) Pursuant to Section 6009 of the Public Resources
5 Code, the State Lands Commission shall retain absolute discretion
6 over the determination of whether or not investment of local
7 resources in port or harbor infrastructure, the actions of a harbor
8 agency, or any other action taken by a seaport infrastructure
9 financing district is consistent with the state's interests in its
10 tidelands and submerged lands. Nothing in this chapter, including
11 a finding made pursuant to Section 1714, or Chapter 2.99
12 (commencing with Section 53398.50) of Part 1 of Division 2 of
13 Title 5 of the Government Code, shall preclude the State Lands
14 Commission from enforcing the state's interests in its tidelands.

15 (b) Pursuant to Section 6009.1 of the Public Resources Code,
16 a harbor agency that manages granted state tidelands retains its
17 status as a trustee whether or not it is located within a seaport
18 infrastructure financing district. Nothing in this chapter, including
19 a finding made pursuant to Section 1714, or Chapter 2.99
20 (commencing with Section 53398.50) of Part 1 of Division 2 of
21 Title 5 of the Government Code, shall preclude the harbor agency
22 from conducting its duties as a trustee of state tidelands.

23 (c) Nothing in this chapter or in Chapter 2.99 (commencing
24 with Section 53398.50) of Part 1 of Division 2 of Title 5 of the
25 Government Code grants any authority to any public financing
26 authority, or the local governments that compose the public finance
27 authority, in any manner whatsoever to manage, direct, control,
28 or exercise jurisdiction over a harbor agency and its management
29 of port or harbor infrastructure.