

AMENDED IN SENATE JUNE 1, 2015  
AMENDED IN SENATE APRIL 7, 2015  
AMENDED IN SENATE MARCH 23, 2015

**SENATE BILL**

**No. 63**

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**Introduced by Senator Hall**  
**(Coauthor: Senator Lara)**

(Coauthors: Assembly Members ~~Bonta~~ Bonta, Gipson, and O'Donnell)

January 5, 2015

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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~~ *includes an* 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 require the harbor agency to reimburse the commission, for its administrative costs of considering the proposal, from bond proceeds, if any.* 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. *The bill would exclude from its provisions the Stockton Port District and river port districts.*

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~~ *seaports* and harbors that would
- 7 generate significant new employment opportunities and economic
- 8 development, increase state and local tax revenues, enhance ~~port~~
- 9 *seaport* competitiveness in the international trade community,
- 10 reduce congestion and delay in the supply chain, and result in
- 11 improved environmental quality.
- 12 (2) ~~Ports~~ *Seaports* and harbors in California generally do not
- 13 levy or expend any funds generated by local taxes, as most of their

1 operations are funded directly through fees, tariffs, leases, and  
2 other revenue the ~~ports seaports~~ and harbors generate from their  
3 users and tenants, in addition to the occasional state or federal  
4 grant.

5 (3) There is significant opportunity for development in our  
6 state's ~~ports seaports~~ and harbors. However, the state lacks the  
7 public infrastructure funding and financing necessary to support  
8 all of the new development that is demanded.

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

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

32 (b) The Legislature further finds and declares that in order to  
33 adapt the provisions of Chapter 2.99 (commencing with Section  
34 53398.50) of Part 1 of Division 2 of Title 5 of the Government  
35 Code, relating to enhanced infrastructure financing districts, to the  
36 unique circumstances that surround the state's ~~ports seaports~~ and  
37 harbors, this special act is necessary.

38 (c) Due to the extraordinary capital needs of ~~ports seaports~~ and  
39 harbors, it is the intent of the Legislature to provide local  
40 governments that may benefit from additional investment in the

1 ~~ports~~ *seaports* and harbors in their jurisdiction the authority to  
2 create and fund enhanced infrastructure financing districts in the  
3 manner that provides the optimal financing options to construct  
4 needed public facilities on public trust waterfront lands in order  
5 to meet the stated goals of statewide significance.

6 SEC. 2. Section 53398.52 of the Government Code is amended  
7 to read:

8 53398.52. (a) (1) A district may finance any of the following:

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

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

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

16 (2) The facilities are not required to be physically located within  
17 the boundaries of the district. However, any facilities financed  
18 outside of a district shall have a tangible connection to the work  
19 of the district, as detailed in the infrastructure financing plan  
20 adopted pursuant to Section 53398.69.

21 (3) A district shall not finance routine maintenance, repair work,  
22 or the costs of an ongoing operation or providing services of any  
23 kind.

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

28 (1) Highways, interchanges, ramps and bridges, arterial streets,  
29 parking facilities, and transit facilities.

30 (2) Sewage treatment and water reclamation plants and  
31 interceptor pipes.

32 (3) Facilities for the collection and treatment of water for urban  
33 uses.

34 (4) Flood control levees and dams, retention basins, and drainage  
35 channels.

36 (5) Child care facilities.

37 (6) Libraries.

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

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

1 (9) Brownfield restoration and other environmental mitigation.

2 (10) The development of projects on a former military base,  
3 provided that the projects are consistent with the military base  
4 authority reuse plan and are approved by the military base reuse  
5 authority, if applicable.

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

9 (12) The acquisition, construction, or rehabilitation of housing  
10 for persons of low and moderate income, as defined in Section  
11 50093 of the Health and Safety Code, for rent or purchase.

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

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

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

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

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

35 (d) The district may finance mixed-income housing  
36 developments, but may finance only those units in such a  
37 development that are restricted to occupancy by persons of low or  
38 moderate incomes as defined in Section 50093 of the Health and  
39 Safety Code, and those onsite facilities for child care, after-school

1 care, and social services that are integrally linked to the tenants of  
2 the restricted units.

3 (e) A district may utilize any powers under the Polanco  
4 Redevelopment Act (Article 12.5 (commencing with Section  
5 33459) of Chapter 4 of Part 1 of Division 24 of the Health and  
6 Safety Code), and finance any action necessary to implement that  
7 act.

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

10 53398.62. (a) Except as provided in subdivision (b), after  
11 adopting the resolution pursuant to Section 53398.59, the legislative  
12 body shall designate and direct the city or county engineer or other  
13 appropriate official to prepare an infrastructure financing plan  
14 pursuant to Section 53398.63.

15 (b) In the case of a district proposed for port or harbor  
16 infrastructure, the legislative body shall designate and direct the  
17 harbor ~~agency~~ agency, *except as provided in Section 1719 of the*  
18 *Harbors and Navigation Code*, to prepare an infrastructure  
19 financing plan pursuant to Section 53398.63.

20 SEC. 4. Section 53398.69 of the Government Code is amended  
21 to read:

22 53398.69. (a) At the conclusion of the hearing, the legislative  
23 body may adopt a resolution proposing adoption of the  
24 infrastructure financing plan, as modified, and formation of the  
25 enhanced infrastructure financing district in a manner consistent  
26 with Section 53398.68, or it may abandon the proceedings.

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

37 (1) An affirmative vote, pursuant to subdivision (a) of Section  
38 53398.81 and, if applicable, subdivision (c) of Section 53398.80.5,  
39 to issue bonds to finance the infrastructure financing plan.

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

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

10 SEC. 5. Section 53398.80 of the Government Code is amended  
11 to read:

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

1 (b) (1) If at least 12 persons have been registered to vote within  
2 the territory of the district for each of the 90 days preceding the  
3 close of the hearing, the vote shall be by the registered voters of  
4 the district, who need not necessarily be the same persons, with  
5 each voter having one vote. Otherwise, the vote shall be by the  
6 landowners of the district and each landowner who is the owner  
7 of record at the close of the protest hearing, or the authorized  
8 representative thereof, shall have one vote for each acre or portion  
9 of an acre of land that he or she owns within the district. The  
10 number of votes to be voted by a particular landowner shall be  
11 specified on the ballot provided to that landowner.

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

15 (c) Ballots for the special election authorized by subdivision (a)  
16 may be distributed to qualified electors by mail with return postage  
17 prepaid or by personal service by the election official. The official  
18 conducting the election may certify the proper mailing of ballots  
19 by an affidavit, which shall be exclusive proof of mailing in the  
20 absence of fraud. The voted ballots shall be returned to the election  
21 officer conducting the election not later than the hour specified in  
22 the resolution calling the election. However, if all the qualified  
23 voters have voted, the election shall be closed.

24 SEC. 6. Section 53398.80.5 is added to the Government Code,  
25 to read:

26 53398.80.5. (a) If the public financing authority adopts a  
27 resolution proposing initiation of proceedings to issue bonds  
28 pursuant to Section 53398.77 for port or harbor infrastructure, it  
29 shall, before submitting the proposal to the voters pursuant to  
30 Section 53398.80, submit the proposal, together with the  
31 information specified in subdivisions (a) to (c), inclusive, and (e)  
32 and (f) of Section 53398.78, to the affected harbor agency pursuant  
33 to Section 1713 of the Harbors and Navigation Code for its  
34 preliminary approval.

35 (b) If the harbor agency grants preliminary approval, the  
36 proposal shall be considered by the State Lands Commission for  
37 final approval pursuant to Section 1714 of the Harbors and  
38 Navigation Code.

39 (c) If the State Lands Commission votes in favor of the issuance  
40 of the bonds as provided in Section 1714 of the Harbors and



1 Navigation Code, the public financing authority shall proceed with  
2 the submission of the proposal to the voters.

3 SEC. 7. Section 53398.81 of the Government Code is amended  
4 to read:

5 53398.81. (a) (1) Except as specified in paragraph (2), the  
6 bonds may be issued if 55 percent of the voters voting on the  
7 proposition vote in favor of issuing the bonds.

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

11 (b) If the voters approve the issuance of the bonds as provided  
12 by subdivision (a), the public financing authority shall proceed  
13 with the issuance of the bonds by adopting a resolution that shall  
14 provide for all of the following:

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

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

18 (3) The date the bonds will bear.

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

20 (5) The denomination of the bonds.

21 (6) The form of the bonds.

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

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

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

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

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

29 1690. The Legislature finds and declares all of the following:

30 (a) The state has a compelling interest in the success of its ports  
31 and harbors because they provide significant economic benefit to  
32 the state in terms of jobs, personal income, business revenue, and  
33 taxes. It is the policy of the state that, because of that compelling  
34 interest, legislation in this area is a matter of statewide concern  
35 and is necessary to develop the harbors and ports of this state for  
36 the benefit of the people.

37 (b) Ports and harbors are the vital interface between water and  
38 land transportation for trade with the Pacific Rim countries and  
39 other trade. In this respect, the specific management of the state's  
40 ports and harbors by specific harbor and port districts established

1 pursuant to Division 8 (commencing with Section 5800) are of  
2 equal statewide concern and importance as the management of  
3 granted lands held in trust for the state by a local port or harbor  
4 district.

5 (c) Historically, California's ports and harbors have been  
6 self-supporting. Most port and harbor districts do not levy or  
7 expend funds generated by local taxes, as most of their operations  
8 are funded directly through fees and other revenue the ports  
9 generate from their users or tenants, in addition to occasional state  
10 and federal grants.

11 (d) The report of the California Transportation Commission  
12 entitled "Improving Access to California's Ports," dated February  
13 1990, found that eight hundred ninety-seven million dollars  
14 (\$897,000,000) is needed for port access transportation projects.  
15 By December 2014, the "California Freight Mobility Plan" report  
16 of the Department of Transportation identified a comprehensive  
17 list of freight projects in the state, including port access  
18 transportation projects, with an estimated total cost of one hundred  
19 thirty-eight billion dollars (\$138,000,000,000).

20 (e) In addition to port access transportation projects, there is a  
21 need for new harbor facilities and infrastructure investments that  
22 will enhance California's competitiveness for international cargoes,  
23 grow employment, yield significant economic development,  
24 increase state and local tax revenues, and reduce impacts to  
25 environmental quality from goods movement.

26 (f) Because of limited revenues from port operations, shrinking  
27 federal and state funding and the increasing demand for those  
28 limited funds, ports and harbors are no longer able to finance  
29 projects of this magnitude without new funding mechanisms. One  
30 such mechanism that can be used to finance port and harbor  
31 development projects is the enhanced infrastructure financing  
32 district.

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

37 (h) It is further the intent of the Legislature to assert the state's  
38 plenary power over the financing of port and harbor infrastructure  
39 by harbor agencies as matters of statewide concern and to authorize  
40 the use of tax increment financing, as provided in Chapter 2.99

1 (commencing with Section 53398.50) of Part 1 of Division 2 of  
2 Title 5 of the Government Code, to support investment of tax  
3 revenues in port and harbor infrastructure.

4 (i) The Legislature empowers local legislative bodies with  
5 specific and exclusive delegated authority to manage the state's  
6 ports and harbors by legislative grant and by establishment of  
7 special districts pursuant to this code. In addition, the Legislature  
8 delegates to public financing authorities the power to establish  
9 seaport infrastructure financing districts for the purpose of  
10 leveraging investment in support of the statewide interest in  
11 improving port and harbor infrastructure.

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

14 1698. (a) "Port or harbor infrastructure" means any of the  
15 following, if its primary or predominant use is of direct benefit to  
16 the port or harbor:

17 (1) Streets, roads, highways, bridges, sidewalks, curbs, gutters,  
18 tunnels, subways, alleyways, viaducts, pipelines, rail lines, or other  
19 facilities for the transportation or movement of people, vehicles,  
20 equipment, or goods.

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

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

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

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

30 (6) Remediation or any capital improvement that improves  
31 environmental quality.

32 (7) Water, wastewater, drainage, electric, or telecommunication  
33 systems or facilities.

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

37 (9) Public improvements authorized pursuant to the  
38 Improvement Act of 1911 (Division 7 (commencing with Section  
39 5000) of the Streets and Highways Code), the Improvement Bond  
40 Act of 1915 (Division 10 (commencing with Section 8500) of the

1 Streets and Highways Code), and the Mello-Roos Community  
2 Facilities Act of 1982 (Chapter 2.5 (commencing with Section  
3 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

4 (b) Any port or harbor infrastructure may be privately operated.  
5 Except for any port or harbor infrastructure financed or subsidized  
6 with public trust revenues, any privately owned port or harbor  
7 infrastructure may be eligible in whole or in part for financing or  
8 other support or subsidy from money deposited in the infrastructure  
9 fund pursuant to subdivision (a) of Section 1701.

10 (c) If a port or harbor infrastructure financed wholly or partly  
11 with public funds is privately owned and if the use for which the  
12 port or harbor infrastructure was originally constructed changes  
13 or is incompatible with the port authority's master plan, the private  
14 owner shall pay the public agency the percentage of the full  
15 appreciated value of the port or harbor infrastructure that was  
16 originally financed with public funds.

17 (d) Any port or harbor infrastructure may be located within,  
18 partly within and partly outside, or outside the boundaries of any  
19 harbor agency.

20 (e) Any port or harbor infrastructure that has been purchased,  
21 constructed, expanded, improved, or rehabilitated by the  
22 expenditure or use of public trust revenues shall be held as an asset  
23 of the trust in a share proportionate to the investment of public  
24 trust revenues.

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

27 1699. "Seaport infrastructure financing district" means an  
28 enhanced infrastructure financing district that finances port or  
29 harbor infrastructure created in accordance with Chapter 3  
30 (commencing with Section 1710) of this part and Chapter 2.99  
31 (commencing with Section 53398.50) of Part 1 of Division 2 of  
32 Title 5 of the Government Code.

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

36  
37 CHAPTER 3. SEAPORT INFRASTRUCTURE FINANCING DISTRICTS

38  
39 1710. The Legislature finds and declares all of the following:

1 (a) In addition to the findings and declarations in Section  
2 53398.50 of the Government Code, the ability to capture property  
3 tax increment revenues to finance needed ~~port~~ *seaport* and harbor  
4 infrastructure projects will provide direct benefits to the state.  
5 When harbor agencies are better funded to further the objectives  
6 of the state, its ~~ports~~ *seaports* and harbors, and the public trust and  
7 enjoyment of those trust lands by the people of the state, local  
8 economies and the local environment will also be improved.

9 (b) A ~~port~~ *seaport* or harbor or its operation frequently generates  
10 large local tax benefits directly as a result of the possessory interest  
11 taxes paid on the value of leased port and harbor real property.

12 (c) The tax increment increases in possessory interest taxes that  
13 will result from the improvement of ~~port~~ *seaport* and harbor  
14 infrastructure should be captured, whenever possible, and  
15 reinvested to support the state’s significant interest in the successful  
16 operation of its ~~ports~~ *seaports* and harbors.

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

21 (e) The seaport infrastructure financing district is specifically  
22 developed to include publicly owned property, to improve that  
23 public property, and to achieve the public goals of improving the  
24 state’s waterborne commerce, enhancing economic prosperity, and  
25 financing the costs of environmental mitigation and improvement.

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

37 1711. As used in this chapter, “public financing authority” has  
38 the same meaning as provided in Section 53398.51 of the  
39 Government Code.

1 1712. When designated by the legislative body pursuant to  
2 Section 53398.62 of the Government Code, the harbor agency  
3 shall prepare a proposed infrastructure financing plan, as provided  
4 in Section 53398.63 of the Government Code, for a seaport  
5 infrastructure financing district covering a port or harbor  
6 infrastructure.

7 1713. (a) Upon receipt of a resolution from the public financing  
8 authority promulgated under subdivision (a) of Section 53398.80.5  
9 of the Government Code, the harbor agency shall have 60 days to  
10 consider the proposal. During this time, the harbor agency's  
11 governing body shall act at a duly noticed meeting to either vote  
12 to give preliminary approval of the proposal, subject to the  
13 provisions of this section, or disapprove the proposal and return  
14 it to the public financing authority.

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

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

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

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

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

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

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

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

1 (B) No transfers of funds or obligations, or future transfers of  
2 funds or obligations contingent on the approval of the seaport  
3 infrastructure financing district, its financing, or projects within  
4 the district, are created between the harbor agency and the public  
5 financing authority, or the local governments that make up the  
6 public financing authority.

7 (2) For purposes of this subdivision, “transfers of funds or  
8 obligations” includes any direct or indirect transfer of harbor  
9 agency resources to the public financing authority, or the local  
10 governments that make up the public financing authority, except  
11 for any of the following if agreed to between the harbor agency  
12 and the public financing authority in writing:

13 (A) Harbor agency reimbursements of a public financing  
14 authority for its direct administrative costs of establishing the  
15 seaport infrastructure financing district.

16 (B) Public financing authority expenses for underwriting the  
17 bond issuance for the identified projects in the seaport  
18 infrastructure financing district.

19 (C) Any other administrative expenses or direct operating  
20 expenses that are incurred as the direct result of creating the seaport  
21 infrastructure financing district that are identified by both parties  
22 at the time of preliminary approval and in advance of the expense  
23 being incurred by the public financing authority.

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

27 1714. (a) Upon receipt of a preliminary approval from a harbor  
28 agency granted pursuant to Section 1713, the State Lands  
29 Commission shall consider the proposal and either grant or deny  
30 final approval.

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

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

35 (2) Review the findings of the harbor agency made in its  
36 preliminary approval.

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

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

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

6 (3) The execution of the financing section of the infrastructure  
7 finance plan is more likely than not to result in the outcomes  
8 proposed.

9 (4) No revenues shall be made available to local governments  
10 as a result of the approval of the seaport infrastructure financing  
11 district from state revenues, revenues derived from granted lands,  
12 or from ports or harbors created under this code, except as  
13 otherwise allowed under paragraph (2) of subdivision (c) of Section  
14 1713.

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

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

25 (7) No agreements by the harbor agency that may control the  
26 discretion of the harbor agency to maintain its port or harbor  
27 operations or to cede any such control to the discretion of a third  
28 party were made as a condition of participation in the seaport  
29 infrastructure financing district.

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

34 (e) *The State Lands Commission shall be reimbursed by the*  
35 *harbor agency for its direct administrative costs of considering a*  
36 *seaport infrastructure financing district proposal under this section*  
37 *from the proceeds of the bonds issued, if any, for the identified*  
38 *projects in the seaport infrastructure financing district.*



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

4 (b) To the extent that any provision of this chapter conflicts  
5 with any provision of Chapter 2.99 (commencing with Section  
6 53398.50) of Part 1 of Division 2 of Title 5 of the Government  
7 Code with respect to a seaport infrastructure financing district, this  
8 chapter shall prevail.

9 1716. All permanent fixtures and capital improvements to the  
10 real property of a harbor agency that administers public trust  
11 tidelands made pursuant to a seaport infrastructure district's  
12 approved infrastructure financing plan shall be a trust asset once  
13 completed. This provision does not apply to fixtures and  
14 improvements otherwise agreed as nonpermanent in a lease  
15 between the harbor agency and a private tenant.

16 1717. If a harbor agency administering granted public trust  
17 property is a department of a local governmental body, any  
18 negotiations between the two entities with respect to any  
19 infrastructure financing, operations, or any other activity requiring  
20 action by the harbor agency shall be undertaken at arm's length  
21 in recognition of the duties of the harbor agency to effectuate  
22 statewide interests.

23 1718. (a) Pursuant to Section 6009 of the Public Resources  
24 Code, the State Lands Commission shall retain absolute discretion  
25 over the determination of whether or not investment of local  
26 resources in port or harbor infrastructure, the actions of a harbor  
27 agency, or any other action taken by a seaport infrastructure  
28 financing district is consistent with the state's interests in its  
29 tidelands and submerged lands. Nothing in this chapter, including  
30 a finding made pursuant to Section 1714, or Chapter 2.99  
31 (commencing with Section 53398.50) of Part 1 of Division 2 of  
32 Title 5 of the Government Code, shall preclude the State Lands  
33 Commission from enforcing the state's interests in its tidelands.

34 (b) Pursuant to Section 6009.1 of the Public Resources Code,  
35 a harbor agency that manages granted state tidelands retains its  
36 status as a trustee whether or not it is located within a seaport  
37 infrastructure financing district. Nothing in this chapter, including  
38 a finding made pursuant to Section 1714, or Chapter 2.99  
39 (commencing with Section 53398.50) of Part 1 of Division 2 of

1 Title 5 of the Government Code, shall preclude the harbor agency  
2 from conducting its duties as a trustee of state tidelands.

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

10 *1719. This chapter shall not apply to the Stockton Port District,*  
11 *as established pursuant to Part 4 (commencing with Section 6200)*  
12 *of Division 8, or to a river port district established pursuant to*  
13 *Part 6 (commencing with Section 6800) of Division 8.*