

AMENDED IN ASSEMBLY SEPTEMBER 1, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE APRIL 7, 2015

AMENDED IN SENATE MARCH 23, 2015

SENATE BILL

No. 63

Introduced by Senator Hall

(Coauthor: Senator Lara)

(Coauthors: Assembly Members Bonta, Gipson, 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” 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 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.

This bill would incorporate additional changes in Sections 53398.52, 53398.62, and 53398.69 of the Government Code proposed by AB 313 that would become operative only if AB 313 and this bill are both chaptered and become effective on or before January 1, 2016, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: 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 seaports and harbors that would generate

1 significant new employment opportunities and economic
2 development, increase state and local tax revenues, enhance seaport
3 competitiveness in the international trade community, reduce
4 congestion and delay in the supply chain, and result in improved
5 environmental quality.

6 (2) Seaports and harbors in California generally do not levy or
7 expend any funds generated by local taxes, as most of their
8 operations are funded directly through fees, tariffs, leases, and
9 other revenue the seaports and harbors generate from their users
10 and tenants, in addition to the occasional state or federal grant.

11 (3) There is significant opportunity for development in our
12 state's seaports and harbors. However, the state lacks the public
13 infrastructure funding and financing necessary to support all of
14 the new development that is demanded.

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

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

37 (b) The Legislature further finds and declares that in order to
38 adapt the provisions of Chapter 2.99 (commencing with Section
39 53398.50) of Part 1 of Division 2 of Title 5 of the Government
40 Code, relating to enhanced infrastructure financing districts, to the

1 unique circumstances that surround the state’s seaports and harbors,
2 this special act is necessary.

3 (c) Due to the extraordinary capital needs of seaports and
4 harbors, it is the intent of the Legislature to provide local
5 governments that may benefit from additional investment in the
6 seaports and harbors in their jurisdiction the authority to create
7 and fund enhanced infrastructure financing districts in the manner
8 that provides the optimal financing options to construct needed
9 public facilities on public trust waterfront lands in order to meet
10 the stated goals of statewide significance.

11 SEC. 2. Section 53398.52 of the Government Code is amended
12 to read:

13 53398.52. (a) (1) A district may finance any of the following:

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

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

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

21 (2) The facilities are not required to be physically located within
22 the boundaries of the district. However, any facilities financed
23 outside of a district shall have a tangible connection to the work
24 of the district, as detailed in the infrastructure financing plan
25 adopted pursuant to Section 53398.69.

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

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

33 (1) Highways, interchanges, ramps and bridges, arterial streets,
34 parking facilities, and transit facilities.

35 (2) Sewage treatment and water reclamation plants and
36 interceptor pipes.

37 (3) Facilities for the collection and treatment of water for urban
38 uses.

39 (4) Flood control levees and dams, retention basins, and drainage
40 channels.

1 (5) Child care facilities.

2 (6) Libraries.

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

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

6 (9) Brownfield restoration and other environmental mitigation.

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

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

14 (12) The acquisition, construction, or rehabilitation of housing
15 for persons of low and moderate income, as defined in Section
16 50093 of the Health and Safety Code, for rent or purchase.

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

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

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

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

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

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

8 (e) A district may utilize any powers under the Polanco
 9 Redevelopment Act (Article 12.5 (commencing with Section
 10 33459) of Chapter 4 of Part 1 of Division 24 of the Health and
 11 Safety Code), and finance any action necessary to implement that
 12 act.

13 *SEC. 2.5. Section 53398.52 of the Government Code is*
 14 *amended to read:*

15 53398.52. (a) (1) A district may finance any of the following:

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

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

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

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

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

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

35 (1) Highways, interchanges, ramps and bridges, arterial streets,
 36 parking facilities, and transit facilities.

37 (2) Sewage treatment and water reclamation plants and
 38 interceptor pipes.

39 (3) Facilities for the collection and treatment of water for urban
 40 uses.

- 1 (4) Flood control levees and dams, retention basins, and drainage
2 channels.
- 3 (5) Child care facilities.
- 4 (6) Libraries.
- 5 (7) Parks, recreational facilities, and open space.
- 6 (8) Facilities for the transfer and disposal of solid waste,
7 including transfer stations and vehicles.
- 8 (9) Brownfield restoration and other environmental mitigation.
- 9 (10) The development of projects on a former military base,
10 provided that the projects are consistent with the military base
11 authority reuse plan and are approved by the military base reuse
12 authority, if applicable.
- 13 (11) The repayment of the transfer of funds to a military base
14 reuse authority pursuant to Section 67851 that occurred on or after
15 the creation of the district.
- 16 (12) The acquisition, construction, or rehabilitation of housing
17 for persons of ~~low~~ *very low*, *low*, and moderate income, as defined
18 in ~~Section~~ *Sections 50105 and 50093* of the Health and Safety
19 Code, for rent or purchase.
- 20 (13) Acquisition, construction, or repair of industrial structures
21 for private use.
- 22 (14) Transit priority projects, as defined in Section 21155 of
23 the Public Resources Code, that are located within a transit priority
24 project area. For purposes of this paragraph, a transit priority
25 project area may include a military base reuse plan that meets the
26 definition of a transit priority project area and it may include a
27 contaminated site within a transit priority project area.
- 28 (15) Projects that implement a sustainable communities strategy,
29 when the State Air Resources Board, pursuant to Chapter 2.5
30 (commencing with Section 65080) of Division ~~2~~ *1* of Title 7, has
31 accepted a metropolitan planning organization's determination
32 that the sustainable communities strategy or the alternative planning
33 strategy would, if implemented, achieve the greenhouse gas
34 emission reduction targets.
- 35 (16) *Port or harbor infrastructure, as defined by Section 1698*
36 *of the Harbors and Navigation Code.*
- 37 (c) The district shall require, by recorded covenants or
38 restrictions, that housing units built pursuant to this section shall
39 remain available at affordable housing costs to, and occupied by,
40 persons and families of ~~low~~ *very low*, *low*, or moderate-income

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

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

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

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

18 53398.62. (a) Except as provided in subdivision (b), after
19 adopting the resolution pursuant to Section 53398.59, the legislative
20 body shall designate and direct the city or county engineer or other
21 appropriate official to prepare an infrastructure financing plan
22 pursuant to Section 53398.63.

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

28 SEC. 3.5. *Section 53398.62 of the Government Code is*
29 *amended to read:*

30 53398.62. ~~After~~ *(a) Except as provided in subdivision (b),*
31 *after adopting the resolution pursuant to Section 53398.59, the*
32 *legislative body shall send a copy of the resolution to the public*
33 *financing authority. The public financing authority shall designate*
34 *and direct the city or county engineer or other appropriate official*
35 *to prepare an infrastructure financing plan pursuant to Section*
36 *53398.63.*

37 *(b) In the case of a district proposed for port or harbor*
38 *infrastructure, the legislative body shall designate and direct the*
39 *harbor agency, except as provided in Section 1719 of the Harbors*

1 *and Navigation Code, to prepare an infrastructure financing plan*
2 *pursuant to Section 53398.63.*

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

5 53398.69. (a) At the conclusion of the hearing, the legislative
6 body may adopt a resolution proposing adoption of the
7 infrastructure financing plan, as modified, and formation of the
8 enhanced infrastructure financing district in a manner consistent
9 with Section 53398.68, or it may abandon the proceedings.

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

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

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

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

32 *SEC. 4.5. Section 53398.69 of the Government Code is*
33 *amended to read:*

34 53398.69. (a) At the conclusion of the hearing, the legislative
35 ~~body~~ *public financing authority* may adopt a resolution proposing
36 adoption of the infrastructure financing plan, as modified, and
37 formation of the enhanced infrastructure financing district in a
38 manner consistent with Section 53398.68, or it may ~~abandon the~~
39 ~~proceedings.~~ *adopt a resolution abandoning the proceedings. If*
40 *the proceedings are abandoned, then the public financing authority*

1 *shall cease to exist by operation of this section with no further*
 2 *action required of the legislative body and the legislative body*
 3 *may not enact a resolution of intention to establish a district that*
 4 *includes the same geographic area within one year of the date of*
 5 *the resolution abandoning the proceedings.*

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

16 (1) An affirmative vote, pursuant to subdivision (a) of Section
 17 ~~53398.81, 53398.81 and, if applicable, subdivision (c) of Section~~
 18 ~~53398.80.5, to issue bonds to finance the infrastructure financing~~
 19 ~~plan.~~

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

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

29 SEC. 5. Section 53398.80 of the Government Code is amended
 30 to read:

31 53398.80. (a) The public financing authority shall submit the
 32 proposal to issue the bonds to the voters who reside within the
 33 district. If the public financing authority adopts a resolution
 34 proposing initiation of proceedings to issue bonds pursuant to
 35 Section 53398.77, it shall then submit that proposal, together with
 36 the information specified in subdivisions (a) to (c), inclusive, of
 37 Section 53398.78, to the qualified electors of the district in the
 38 next general election or in a special election to be held,
 39 notwithstanding any other requirement, including any requirement
 40 that elections be held on specified dates, contained in the Elections

1 Code, at least 90 days but not more than 180 days following the
2 adoption of the resolution of bond issuance. The public financing
3 authority shall provide the resolution of bond issuance, a certified
4 map of sufficient scale and clarity to show the boundaries of the
5 district, and a sufficient description to allow the election official
6 to determine the boundaries of the district to the official conducting
7 the election within three business days after the adoption of the
8 resolution of bond issuance. The assessor’s parcel numbers for the
9 land within the district shall be included if it is a landowner election
10 or the district does not conform to an existing district’s boundaries
11 and if requested by the official conducting the election. If the
12 election is to be held less than 125 days following the adoption of
13 the resolution of bond issuance, the concurrence of the election
14 official conducting the election shall be required. However, any
15 time limit specified by this section or requirement pertaining to
16 the conduct of the election may be waived with the unanimous
17 consent of the qualified electors of the proposed district and the
18 concurrence of the election official conducting the election.

19 (b) (1) If at least 12 persons have been registered to vote within
20 the territory of the district for each of the 90 days preceding the
21 close of the hearing, the vote shall be by the registered voters of
22 the district, who need not necessarily be the same persons, with
23 each voter having one vote. Otherwise, the vote shall be by the
24 landowners of the district and each landowner who is the owner
25 of record at the close of the protest hearing, or the authorized
26 representative thereof, shall have one vote for each acre or portion
27 of an acre of land that he or she owns within the district. The
28 number of votes to be voted by a particular landowner shall be
29 specified on the ballot provided to that landowner.

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

33 (c) Ballots for the special election authorized by subdivision (a)
34 may be distributed to qualified electors by mail with return postage
35 prepaid or by personal service by the election official. The official
36 conducting the election may certify the proper mailing of ballots
37 by an affidavit, which shall be exclusive proof of mailing in the
38 absence of fraud. The voted ballots shall be returned to the election
39 officer conducting the election not later than the hour specified in

1 the resolution calling the election. However, if all the qualified
2 voters have voted, the election shall be closed.

3 SEC. 6. Section 53398.80.5 is added to the Government Code,
4 to read:

5 53398.80.5. (a) If the public financing authority adopts a
6 resolution proposing initiation of proceedings to issue bonds
7 pursuant to Section 53398.77 for port or harbor infrastructure, it
8 shall, before submitting the proposal to the voters pursuant to
9 Section 53398.80, submit the proposal, together with the
10 information specified in subdivisions (a) to (c), inclusive, and (e)
11 and (f) of Section 53398.78, to the affected harbor agency pursuant
12 to Section 1713 of the Harbors and Navigation Code for its
13 preliminary approval.

14 (b) If the harbor agency grants preliminary approval, the
15 proposal shall be considered by the State Lands Commission for
16 final approval pursuant to Section 1714 of the Harbors and
17 Navigation Code.

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

22 SEC. 7. Section 53398.81 of the Government Code is amended
23 to read:

24 53398.81. (a) (1) Except as specified in paragraph (2), the
25 bonds may be issued if 55 percent of the voters voting on the
26 proposition vote in favor of issuing the bonds.

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

30 (b) If the voters approve the issuance of the bonds as provided
31 by subdivision (a), the public financing authority shall proceed
32 with the issuance of the bonds by adopting a resolution that shall
33 provide for all of the following:

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

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

37 (3) The date the bonds will bear.

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

39 (5) The denomination of the bonds.

40 (6) The form of the bonds.

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

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

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

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

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

8 1690. The Legislature finds and declares all of the following:

9 (a) The state has a compelling interest in the success of its ports
10 and harbors because they provide significant economic benefit to
11 the state in terms of jobs, personal income, business revenue, and
12 taxes. It is the policy of the state that, because of that compelling
13 interest, legislation in this area is a matter of statewide concern
14 and is necessary to develop the harbors and ports of this state for
15 the benefit of the people.

16 (b) Ports and harbors are the vital interface between water and
17 land transportation for trade with the Pacific Rim countries and
18 other trade. In this respect, the specific management of the state's
19 ports and harbors by specific harbor and port districts established
20 pursuant to Division 8 (commencing with Section 5800) are of
21 equal statewide concern and importance as the management of
22 granted lands held in trust for the state by a local port or harbor
23 district.

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

30 (d) The report of the California Transportation Commission
31 entitled "Improving Access to California's Ports," dated February
32 1990, found that eight hundred ninety-seven million dollars
33 (\$897,000,000) is needed for port access transportation projects.
34 By December 2014, the "California Freight Mobility Plan" report
35 of the Department of Transportation identified a comprehensive
36 list of freight projects in the state, including port access
37 transportation projects, with an estimated total cost of one hundred
38 thirty-eight billion dollars (\$138,000,000,000).

39 (e) In addition to port access transportation projects, there is a
40 need for new harbor facilities and infrastructure investments that

1 will enhance California’s competitiveness for international cargoes,
2 grow employment, yield significant economic development,
3 increase state and local tax revenues, and reduce impacts to
4 environmental quality from goods movement.

5 (f) Because of limited revenues from port operations, shrinking
6 federal and state funding and the increasing demand for those
7 limited funds, ports and harbors are no longer able to finance
8 projects of this magnitude without new funding mechanisms. One
9 such mechanism that can be used to finance port and harbor
10 development projects is the enhanced infrastructure financing
11 district.

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

16 (h) It is further the intent of the Legislature to assert the state’s
17 plenary power over the financing of port and harbor infrastructure
18 by harbor agencies as matters of statewide concern and to authorize
19 the use of tax increment financing, as provided in Chapter 2.99
20 (commencing with Section 53398.50) of Part 1 of Division 2 of
21 Title 5 of the Government Code, to support investment of tax
22 revenues in port and harbor infrastructure.

23 (i) The Legislature empowers local legislative bodies with
24 specific and exclusive delegated authority to manage the state’s
25 ports and harbors by legislative grant and by establishment of
26 special districts pursuant to this code. In addition, the Legislature
27 delegates to public financing authorities the power to establish
28 seaport infrastructure financing districts for the purpose of
29 leveraging investment in support of the statewide interest in
30 improving port and harbor infrastructure.

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

33 1698. (a) “Port or harbor infrastructure” means any of the
34 following, if its primary or predominant use is of direct benefit to
35 the port or harbor:

36 (1) Streets, roads, highways, bridges, sidewalks, curbs, gutters,
37 tunnels, subways, alleyways, viaducts, pipelines, rail lines, or other
38 facilities for the transportation or movement of people, vehicles,
39 equipment, or goods.

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

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

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

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

10 (6) Remediation or any capital improvement that improves
11 environmental quality.

12 (7) Water, wastewater, drainage, electric, or telecommunication
13 systems or facilities.

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

17 (9) Public improvements authorized pursuant to the
18 Improvement Act of 1911 (Division 7 (commencing with Section
19 5000) of the Streets and Highways Code), the Improvement Bond
20 Act of 1915 (Division 10 (commencing with Section 8500) of the
21 Streets and Highways Code), and the Mello-Roos Community
22 Facilities Act of 1982 (Chapter 2.5 (commencing with Section
23 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

24 (b) Any port or harbor infrastructure may be privately operated.
25 Except for any port or harbor infrastructure financed or subsidized
26 with public trust revenues, any privately owned port or harbor
27 infrastructure may be eligible in whole or in part for financing or
28 other support or subsidy from money deposited in the infrastructure
29 fund pursuant to subdivision (a) of Section 1701.

30 (c) If a port or harbor infrastructure financed wholly or partly
31 with public funds is privately owned and if the use for which the
32 port or harbor infrastructure was originally constructed changes
33 or is incompatible with the port authority's master plan, the private
34 owner shall pay the public agency the percentage of the full
35 appreciated value of the port or harbor infrastructure that was
36 originally financed with public funds.

37 (d) Any port or harbor infrastructure may be located within,
38 partly within and partly outside, or outside the boundaries of any
39 harbor agency.

1 (e) Any port or harbor infrastructure that has been purchased,
2 constructed, expanded, improved, or rehabilitated by the
3 expenditure or use of public trust revenues shall be held as an asset
4 of the trust in a share proportionate to the investment of public
5 trust revenues.

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

8 1699. “Seaport infrastructure financing district” means an
9 enhanced infrastructure financing district that finances port or
10 harbor infrastructure created in accordance with Chapter 3
11 (commencing with Section 1710) of this part and Chapter 2.99
12 (commencing with Section 53398.50) of Part 1 of Division 2 of
13 Title 5 of the Government Code.

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

17
18 CHAPTER 3. SEAPORT INFRASTRUCTURE FINANCING DISTRICTS
19

20 1710. The Legislature finds and declares all of the following:

21 (a) In addition to the findings and declarations in Section
22 53398.50 of the Government Code, the ability to capture property
23 tax increment revenues to finance needed seaport and harbor
24 infrastructure projects will provide direct benefits to the state.
25 When harbor agencies are better funded to further the objectives
26 of the state, its seaports and harbors, and the public trust and
27 enjoyment of those trust lands by the people of the state, local
28 economies and the local environment will also be improved.

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

32 (c) The tax increment increases in possessory interest taxes that
33 will result from the improvement of seaport and harbor
34 infrastructure should be captured, whenever possible, and
35 reinvested to support the state’s significant interest in the successful
36 operation of its seaports and harbors.

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

1 (e) The seaport infrastructure financing district is specifically
2 developed to include publicly owned property, to improve that
3 public property, and to achieve the public goals of improving the
4 state’s waterborne commerce, enhancing economic prosperity, and
5 financing the costs of environmental mitigation and improvement.

6 (f) This chapter is intended to maintain and enforce the state’s
7 retained rights, statewide interests, obligations and sovereign duties
8 in its seaports, harbors, and tidelands, including protecting these
9 same assets from local control or excise, while simultaneously
10 creating an opportunity for public financing authorities to
11 participate in facilitating investment in the state’s public seaport
12 infrastructure and finance projects that will have the anticipated
13 effect of not only providing statewide benefits, but also local
14 benefits such as boosting local employment, local secondary
15 economic development, local environmental improvement, and
16 increased local tax revenues.

17 1711. As used in this chapter, “public financing authority” has
18 the same meaning as provided in Section 53398.51 of the
19 Government Code.

20 1712. When designated by the legislative body pursuant to
21 Section 53398.62 of the Government Code, the harbor agency
22 shall prepare a proposed infrastructure financing plan, as provided
23 in Section 53398.63 of the Government Code, for a seaport
24 infrastructure financing district covering a port or harbor
25 infrastructure.

26 1713. (a) Upon receipt of a resolution from the public financing
27 authority promulgated under subdivision (a) of Section 53398.80.5
28 of the Government Code, the harbor agency shall have 60 days to
29 consider the proposal. During this time, the harbor agency’s
30 governing body shall act at a duly noticed meeting to either vote
31 to give preliminary approval of the proposal, subject to the
32 provisions of this section, or disapprove the proposal and return
33 it to the public financing authority.

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

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

38 (2) The improvements to the harbor agency’s property to be
39 financed through the proceeds of a seaport infrastructure financing
40 district are solely for the support of port or harbor infrastructure.

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

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

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

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

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

19 (B) No transfers of funds or obligations, or future transfers of
20 funds or obligations contingent on the approval of the seaport
21 infrastructure financing district, its financing, or projects within
22 the district, are created between the harbor agency and the public
23 financing authority, or the local governments that make up the
24 public financing authority.

25 (2) For purposes of this subdivision, “transfers of funds or
26 obligations” includes any direct or indirect transfer of harbor
27 agency resources to the public financing authority, or the local
28 governments that make up the public financing authority, except
29 for any of the following if agreed to between the harbor agency
30 and the public financing authority in writing:

31 (A) Harbor agency reimbursements of a public financing
32 authority for its direct administrative costs of establishing the
33 seaport infrastructure financing district.

34 (B) Public financing authority expenses for underwriting the
35 bond issuance for the identified projects in the seaport
36 infrastructure financing district.

37 (C) Any other administrative expenses or direct operating
38 expenses that are incurred as the direct result of creating the seaport
39 infrastructure financing district that are identified by both parties

1 at the time of preliminary approval and in advance of the expense
2 being incurred by the public financing authority.

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

6 1714. (a) Upon receipt of a preliminary approval from a harbor
7 agency granted pursuant to Section 1713, the State Lands
8 Commission shall consider the proposal and either grant or deny
9 final approval.

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

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

14 (2) Review the findings of the harbor agency made in its
15 preliminary approval.

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

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

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

23 (3) The execution of the financing section of the infrastructure
24 finance plan is more likely than not to result in the outcomes
25 proposed.

26 (4) No revenues shall be made available to local governments
27 as a result of the approval of the seaport infrastructure financing
28 district from state revenues, revenues derived from granted lands,
29 or from ports or harbors created under this code, except as
30 otherwise allowed under paragraph (2) of subdivision (c) of Section
31 1713.

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

38 (6) All of the projects and uses proposed in the seaport
39 infrastructure financing district are consistent with the state

1 tidelands trust and the conditions of any grants, if applicable, and
2 the statewide interests in the operation of harbors and ports.

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

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

12 (e) The State Lands Commission shall be reimbursed by the
13 harbor agency for its direct administrative costs of considering a
14 seaport infrastructure financing district proposal under this section
15 from the proceeds of the bonds issued, if any, for the identified
16 projects in the seaport infrastructure financing district.

17 1715. (a) Except as provided in subdivision (b), Chapter 2.99
18 (commencing with Section 53398.50) of Part 1 of Division 2 of
19 Title 5 of the Government Code shall apply to this chapter.

20 (b) To the extent that any provision of this chapter conflicts
21 with any provision of Chapter 2.99 (commencing with Section
22 53398.50) of Part 1 of Division 2 of Title 5 of the Government
23 Code with respect to a seaport infrastructure financing district, this
24 chapter shall prevail.

25 1716. All permanent fixtures and capital improvements to the
26 real property of a harbor agency that administers public trust
27 tidelands made pursuant to a seaport infrastructure district's
28 approved infrastructure financing plan shall be a trust asset once
29 completed. This provision does not apply to fixtures and
30 improvements otherwise agreed as nonpermanent in a lease
31 between the harbor agency and a private tenant.

32 1717. If a harbor agency administering granted public trust
33 property is a department of a local governmental body, any
34 negotiations between the two entities with respect to any
35 infrastructure financing, operations, or any other activity requiring
36 action by the harbor agency shall be undertaken at arm's length
37 in recognition of the duties of the harbor agency to effectuate
38 statewide interests.

39 1718. (a) Pursuant to Section 6009 of the Public Resources
40 Code, the State Lands Commission shall retain absolute discretion

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

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

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

25 1719. This chapter shall not apply to the Stockton Port District,
26 as established pursuant to Part 4 (commencing with Section 6200)
27 of Division 8, or to a river port district established pursuant to Part
28 6 (commencing with Section 6800) of Division 8.

29 *SEC. 12. (a) Section 2.5 of this bill incorporates amendments*
30 *to Section 53398.52 of the Government Code proposed by both*
31 *this bill and Assembly Bill 313. It shall only become operative if*
32 *(1) both bills are enacted and become effective on or before*
33 *January 1, 2016, (2) each bill amends Section 53398.52 of the*
34 *Government Code, and (3) this bill is enacted after Assembly Bill*
35 *313, in which case Section 2 of this bill shall not become operative.*

36 *(b) Section 3.5 of this bill incorporates amendments to Section*
37 *53398.62 of the Government Code proposed by both this bill and*
38 *Assembly Bill 313. It shall only become operative if (1) both bills*
39 *are enacted and become effective on or before January 1, 2016,*
40 *(2) each bill amends Section 53398.62 of the Government Code,*

1 *and (3) this bill is enacted after Assembly Bill 313, in which case*
2 *Section 3 of this bill shall not become operative.*
3 *(c) Section 4.5 of this bill incorporates amendments to Section*
4 *53398.69 of the Government Code proposed by both this bill and*
5 *Assembly Bill 313. It shall only become operative if (1) both bills*
6 *are enacted and become effective on or before January 1, 2016,*
7 *(2) each bill amends Section 53398.69 of the Government Code,*
8 *and (3) this bill is enacted after Assembly Bill 313, in which case*
9 *Section 4 of this bill shall not become operative.*

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