

Senate Bill No. 63

CHAPTER 793

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.

[Approved by Governor October 11, 2015. Filed with
Secretary of State October 11, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 63, 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.

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

SECTION 1. (a) The Legislature finds and declares all of the following:

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

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

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

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

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

public access to, or use or enjoyment of, public trust lands and are, therefore, facilities of statewide significance.

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

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

SEC. 2. Section 53398.52 of the Government Code is amended to read: 53398.52. (a) (1) A district may finance any of the following:

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

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

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

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

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

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

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

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

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

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

(5) Child care facilities.

(6) Libraries.

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

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

(9) Brownfield restoration and other environmental mitigation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Child care facilities.

(6) Libraries.

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

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

(9) Brownfield restoration and other environmental mitigation.

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

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

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

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

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

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or

the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

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

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

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

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

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

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

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

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

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

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

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

53398.69. (a) At the conclusion of the hearing, the legislative body may adopt a resolution proposing adoption of the infrastructure financing plan, as modified, and formation of the enhanced infrastructure financing district

in a manner consistent with Section 53398.68, or it may abandon the proceedings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election

may certify the proper mailing of ballots by an affidavit, which shall be exclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

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

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

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

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

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

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

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

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

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

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

(3) The date the bonds will bear.

(4) The date of maturity of the bonds.

(5) The denomination of the bonds.

(6) The form of the bonds.

(7) The manner of execution of the bonds.

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

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

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

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

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

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

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

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

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

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

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

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

(h) It is further the intent of the Legislature to assert the state's plenary power over the financing of port and harbor infrastructure by harbor agencies as matters of statewide concern and to authorize the use of tax increment financing, as provided in Chapter 2.99 (commencing with Section 53398.50)

of Part 1 of Division 2 of Title 5 of the Government Code, to support investment of tax revenues in port and harbor infrastructure.

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

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

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

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

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

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

(4) Parking, warehouse, or storage facilities.

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

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

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

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

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

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

(c) If a port or harbor infrastructure financed wholly or partly with public funds is privately owned and if the use for which the port or harbor infrastructure was originally constructed changes or is incompatible with

the port authority's master plan, the private owner shall pay the public agency the percentage of the full appreciated value of the port or harbor infrastructure that was originally financed with public funds.

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

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

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

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

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

CHAPTER 3. SEAPORT INFRASTRUCTURE FINANCING DISTRICTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The seaport infrastructure financing district will operate independently of any other prior or concurrent agreements between the harbor agency and

the public financing authority, or the local governments that make up the public financing authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) No revenues shall be made available to local governments as a result of the approval of the seaport infrastructure financing district from state revenues, revenues derived from granted lands, or from ports or harbors

created under this code, except as otherwise allowed under paragraph (2) of subdivision (c) of Section 1713.

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

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

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

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

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

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

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

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

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

1718. (a) Pursuant to Section 6009 of the Public Resources Code, the State Lands 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 interests in its tidelands and submerged lands. Nothing in this chapter, including a finding made pursuant to Section 1714, or Chapter 2.99 (commencing with Section 53398.50) of Part 1 of Division 2 of Title 5 of the Government Code, shall preclude the State Lands Commission from enforcing the state's interests in its tidelands.

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

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

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

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

(b) Section 3.5 of this bill incorporates amendments to Section 53398.62 of the Government Code proposed by both this bill and Assembly Bill 313. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 53398.62 of the Government Code, and (3) this bill is enacted after Assembly Bill 313, in which case Section 3 of this bill shall not become operative.

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