

AMENDED IN SENATE MARCH 29, 2016

AMENDED IN SENATE MARCH 10, 2016

SENATE BILL

No. 975

Introduced by Committee on Governance and Finance (Senators Hertzberg (Chair), Beall, Hernandez, Lara, Moorlach, Nguyen, and Pavley)

February 8, 2016

An act to *amend Sections 53369.30, 53396, 53398.30, 53398.75, and 62005 of, and to add Article 18.5 (commencing with Section 53993) to Chapter 4 of Part 1 of Division 2 of Title 5* ~~of~~ *of*, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 975, as amended, Committee on Governance and Finance. Tax increment: property tax override rates.

Existing law establishes procedures for the formation of infrastructure financing districts, enhanced infrastructure financing districts, infrastructure and revitalization financing districts, and community revitalization and investment authorities, as specified, to undertake various economic development projects, including financing public facilities and infrastructure, affordable housing, and economic revitalization. Existing law authorizes an infrastructure financing plan or a community revitalization and investment plan to provide for the division of taxes levied upon taxable property, if any, between the affected taxing entities, as defined, and the district or authority.

This bill, for the purpose of any law authorizing the division of taxes, would prohibit the division of revenues derived from a property tax rate approved by the voters pursuant ~~to~~, *to* specified provisions of the California Constitution and levied in addition to the general property

tax rate limited by the California Constitution. The bill would specify that this limitation does not apply to the allocation of property taxes pursuant to provisions relating to the wind down of the affairs of redevelopment agencies and the activities of successor agencies. *The bill would also make various conforming changes.*

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

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

1 SECTION 1. Section 53369.30 of the Government Code is
2 amended to read:

3 53369.30. Any infrastructure financing plan may contain a
4 provision that taxes, if any, levied upon taxable property in the
5 area included within the infrastructure revitalization financing
6 district each year by or for the benefit of the State of California,
7 or any affected taxing entity after the effective date of the ordinance
8 adopted pursuant to Section 53369.23 to create the district, shall
9 ~~be divided~~ *divided, subject to the provisions of Section 53993*, as
10 follows:

11 (a) That portion of the taxes which would be produced by the
12 rate upon which the tax is levied each year by or for each of the
13 affected taxing entities upon the total sum of the assessed value
14 of the taxable property in the district as shown upon the assessment
15 roll used in connection with the taxation of the property by the
16 affected taxing entity, last equalized prior to the effective date of
17 the ordinance adopted pursuant to Section 53369.23 to create the
18 district, shall be allocated to, and when collected shall be paid to,
19 the respective affected taxing entities as taxes by or for the affected
20 taxing entities on all other property are paid.

21 (b) That portion of the levied taxes each year specified in the
22 adopted infrastructure financing plan for the city and each affected
23 taxing entity which has agreed to participate pursuant to Section
24 53369.19 in excess of the amount specified in subdivision (a) shall
25 be allocated to, and when collected shall be paid into a special
26 fund of, the district for all lawful purposes of the district. Unless
27 and until the total assessed valuation of the taxable property in a
28 district exceeds the total assessed value of the taxable property in
29 the district as shown by the last equalized assessment roll referred
30 to in subdivision (a), all of the taxes levied and collected upon the

1 taxable property in the district shall be paid to the respective
2 affected taxing entities. When the district ceases to exist pursuant
3 to the adopted infrastructure financing plan, all moneys thereafter
4 received from taxes upon the taxable property in the district shall
5 be paid to the respective affected taxing entities as taxes on all
6 other property are paid.

7 *SEC. 2. Section 53396 of the Government Code is amended to*
8 *read:*

9 53396. Any infrastructure financing plan may contain a
10 provision that taxes, if any, levied upon taxable property in the
11 area included within the infrastructure financing district each year
12 by or for the benefit of the State of California, or any affected
13 taxing entity after the effective date of the ordinance adopted
14 pursuant to Section 53395.23 to create the district, shall be ~~divided~~
15 *divided, subject to the provisions of Section 53993*, as follows:

16 (a) That portion of the taxes which would be produced by the
17 rate upon which the tax is levied each year by or for each of the
18 affected taxing entities upon the total sum of the assessed value
19 of the taxable property in the district as shown upon the assessment
20 roll used in connection with the taxation of the property by the
21 affected taxing entity, last equalized prior to the effective date of
22 the ordinance adopted pursuant to Section 53395.23 to create the
23 district, shall be allocated to, and when collected shall be paid to,
24 the respective affected taxing entities as taxes by or for the affected
25 taxing entities on all other property are paid.

26 (b) That portion of the levied taxes each year specified in the
27 adopted infrastructure financing plan for the city or county and
28 each affected taxing entity which has agreed to participate pursuant
29 to Section 53395.19 in excess of the amount specified in
30 subdivision (a) shall be allocated to, and when collected shall be
31 paid into a special fund of, the district for all lawful purposes of
32 the district. Unless and until the total assessed valuation of the
33 taxable property in a district exceeds the total assessed value of
34 the taxable property in the district as shown by the last equalized
35 assessment roll referred to in subdivision (a), all of the taxes levied
36 and collected upon the taxable property in the district shall be paid
37 to the respective affected taxing entities. When the district ceases
38 to exist pursuant to the adopted infrastructure financing plan, all
39 moneys thereafter received from taxes upon the taxable property

1 in the district shall be paid to the respective affected taxing entities
2 as taxes on all other property are paid.

3 *SEC. 3. Section 53398.30 of the Government Code is amended*
4 *to read:*

5 53398.30. Any infrastructure financing plan may contain a
6 provision that taxes, if any, levied upon taxable property in the
7 area included within the infrastructure financing district each year
8 by or for the benefit of the State of California, or any affected
9 taxing entity after the effective date of the ordinance adopted
10 pursuant to Section 53398.20 to create the district, shall be ~~divided~~
11 *divided, subject to the provisions of Section 53993*, as follows:

12 (a) That portion of the taxes that would be produced by the rate
13 upon which the tax is levied each year by or for each of the affected
14 taxing entities upon the total sum of the assessed value of the
15 taxable property in the district as shown upon the assessment roll
16 used in connection with the taxation of the property by the affected
17 taxing entity, last equalized prior to the effective date of the
18 ordinance adopted pursuant to Section 53398.20 to create the
19 district, shall be allocated to, and when collected shall be paid to,
20 the respective affected taxing entities as taxes by or for the affected
21 taxing entities on all other property are paid.

22 (b) That portion of the levied taxes each year specified in the
23 adopted infrastructure financing plan for the city and each affected
24 taxing entity that has agreed to participate pursuant to Section
25 53398.19 in excess of the amount specified in subdivision (a) shall
26 be allocated to, and when collected shall be paid into a special
27 fund of, the district for all lawful purposes of the district. Unless
28 and until the total assessed valuation of the taxable property in a
29 district exceeds the total assessed value of the taxable property in
30 the district as shown by the last equalized assessment roll referred
31 to in subdivision (a), all of the taxes levied and collected upon the
32 taxable property in the district shall be paid to the respective
33 affected taxing entities. When the district ceases to exist pursuant
34 to the adopted infrastructure financing plan, all moneys thereafter
35 received from taxes upon the taxable property in the district shall
36 be paid to the respective affected taxing entities as taxes on all
37 other property are paid.

38 *SEC. 4. Section 53398.75 of the Government Code is amended*
39 *to read:*

1 53398.75. (a) Any infrastructure financing plan may contain
2 a provision that taxes, if any, levied upon taxable property in the
3 area included within the enhanced infrastructure financing district
4 each year by or for the benefit of the State of California, or any
5 affected taxing entity after the effective date of the ordinance
6 adopted pursuant to Section 53398.69 to create the district, shall
7 ~~be divided~~ *divided, subject to the provisions of Section 53993*, as
8 follows:

9 (1) That portion of the taxes that would be produced by the rate
10 upon which the tax is levied each year by or for each of the affected
11 taxing entities upon the total sum of the assessed value of the
12 taxable property in the district as shown upon the assessment roll
13 used in connection with the taxation of the property by the affected
14 taxing entity, last equalized prior to the effective date of the
15 ordinance adopted pursuant to Section 53398.69 to create the
16 district, shall be allocated to, and when collected shall be paid to,
17 the respective affected taxing entities as taxes by or for the affected
18 taxing entities on all other property are paid.

19 (2) That portion of the levied taxes each year specified in the
20 adopted infrastructure financing plan for the city or county and
21 each affected taxing entity that has agreed to participate pursuant
22 to Section 53398.68 in excess of the amount specified in paragraph
23 (1) shall be allocated to, and when collected shall be paid into a
24 special fund of, the district for all lawful purposes of the district.
25 Unless and until the total assessed valuation of the taxable property
26 in a district exceeds the total assessed value of the taxable property
27 in the district as shown by the last equalized assessment roll
28 referred to in paragraph (1), all of the taxes levied and collected
29 upon the taxable property in the district shall be paid to the
30 respective affected taxing entities. When the district ceases to exist
31 pursuant to the adopted infrastructure financing plan, all moneys
32 thereafter received from taxes upon the taxable property in the
33 district shall be paid to the respective affected taxing entities as
34 taxes on all other property are paid.

35 (b) Notwithstanding subdivision (a), where any district
36 boundaries overlap with the boundaries of any former
37 redevelopment project area, any debt or obligation of a district
38 shall be subordinate to any and all enforceable obligations of the
39 former redevelopment agency, as approved by the Oversight Board
40 and the Department of Finance. For the purposes of this chapter,

1 the division of taxes allocated to the district pursuant to subdivision
2 (a) of this section or of subdivision (b) of Section 53396 shall not
3 include any taxes required to be deposited by the county
4 auditor-controller into the Redevelopment Property Tax Trust Fund
5 created pursuant to subdivision (b) of Section 34170.5 of the Health
6 and Safety Code.

7 (c) The legislative body of the city or county forming the district
8 may choose to dedicate any portion of its net available revenue to
9 the district through the financing plan described in Section
10 53398.63.

11 (d) For the purposes of this section, “net available revenue”
12 means periodic distributions to the city or county from the
13 Redevelopment Property Tax Trust Fund, created pursuant to
14 Section 34170.5 of the Health and Safety Code, that are available
15 to the city or county after all preexisting legal commitments and
16 statutory obligations funded from that revenue are made pursuant
17 to Part 1.85 (commencing with Section 34170) of Division 24 of
18 the Health and Safety Code. “Net available revenue” shall not
19 include any funds deposited by the county auditor-controller into
20 the Redevelopment Property Tax Trust Fund or funds remaining
21 in the Redevelopment Property Tax Trust Fund prior to distribution.
22 Net available revenues shall not include any moneys payable to a
23 school district that maintains kindergarten and grades 1 to 12,
24 inclusive, community college districts, county office of education,
25 or to the Educational Revenue Augmentation Fund, pursuant to
26 paragraph (4) of subdivision (a) of Section 34183 of the Health
27 and Safety Code.

28 (e) (1) That portion of any ad valorem property tax revenue
29 annually allocated to a city or county pursuant to Section 97.70 of
30 the Revenue and Taxation Code that is specified in the adopted
31 infrastructure financing plan for the city or county that has agreed
32 to participate pursuant to Section 53398.68, and that corresponds
33 to the increase in the assessed valuation of taxable property shall
34 be allocated to, and, when collected, shall be apportioned to, a
35 special fund of the district for all lawful purposes of the district.

36 (2) When the district ceases to exist pursuant to the adopted
37 infrastructure financing plan, the revenues described in this
38 subdivision shall be allocated to, and, when collected, shall be
39 apportioned to, the respective city or county.

1 (f) This section shall not be construed to prevent a district from
2 utilizing revenues from any of the following sources to support its
3 activities provided that the applicable voter approval has been
4 obtained, and the infrastructure financing plan has been approved
5 pursuant to Section 53398.69:

6 (1) The Improvement Act of 1911 (Division 7 (commencing
7 with Section 5000) of the Streets and Highways Code).

8 (2) The Municipal Improvement Act of 1913 (Division 12
9 (commencing with Section 10000) of the Streets and Highways
10 Code).

11 (3) The Improvement Bond Act of 1915 (Division 10
12 (commencing with Section 8500) of the Streets and Highways
13 Code).

14 (4) The Landscaping and Lighting Act of 1972 (Part 2
15 (commencing with Section 22500) of Division 15 of the Streets
16 and Highways Code).

17 (5) The Vehicle Parking District Law of 1943 (Part 1
18 (commencing with Section 31500) of Division 18 of the Streets
19 and Highways Code).

20 (6) The Parking District Law of 1951 (Part 4 (commencing with
21 Section 35100) of Division 18 of the Streets and Highways Code).

22 (7) The Park and Playground Act of 1909 (Chapter 7
23 (commencing with Section 38000) of Part 2 of Division 3 of Title
24 4 of this code).

25 (8) The Mello-Roos Community Facilities Act of 1982 (Chapter
26 2.5 (commencing with Section 53311) of Part 1 of Division 2 of
27 this title).

28 (9) The Benefit Assessment Act of 1982 (Chapter 6.4
29 (commencing with Section 54703) of Part 1 of Division 2 of this
30 title).

31 (10) The so-called facilities benefit assessment levied by the
32 charter city of San Diego or any substantially similar assessment
33 levied for the same purpose by any other charter city pursuant to
34 any ordinance or charter provision.

35 **SECTION 4.**

36 *SEC. 5.* Article 18.5 (commencing with Section 53993) is added
37 to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
38 Code, to read:

Article 18.5. Division of Property Taxes

1 Article 18.5. Division of Property Taxes
 2
 3 53993. (a) Notwithstanding any other law, except as provided
 4 in subdivision (b), for the purpose of any law authorizing the
 5 division of taxes levied upon taxable property, including, but not
 6 limited to, Sections 53369.30, 53396, 53398.30, 53398.75, and
 7 62005, no revenues derived from the imposition of a property tax
 8 ~~rate~~; *rate* approved by the voters pursuant to subdivision (b) of
 9 Section 1 of Article XIII A of the California Constitution and levied
 10 in addition to the property tax rate limited by subdivision (a) of
 11 Section 1 of Article XIII A of the California ~~Constitution~~,
 12 *Constitution* shall be divided.

13 (b) Subdivision (a) shall not apply to the allocation of property
 14 taxes pursuant to Part 1.85 (commencing with Section 34170) of
 15 Division 24 of the Health and Safety Code.

16 *SEC. 6. Section 62005 of the Government Code is amended to*
 17 *read:*

18 62005. (a) (1) The plan adopted pursuant to Section 62004
 19 may include a provision that taxes levied and collected upon
 20 taxable property in the area included within the territory each year
 21 by or for the benefit the taxing agencies that have adopted a
 22 resolution pursuant to subdivision (d), shall be ~~divided~~ *divided*,
 23 *subject to the provisions of Section 53993*, as follows:

24 (A) That portion of the taxes that would have been produced
 25 by the rate upon which the tax is levied each year by or for each
 26 of the consenting local agencies upon the total sum of the assessed
 27 value of the taxable property in the territory as shown upon the
 28 assessment roll used in connection with the taxation of the property
 29 by the consenting local agency, last equalized prior to the effective
 30 date of the certification of completion, and that portion of taxes
 31 by or for each school entity, shall be allocated to, and when
 32 collected shall be paid to, the respective consenting local agencies
 33 and school entities as taxes by or for the consenting local agencies
 34 and school entities on all property are paid.

35 (B) That portion of the levied taxes each year specified in the
 36 community revitalization plan adopted pursuant to Section 62004
 37 for each consenting local agency that has agreed to participate
 38 pursuant a resolution adopted pursuant to subdivision (d), in excess
 39 of the amount specified in subparagraph (A), shall be allocated to,
 40 and when collected shall be paid into a special fund of the authority

1 to finance the improvements specified in the community
2 revitalization plan.

3 (2) A consenting local agency may advance funds to the
4 authority. The authority shall use those advanced funds solely for
5 the purposes specified in the community revitalization plan and
6 shall repay the consenting local agency with revenue from the
7 taxes received pursuant to this subdivision.

8 (b) For purposes of this section, the following definitions apply:

9 (1) “Taxing agency” means a local agency as defined by
10 subdivision (a) of Section 95 of the Revenue and Taxation Code,
11 and does not include any school entity as defined in subdivision
12 (f) of Section 95 of the Revenue and Taxation Code.

13 (2) “Consenting local agency” means a local agency that has
14 adopted a resolution of its governing body consenting to the
15 community revitalization and investment plan.

16 (3) “Territory” means the land that is contained within the
17 community revitalization plan.

18 (c) The provision for the receipt of tax increment funds shall
19 become effective in the tax year that begins after the December 1
20 first following the adoption of the plan.

21 (d) At any time prior to or after adoption of the plan, any city,
22 county, or special district, other than a school entity as defined in
23 subdivision (n) of Section 95 of the Revenue and Taxation Code
24 or a successor agency as defined in subdivision (j) of Section
25 34171, that receives ad valorem property taxes from property
26 located within an area may adopt a resolution directing the county
27 auditor-controller to allocate its share of tax increment funds within
28 the area covered by the plan according to subdivision (a) to the
29 authority. The resolution adopted pursuant to this subdivision may
30 direct the county auditor-controller to allocate less than the full
31 amount of the tax increment, establish a maximum amount of time
32 in years that the allocation takes place, or limit the use of the funds
33 by the authority for specific purposes or programs, provided that
34 25 percent of the amount of tax increment designated shall be
35 allocated for affordable housing pursuant to Section 62100. A
36 resolution adopted pursuant to this subdivision may be repealed
37 and be of no further effect by giving the county auditor-controller
38 60 days’ notice; provided, however, that the county
39 auditor-controller shall continue to allocate to the authority the
40 taxing entity’s share of ad valorem property taxes that have been

1 pledged to the repayment of debt issued by the authority until the
2 debt has been fully repaid. Prior to adopting a resolution pursuant
3 to this subdivision, a city, county, or special district shall approve
4 a memorandum of understanding with the authority governing the
5 authority's use of tax increment funds for administrative and
6 overhead expenses pursuant to subdivision (g) of Section 62001.

7 (e) Upon adoption of a plan that includes a provision for the
8 receipt of tax increment funds according to subdivision (a), the
9 county auditor-controller shall allocate tax increment revenue to
10 the authority as follows:

11 (1) If the authority was formed pursuant to subparagraph (A)
12 of paragraph (1) of subdivision (b) of Section 62001, the authority
13 shall be allocated each year specified in the plan that portion of
14 the taxes levied for each city, county, city and county, and special
15 district that has adopted a resolution pursuant to subdivision (d),
16 in excess of the amount specified in paragraph (1) of subdivision
17 (a).

18 (2) If the authority was formed pursuant to subparagraph (B)
19 of paragraph (1) of subdivision (b) of Section 62001, the authority
20 shall be allocated each year specified in the plan that portion of
21 the taxes levied for each jurisdiction as provided in the joint powers
22 agreement in excess of the amount specified in paragraph (1) of
23 subdivision (a).

24 (f) If an area includes, in whole or in part, land formerly or
25 currently designated as a part of a redevelopment project area, as
26 defined in Section 33320.1 of the Health and Safety Code, any
27 plan adopted pursuant to this part that includes a provision for the
28 receipt of tax increment revenues according to subdivision (a) shall
29 include a provision that tax increment amounts payable to an
30 authority are subject and subordinate to any preexisting enforceable
31 obligation as that term is defined by Section 34171 of the Health
32 and Safety Code.