



Item #12-8-4
Action

Government Relations and Public Affairs Committee

July 25, 2012

Support for SB 1156 and Community Revitalization Legislation Update

Issue: Update on state legislation to replace former redevelopment powers for community revitalization.

Recommendation: Staff recommends the Government Relations & Public Affairs Committee recommend that the Board support SB 1156 in concept.

Discussion: Throughout this calendar year, staff has been working with cities and counties in the region as well as the Legislature to limit the harm in the dissolution of redevelopment agencies and communicate Board-adopted Community Revitalization Guiding Principles (Attachment A). Over a dozen bills have attempted to address the future of redevelopment. The two main bills remaining are SB 1156 and AB 2144.

SB 1156 would allow the creation of new Sustainable Communities Investment Authorities using existing Community Redevelopment Law. AB 2144 would allow the creation of Infrastructure and Revitalization Financing Districts using existing Infrastructure Financing District Law. Attachment A summarizes key elements of both bills. Attachments B-E are the latest text and legislative committee analysis of both bills.

Staff has been convening interested staff from successor agencies to discuss technical issues with the dissolution of redevelopment agencies. Staff also held a workshop on July 25 with this group to discuss the application of SB 1156 and AB 2144 to their cities and counties.

The primary benefit of SB 1156 to cities and counties would be the restoration of tax-increment financing as a tool for community revitalization. Rather than using blight as the determination for forming an area, SB 1156 proposes using the geography of transit priority areas from Sustainable Communities Strategies to set the basis for the eligible project areas. The bill uses small walkable communities, as currently defined under CEQA, to allow project areas in communities lacking high-frequency transit service.

Among the concerns expressed by SACOG staff and local agency staff are the details of the governance structure, the legality of repurposing Community Redevelopment Law, and the list of required elements to form a project area.

However, staff believes that the potential benefits of SB 1156 are significant and recommends that the Board support SB 1156 in concept and direct staff to continue to work with the Legislature to make changes to the bill to improve its usefulness and consistency with the Board-adopted principles.

Approved by:

Mike McKeever
Chief Executive Officer

MM:EJ:ef
Attachments

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SB 1156	
Legal structure	Creates new Sustainable Communities Investment Authority (Authority) using existing Community Redevelopment Law. The Authority is an Agency, as defined by CRL, but does not have to make a blight finding for investment areas.
Voter approval	None
Financing	Tax Increment Financing, based on new increment from new area
Planning requirement	Authority adopts a plan for a sustainable communities investment area
Term	30 years from the date of the first issuance of bond indebtedness by the Authority
Authority Formation	For an area within an unincorporated county, the County Board of Supervisors may form the SCIA. For an area within an incorporated city, one of the following: i) City and county representing the area may form an Authority by entering into a JPA; ii) City may form an Authority if the economic development parameters are approved by the county; iii) A city and county may appoint a governing board for an SCIA comprised of three members appointed by the city with geographic jurisdiction and two appointed by the county with geographic jurisdiction; or, iv) If an SCIA consists of a single project and 100% of tax increment revenue is invested in the project, then a legislative body of a city may appoint a governing board, subject to county approval of the designation of the SCIA.
Governing Board Membership	5 members serving staggered 4-year terms
Geography	Within MPOs with adopted SCS: <ul style="list-style-type: none"> • Transit priority areas • Small walkable communities • Clean energy manufacturing sites Outside MPOs: small walkable communities
Required SCIA plan components	<ul style="list-style-type: none"> • Sustainable parking standards ordinance for TPP areas • Ordinance creating a jobs plan • Consistent with designation, density, building intensity, and applicable policies • For new residential construction, at least 20 du/net acre • For nonresidential, minimum 0.75 FAR
Affected taxing entities	Excludes school districts and special districts
Pension system investment	Permits state or local pension fund system investment in public infrastructure projects and private commercial residential developments
Marks-Roos	Grants powers to exercise Marks-Roos Local Bond Pooling
Sales and Use Tax	Grants powers to implement a local transaction and use tax, and may designate the use by resolution.
Construction	<ul style="list-style-type: none"> • Establishes a process to prequalify developers for contracts in excess of \$1 million • Requires Department of Industrial Relations to monitor and enforce prevailing wage requirements.
Definitions	Defines the following terms for purposes of exempting small walkable communities from CEQA: Floor Area Ratio, Gross Building Area, and Net Lot Acre.

AB 2144	
Legal structure	Renames Infrastructure Financing District as Infrastructure and Revitalization Financing District
Authority formation/debt issuance	Lowers thresholds for creation and debt issuance from 2/3 to 55%. The appropriations limit remains at 50% voter approval. All are subject to Proposition 218 requirements.
Financing	Tax Increment Financing, based on new increment from the new area, plus the option for a city to direct Net Available Revenue (Redevelopment Property Tax Fund proceeds remaining after all current distributions)
Planning requirement	Develop an Infrastructure Plan (as specified under existing law)
Term	<p>extends the maximum term of IFDs' bonds from 30 years to 40 years, or a later date, if specified by an ordinance, on which the allocation of tax increment will begin.</p> <p>District may issue debt with a final maturity date of up to 30 years from the date of issuance of each debt issue, subject to the time limit on tax allocation to the district.</p>
Geography	<p>Former RDAs</p> <ul style="list-style-type: none"> Removes intent language that areas are substantially undeveloped and adds that an IRFD's establishment should not ordinarily lead to the removal of existing functional, habitable, and safe dwelling units Authorizes a district to be divided into project areas, which may be subject to distinct limitations. The legislative body may, at any time, add territory to a district or amend the IRFD financial plan, pursuant to procedures for the formation of the district and bond approval. <p>The bill defines "project area" as a defined area within a district in which activities of the district share a common purpose or goal and an overall financing plan.</p>
Affected taxing entities	Requires a special district fire district governed by a county board of supervisors to act on an IRFD plan by separate resolution
Pension system investment	Not addressed
Marks-Roos	Not addressed
Sales and Use Tax	Not addressed
Construction	Not addressed
Bond Sale	Authorizes negotiated sales, which may be more costly
Accountability	Requires an annual report on expenditures, progress towards goals, and status of public works projects
Eligible projects (new)	<ul style="list-style-type: none"> Highways Transit water systems sewer projects flood control child care facilities libraries parks solid waste facilities <i>Watershed lands used for the collection and treatment of water for urban uses</i> <i>Open space, and habitat restoration</i> <i>Brownfields restoration and other environmental mitigation</i> <i>Purchase of land and property for development purposes and related site improvements.</i> <i>Acquisition, construction, or repair of housing for rental or purchase, including multipurpose facilities.</i> <i>Acquisition, construction, or repair of commercial or industrial structures for private use.</i> <i>The repayment of the transfer of funds to a military base reuse authority</i> <i>any projects to implement a sustainable communities strategy</i> <i>a project on a former military base, only if it is consistent with the authority reuse plan and is approved by the military base reuse authority, if applicable</i>
Polanco	Authorizes an IRFD to utilize any powers under the Polanco Act.
Housing	In addition to requirements on replacing removed or destroyed housing, AB 2144 adds that an equal number of replacement dwelling units may also be at affordable rent, as defined in state law

AMENDED IN ASSEMBLY JUNE 27, 2012
AMENDED IN ASSEMBLY JUNE 20, 2012
AMENDED IN SENATE MAY 29, 2012
AMENDED IN SENATE MAY 25, 2012
AMENDED IN SENATE APRIL 30, 2012
AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1156

Introduced by Senator Steinberg

February 22, 2012

An act to add Part 1.86 (commencing with Section 34191.1) to Division 24 of the Health and Safety Code, and to amend Section 21094.5 of the Public Resources Code, relating to economic development, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1156, as amended, Steinberg. Sustainable Communities Investment Authority.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies. Existing law requires that the successor agency, among other things, wind down the affairs of the former redevelopment agency and dispose of assets and properties of the former redevelopment agency, as directed by an oversight board.

Existing law provides for various economic development programs that foster community sustainability and community and economic development initiatives throughout the state.

This bill would authorize the legislative bodies of the city and county of a sustainable communities investment area, as described, to form a Sustainable Communities Investment Authority (authority) to carry out the Community Redevelopment Law in a specified manner. The bill would ~~authorize~~ *require* the authority to adopt a plan for a sustainable communities investment area and *authorize the authority* to include in that plan a provision for the receipt of tax increment funds provided that specified requirements are met.

The bill would establish prequalification requirements for construction contracts that will receive more than \$1,000,000 from the Sustainable Communities Investment Authority and would require the Department of Industrial Relations to monitor and enforce compliance with prevailing wage requirements for specified projects. The bill would deposit moneys received by the department from developer charges related to the costs of monitoring and enforcement in the State Public Works Enforcement Fund. By depositing a new source of revenue in the State Public Works Enforcement Fund, a continuously appropriated special fund, the bill would make an appropriation.

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

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

1 SECTION 1. Part 1.86 (commencing with Section 34191.1) is
2 added to Division 24 of the Health and Safety Code, to read:

3
4 ~~PART 1.86. ECONOMIC DEVELOPMENT AND HOUSING~~
5 ~~SUSTAINABLE COMMUNITIES INVESTMENT PROGRAM~~

6
7 CHAPTER 1. GENERAL PROVISIONS

8
9 34191.1. (a) The Legislature finds and declares that better
10 economic development patterns in California can contribute to
11 greater economic growth by creating good jobs, reducing commuter
12 times for employees, reducing the costs of public infrastructure,
13 and reducing energy consumption. Better development patterns
14 may also result in increased options in the type of housing

1 available, more affordable housing, and a reduction in a
2 household's combined housing and transportation costs.

3 (b) The construction industry has been one of the sectors hardest
4 hit by the economic downturn of recent years. Creating incentives
5 for construction can help restore construction and permanent jobs,
6 which are essential for a restoration of prosperity.

7 (c) Economic development patterns can also help California
8 attain some of its long-term strategic environmental objectives
9 including reduced air pollution, greater water conservation, reduced
10 energy consumption, and increased farmland and habitat
11 preservation.

12 (d) Implementation of the growth plans identified by the
13 metropolitan planning organizations in their sustainable
14 communities strategies, and in particular the development of areas
15 identified for transit priority projects, is essential if California is
16 to achieve the multiple benefits that would result from economic
17 development. Implementation of growth plans in transit priority
18 areas requires redevelopment of existing developed areas.

19 (e) In addition to economic pressures from the current recession,
20 development of transit priority projects remains challenging.
21 Infrastructure is often old and inadequate. Sites may suffer from
22 contamination that is expensive to remediate. The high construction
23 costs in urban areas, particularly for multifamily dwellings, create
24 an additional challenge. For these reasons, it is critical to restructure
25 and refocus redevelopment in California to assist in achievement
26 of these multiple benefits.

27 (f) At the same time, California cannot afford a redevelopment
28 program that causes schools to lose revenue at a time when
29 investing in education is also key to the state's economic
30 prosperity. A growth plan for the state consistent with regional
31 sustainable communities strategies must also provide that schools
32 are able to play their full role in achieving the future of California.

33 (g) The elimination of redevelopment agencies has resulted in
34 the loss of approximately one billion dollars (\$1,000,000,000)
35 annually in low- and moderate-income housing funds for
36 communities throughout the state. Communities need alternative,
37 permanent sources of revenue to support the continued production
38 of affordable housing units. ~~To this end, it is the intent of the~~
39 ~~Legislature to preserve the provisions of the Community~~
40 ~~Redevelopment Law, as it was proposed to have been amended~~

1 by Senate Bill 450 of the 2011–12 Regular Session, to increase,
 2 improve, and preserve affordable housing through a new economic
 3 development strategy for the state.

4 (h) The Legislature finds that a comprehensive strategy for the
 5 long-term economic development of the state must encourage the
 6 creation of good jobs and workforce skills needed to attract and
 7 retain a high-wage workforce, in addition to public infrastructure
 8 requirements. Public investments in human capital are as vital to
 9 the long-term growth of the state’s economy as investments in
 10 physical capital.

11 34191.2. For purposes of this part, “authority” or “Sustainable
 12 Communities Investment Authority” means the entity formed under
 13 Chapter 2 (commencing with Section 34191.10).

14
 15 CHAPTER 2. SUSTAINABLE COMMUNITIES INVESTMENT
 16 AUTHORITY
 17

18 34191.10. (a) A Sustainable Communities Investment
 19 Authority may be formed after July 1, 2012, to carry out, to the
 20 extent consistent with this part, and shall comply with the
 21 provisions of the Community Redevelopment Law (Part 1.8
 22 (commencing with Section 33000)) and this part. The authority
 23 shall be deemed to be an “agency” pursuant to Section 33003. An
 24 authority may be formed as follows:

25 (b) *The authority shall be deemed to be an “agency” pursuant*
 26 *to Section 33003 and shall have all the rights, responsibilities,*
 27 *and obligations of an agency, except that a determination shall*
 28 *not be required to be made regarding blight within the sustainable*
 29 *communities investment area, and an action shall not be required*
 30 *to be taken for the elimination of blight in connection with the*
 31 *creation of a plan for a sustainable communities investment area.*

32 (c) *An authority formed pursuant to this part shall adopt a plan*
 33 *for a sustainable communities investment area pursuant to this*
 34 *section.*

35 (d) *A sustainable communities investment plan shall terminate*
 36 *on a specified date not to exceed 30 years from the date of the first*
 37 *issuance of bond indebtedness by the authority.*

38 (e) *An authority may be formed as follows:*

39 (1) ~~If the~~ *A sustainable communities investment area is within*
 40 *an incorporated area may be formed in any of the following ways:*

1 (A) The legislative bodies of the city and county representing
2 the geographic territory of a sustainable communities investment
3 area may form a Sustainable Communities Investment Authority
4 pursuant to this part by entering into a joint powers authority under
5 Chapter 5 (commencing with Section 6500) of Title 1 of the
6 Government Code *to establish the parameters of the proposed*
7 *economic development within a proposed sustainable communities*
8 *investment area.*

9 (B) ~~The~~ A legislative body of ~~the~~ a city ~~forms~~ may form the
10 governing board and ~~establishes~~ *establish* the parameters of the
11 proposed economic development within a proposed sustainable
12 communities investment area provided the economic development
13 parameters are approved by the county.

14 (C) A city and county may appoint a governing board for a
15 sustainable communities investment area comprised of three
16 members appointed by the city with geographic jurisdiction and
17 two appointed by the county with geographic jurisdiction.

18 ~~(C) A governing board is appointed for a sustainable~~
19 ~~communities investment area: three members shall be appointed~~
20 ~~by the city with geographic jurisdiction and two by the county~~
21 ~~with geographic jurisdiction.~~

22 (D) ~~The legislative body of the city appoints the governing board~~
23 ~~and designates~~ ~~If~~ a sustainable communities investment area
24 ~~existing~~ *consists* of a single project and ~~restricts the authority~~
25 ~~so that~~ 100 percent of tax increment revenue is invested in the
26 project. ~~Designation of the sustainable communities investment~~
27 ~~area shall be subject to county approval, then a legislative body of~~
28 ~~a city may appoint a governing board, subject to county approval~~
29 ~~of the designation of the sustainable communities investment area.~~

30 (2) If the sustainable communities investment area is within an
31 unincorporated area, the ~~authority~~ *Sustainable Communities*
32 *Investment Authority* may be formed by the ~~county~~ board of
33 supervisors ~~or by the board of supervisors of a~~ *of a county or city*
34 and county.

35 (b) ~~The~~ A governing board *formed pursuant to this section* shall
36 consist of five members. The members of any governing board
37 formed pursuant to this part shall be appointed for four-year terms
38 and shall only be removed by the appointing authority for cause.
39 The initial appointees to the governing board shall serve either
40 two-year or four-year terms and shall draw their terms by lot.

1 ~~(e) The authority may enter into financial and other agreements~~
 2 ~~with community colleges, K-12 school districts, and private~~
 3 ~~businesses to facilitate the development and operation of articulated~~
 4 ~~career technical education pathways, as specified in Section 88532~~
 5 ~~of the Education Code.~~

6
 7 CHAPTER 3. ~~FINANCING SUSTAINABLE COMMUNITIES~~
 8 ~~INVESTMENT AREAS~~
 9

10 34191.15. ~~An authority formed pursuant to this part may adopt~~
 11 ~~a plan for a sustainable communities investment area pursuant to~~
 12 ~~this section. Notwithstanding any other provision of this division,~~
 13 ~~a determination shall not be required to be made regarding blight~~
 14 ~~within the sustainable communities investment area, and an action~~
 15 ~~shall not be required to be taken for the elimination of blight in~~
 16 ~~connection with the creation of a plan for a sustainable~~
 17 ~~communities investment area. The plan shall terminate on a~~
 18 ~~specified date not to exceed 30 years from the date of the first~~
 19 ~~issuance of bond indebtedness by the authority. A sustainable~~
 20 ~~communities investment area shall include only the following~~
 21 ~~areas:~~

22 (a) For areas within the geographic boundaries of a metropolitan
 23 planning organization where a sustainable communities strategy
 24 has been adopted by the metropolitan planning organization, and
 25 the State Air Resources Board, pursuant to subparagraph (H) of
 26 paragraph (2) of subdivision (b) of Section 65080 of the
 27 Government Code, has accepted the metropolitan planning
 28 organization’s determination that the sustainable communities
 29 strategy would, if implemented, achieve the greenhouse gas
 30 emission reduction targets:

31 (1) Transit priority areas *are areas* where a transit priority
 32 project, as defined in Section 21155 of the Public Resources Code,
 33 may be constructed, provided that if the sustainable communities
 34 investment area is based on proximity to a planned major transit
 35 stop or a high-quality transit corridor, the stop or the corridor must
 36 be scheduled to be completed within the planning horizon
 37 established by Section 450.322 of Title 23 of the Code of Federal
 38 Regulations. For purposes of this paragraph, a transit priority area
 39 may include a military base reuse plan that meets the definition of

1 a transit priority area and it may include a contaminated site within
2 a transit priority area.

3 (2) Areas that are small walkable communities, as defined in
4 paragraph (4) of subdivision (e) of Section 21094.5 of the Public
5 Resources Code, except that small walkable communities may
6 also be designated in a city that is within the area of a metropolitan
7 planning organization. No more than one small walkable
8 community project area shall be designated within a city.

9 (b) Sites that have land use approvals, covenants, conditions
10 and restrictions, or other effective controls restricting the sites to
11 clean energy manufacturing, and that are consistent with the *use,*
12 *designation, density, building intensity, and applicable policies*
13 *specified for the sustainable communities investment area in the*
14 sustainable communities strategy, if those sites are within the
15 geographic boundaries of a metropolitan planning organization.
16 Clean energy manufacturing shall consist of the manufacturing of
17 any of the following:

18 (1) Components, parts, or materials for the generation of
19 renewable energy resources.

20 (2) Equipment designed to make buildings more energy efficient
21 or the component parts thereof.

22 (3) Public transit vehicles or the component parts thereof.

23 (4) Alternative fuel vehicles or the component parts thereof.

24 34191.16. (a) ~~Solely for purposes of Section 16 of Article XVI~~
25 ~~of the California Constitution, a~~ A plan for a sustainable
26 communities investment area adopted pursuant to Section 34191.15
27 may include a provision for the receipt of tax increment funds
28 according to Section 33670, provided that the local government
29 with land use jurisdiction has adopted all of the following:

30 (1) A sustainable parking standards ordinance that restricts
31 parking in transit priority project areas to encourage transit use to
32 the greatest extent feasible.

33 (2) An ordinance creating a jobs plan. All entities receiving
34 financial support from the authority shall, at a minimum, require
35 that any and all agreements approved by the authority include a
36 jobs plan, which shall describe how the project will *further* create
37 construction careers that pay prevailing wages, living wage
38 permanent jobs, and a *create* program for community outreach,
39 local hire, and job training. This plan shall also describe the project
40 developer's commitment to offer jobs to disadvantaged California

1 residents, including veterans of the Iraq and Afghanistan wars,
2 people with a history in the criminal justice system, and
3 single-parent families.

4 (3) For transit priority areas and small walkable communities
5 within a metropolitan planning organization, a plan consistent with
6 the use designation, density, building intensity, and applicable
7 policies specified for the sustainable communities investment area
8 in the sustainable communities strategy and that, for new residential
9 construction, provides a density of at least 20 dwelling units per
10 net acre and for nonresidential uses, provides a minimum floor
11 area ratio of 0.75.

12 (4) Within small walkable communities outside a metropolitan
13 planning organization, a plan for new residential construction that
14 provides a density of at least 20 dwelling units per net acre and,
15 for nonresidential uses, provides a minimum floor area ratio of
16 0.75.

17 (b) For areas referred to in paragraph (4) of subdivision (a), the
18 authority shall obtain the metropolitan planning organization's
19 concurrence that the plan is consistent with the use designation,
20 density, building intensity, and applicable policies for the project
21 area in the sustainable communities strategy.

22 (c) For purposes of Section 16 of Article XVI of the California
23 Constitution and in the event a tax increment financing provision
24 is included pursuant to subdivision (a), the terms "district" and
25 "affected taxing entity" shall exclude a school district and special
26 districts.

27 ~~34191.17. The authority shall approve any bond financing~~
28 ~~under this division.~~

29 34191.18. A state or local public pension fund system
30 authorized by state law or local charter, respectively, including,
31 but not limited to, the Public Employees' Retirement System, the
32 State Teachers' Retirement System, a system established under
33 the County Employees Retirement Law of 1937, Chapter 3
34 (commencing with Section 31450) of Part 3 of Division 4 of Title
35 3 of the Government Code, or an independent system, may invest
36 capital in the public infrastructure projects and private commercial
37 and residential developments undertaken by an authority.

38 34191.19. (a) An authority may exercise the full powers
39 granted under Chapter 2.8 (commencing with Section 53395) of
40 Part 1 of Division 2 of Title 5 of the Government Code and the

1 Marks-Roos Local Bond Pooling Act of 1985 (Article 4
2 (commencing with Section 6584) of Chapter 5 of Division 7 of
3 Title 1 of the Government Code).

4 (b) An authority may implement a local transactions and use
5 tax under Part 1.6 (commencing with Section 7251) of Division 2
6 of the Revenue and Taxation Code, except that the resolution
7 authorizing the tax may designate the use of the proceeds of the
8 tax.

9 (c) An authority may issue bonds paid for with authority
10 proceeds, which shall be deemed to be special funds to be expended
11 by the authority for the purposes of carrying out this part.

12
13 CHAPTER 4. PREQUALIFICATION REQUIREMENTS

14
15 34191.20. All construction contracts in excess of one million
16 dollars (\$1,000,000) on projects that will receive more than one
17 million dollars (\$1,000,000) from the Sustainable Communities
18 Investment Authority, including projects undertaken by private
19 developers, shall comply with the following prequalification
20 process:

21 (a) The authority shall require that each prospective bidder
22 complete and submit to the authority a standardized questionnaire
23 and financial statement in a form specified by the authority that
24 includes a complete statement of the prospective bidder's financial
25 ability and experience in performing public works. The
26 questionnaire and financial statement shall be verified under oath
27 by the bidder in the manner in which civil pleadings in civil actions
28 are verified. The questionnaires and financial statements shall not
29 be public records and shall not be open to public inspection.

30 (b) The authority shall adopt and apply a uniform system of
31 rating bidders on the basis of the completed questionnaires and
32 financial statements, in order to determine the size of the contracts,
33 if any, upon which each bidder shall be deemed qualified to bid.

34 (c) The questionnaire described in subdivision (a) and the
35 uniform system of rating bidders described in subdivision (b) shall
36 cover, at a minimum, the issues covered by the standardized
37 questionnaire and model guidelines for rating bidders developed
38 by the Department of Industrial Relations pursuant to subdivision
39 (a) of Section 20101 of the Public Contract Code.

1 (d) For purposes of this section, bidders shall include all
2 subcontractors performing work on a contract in excess of 3 percent
3 of the total cost.

4 (e) A bid shall not be accepted from any person or entity who
5 is required to submit a completed questionnaire and financial
6 statement for prequalification pursuant to subdivision (a) but has
7 not done so by the deadline set by the authority or who has not
8 been prequalified by the authority prior to the deadline for
9 submission of bids.

10 (f) This section shall not prevent an authority from establishing
11 additional prequalification requirements.

12 34191.21. (a) (1) The Department of Industrial Relations shall
13 monitor and enforce compliance with prevailing wage requirements
14 for any project paid for in whole or part out of public funds, within
15 the meaning of subdivision (b) of Section 1720 of the Labor Code
16 that include funds of a Sustainable Communities Investment
17 Authority and shall charge each awarding body or developer for
18 the reasonable and directly related costs of monitoring and
19 enforcing compliance with the prevailing wage requirements on
20 each project.

21 (2) All moneys received by the department pursuant to this
22 section shall be deposited in the State Public Works Enforcement
23 Fund created by Section 1771.3 of the Labor Code.

24 (b) Paragraph (1) of subdivision (a) shall not apply to any project
25 paid for in whole or part out of public funds if the awarding body
26 or developer has entered into a collective bargaining agreement
27 that binds all of the contractors performing work on the project
28 and includes a mechanism for resolving disputes about the payment
29 of wages.

30 SEC. 2. Section 21094.5 of the Public Resources Code is
31 amended to read:

32 21094.5. (a) (1) If an environmental impact report was
33 certified for a planning level decision of a city or county, the
34 application of this division to the approval of an infill project shall
35 be limited to the effects on the environment that (A) are specific
36 to the project or to the project site and were not addressed as
37 significant effects in the prior environmental impact report or (B)
38 substantial new information shows the effects will be more
39 significant than described in the prior environmental impact report.

1 A lead agency's determination pursuant to this section shall be
2 supported by substantial evidence.

3 (2) An effect of a project upon the environment shall not be
4 considered a specific effect of the project or a significant effect
5 that was not considered significant in a prior environmental impact
6 report, or an effect that is more significant than was described in
7 the prior environmental impact report if uniformly applicable
8 development policies or standards adopted by the city, county, or
9 the lead agency, would apply to the project and the lead agency
10 makes a finding, based upon substantial evidence, that the
11 development policies or standards will substantially mitigate that
12 effect.

13 (b) If an infill project would result in significant effects that are
14 specific to the project or the project site, or if the significant effects
15 of the infill project were not addressed in the prior environmental
16 impact report, or are more significant than the effects addressed
17 in the prior environmental impact report, and if a mitigated negative
18 declaration or a sustainable communities environmental assessment
19 could not be otherwise adopted, an environmental impact report
20 prepared for the project analyzing those effects shall be limited as
21 follows:

22 (1) Alternative locations, densities, and building intensities to
23 the project need not be considered.

24 (2) Growth inducing impacts of the project need not be
25 considered.

26 (c) This section applies to an infill project that satisfies both of
27 the following:

28 (1) The project satisfies any of the following:

29 (A) Is consistent with the general use designation, density,
30 building intensity, and applicable policies specified for the project
31 area in either a sustainable communities strategy or an alternative
32 planning strategy for which the State Air Resources Board,
33 pursuant to subparagraph (H) of paragraph (2) of subdivision (b)
34 of Section 65080 of the Government Code, has accepted a
35 metropolitan planning organization's determination that the
36 sustainable communities strategy or the alternative planning
37 strategy would, if implemented, achieve the greenhouse gas
38 emission reduction targets.

39 (B) Consists of a small walkable community project located in
40 an area designated by a city for that purpose.

1 (C) Is located within the boundaries of a metropolitan planning
2 organization that has not yet adopted a sustainable communities
3 strategy or alternative planning strategy, and the project has a
4 residential density of at least 20 units per net acre or a floor area
5 ratio of at least 0.75.

6 (2) Satisfies all applicable statewide performance standards
7 contained in the guidelines adopted pursuant to Section 21094.5.5.

8 (d) This section applies after the Secretary of the Natural
9 Resources Agency adopts and certifies the guidelines establishing
10 statewide standards pursuant to Section 21094.5.5.

11 (e) For the purposes of this section, the following terms mean
12 the following:

13 (1) “Infill project” means a project that meets the following
14 conditions:

15 (A) Consists of any one, or combination, of the following uses:

16 (i) Residential.

17 (ii) Retail or commercial, where no more than one-half of the
18 project area is used for parking.

19 (iii) A transit station.

20 (iv) A school.

21 (v) A public office building.

22 (B) Is located within an urban area on a site that has been
23 previously developed, or on a vacant site where at least 75 percent
24 of the perimeter of the site adjoins, or is separated only by an
25 improved public right-of-way from, parcels that are developed
26 with qualified urban uses.

27 (2) “Planning level decision” means the enactment or
28 amendment of a general plan, community plan, specific plan, or
29 zoning code.

30 (3) “Prior environmental impact report” means the
31 environmental impact report certified for a planning level decision,
32 as supplemented by any subsequent or supplemental environmental
33 impact reports, negative declarations, or addenda to those
34 documents.

35 (4) “Small walkable community project” means a project that
36 is located in a small walkable community project area. A small
37 walkable community project area means an area within an
38 incorporated city that is not within the boundary of a metropolitan
39 planning organization and meets all the following requirements:

1 (A) Has a project area of approximately one-quarter-mile
2 diameter of contiguous land completely within the existing
3 incorporated boundaries of the city.

4 (B) Has a project area that includes a residential area adjacent
5 to a retail downtown area.

6 (C) The project area has an average net density of at least eight
7 dwelling units per net acre or a floor area ratio for retail or
8 commercial use of not less than 0.50. For purposes of this
9 subparagraph: (i) “Floor area ratio” means the ratio of gross
10 building area (GBA) of development, exclusive of structured
11 parking areas, proposed for the project divided by the total net lot
12 area (NLA); (ii) “gross building area” means the sum of all finished
13 areas of all floors of a building included within the outside faces
14 of its exterior walls; and (iii) “net lot area” means the area of a lot
15 excluding publicly dedicated land, private streets that meet local
16 standards, and other public use areas as determined by the local
17 land use authority.

18 (5) “Urban area” includes either an incorporated city or an
19 unincorporated area that is completely surrounded by one or more
20 incorporated cities that meets both of the following criteria:

21 (A) The population of the unincorporated area and the
22 population of the surrounding incorporated cities equal a population
23 of 100,000 or more.

24 (B) The population density of the unincorporated area is equal
25 to, or greater than, the population density of the surrounding cities.

2011 CA S 1156: Bill Analysis - Assembly Local Government Committee - 07/02/2012

BILL ANALYSIS

Date of Hearing: July 2, 2012

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cameron Smyth, Chair

SB 1156 (Steinberg) - As Amended: June 27, 2012

SENATE VOTE: 21-15

SUBJECT: Sustainable Communities Investment Authority.

SUMMARY: Allows local governments to establish a Sustainable Communities Investment Authority after July 1, 2012, to finance specified activities within a sustainable communities investment area.

Specifically, this bill:

1) Allows a Sustainable Communities Investment Authority (Authority) to be formed and specifies that it must comply with the provisions of the Community Redevelopment Law (CRL), and the bill's provisions.

2) Requires an Authority to adopt a plan for a sustainable communities investment area (SCIA).

3) Requires a sustainable communities investment plan to terminate on a specified date not to exceed 30 years from the date of the first issuance of bond indebtedness by the Authority.

4) Provides that the Authority shall be deemed to be an "agency" as defined in the CRL and shall have all the rights, responsibilities, and obligations of any agency, except that a determination shall not be required to be made regarding blight within the sustainable communities investment area, and an action shall not be required to be taken for the elimination of blight in connection with the creation of a plan for a sustainable communities investment area.

5) Allows an Authority to be formed as follows:

a) An SCIA within an incorporated area may be formed in any of the following ways:

i) The legislative bodies of the city and county representing the geographic territory of an SCIA may form an Authority by entering into a joint powers authority (JPA), as specified, to establish the parameters of the proposed economic development within a proposed SCIA;

ii) A legislative body of a city may form the governing board and establish the parameters of the proposed economic development within a proposed SCIA provided the economic development parameters are approved by the county;

iii) A city and county may appoint a governing board for an SCIA comprised of three members appointed by the city with geographic jurisdiction and two appointed by the county with geographic jurisdiction; or,

iv) If an SCIA consists of a single project and 100% of tax increment revenue is invested in the project, then a legislative body of a city may appoint a governing board, subject to county approval of the designation of the SCIA.

b) If the SCIA is within an unincorporated area, the Authority may be formed by the board of supervisors of a county, or city and county.

6) Provides that the governing board of the Authority shall consist of five members, and that members shall be appointed for four-year terms and shall only be removed by the appointing authority for cause, and provides that the initial appointees to the governing board shall serve either two-year or four-year terms and shall draw their terms by lot.

7) States that an SCIA shall include only the following:

a) For areas within the geographic boundaries of a metropolitan planning organization (MPO) where a sustainable communities strategy (SCS) has been adopted by the MPO, and the State Air Resources Board has accepted the MPO's determination that the SCS would, if implemented, achieve the greenhouse gas emission reduction targets:

i) Transit priority areas are areas where a transit priority project, as defined, may be constructed, provided that if the SCIA is based on proximity to a planned major transit stop or a high-quality transit corridor, the stop or the corridor must be scheduled to be completed within the planning horizon, as specified.

Specifies that a transit priority area may include a military base reuse plan that meets the definition of a transit priority area and it may include a contaminated site within a transit priority area;

ii) Areas that are small walkable communities, as defined, except that small walkable communities may also be designated in a city that is within the area of an MPO. Specifies that no more than one small walkable community project area shall be designated within a city; and,

iii) Sites that have land use approvals, covenants, conditions and restrictions, or other effective controls restricting the sites to clean energy manufacturing, and that are consistent with the use, designation, density, building intensity, and applicable policies specified for the SCIA in the SCS, if those sites are within the geographic boundaries of an MPO. Specifies that clean energy manufacturing shall consist of the manufacturing of any of the following:

- (1) Components, parts, or materials for the generation of renewable energy resources;
- (2) Equipment designed to make buildings more energy efficient or the component parts thereof;
- (3) Public transit vehicles or the component parts thereof; or,
- (4) Alternative fuel vehicles or the component parts thereof.

8) Allows a plan for an SCIA to include a provision for the receipt of tax increment funds, as specified, providing that the local government with land use jurisdiction has adopted all of the following:

a) A sustainable parking standards ordinance that restricts parking in transit priority project areas to encourage transit use to the greatest extent feasible;

b) An ordinance creating a jobs plan. Specifies that all entities receiving financial support from the Authority shall, at a minimum, require that any and all agreements approved by the Authority include a jobs plan, which shall describe how the project will further create construction careers that pay prevailing wages, living wage permanent jobs, and create a program for community outreach, local hire, and job training. Specifies that the plan shall also describe the project developer's commitment to offer jobs to disadvantaged California residents, including veterans of the Iraq and Afghanistan wars, people with a history in the criminal justice system, and single-parent families;

c) For transit priority areas and small walkable communities within an MPO, a plan consistent with the use designation, density, building intensity, and applicable policies specified for the SCIA in the SCS and that, for new residential construction, provides a density of at least 20 dwelling units per net acre and for nonresidential uses, provides a minimum floor area ratio of 0.75; and,

d) Within small walkable communities outside of an MPO, a plan for new residential construction that provides a density of at least 20 dwelling units per net acre and, for nonresidential uses, provides a minimum floor area ratio of 0.75.

9) Requires, for small walkable communities outside of an MPO, the Authority to obtain the MPO's concurrence that the plan is consistent with the use designation, density, building intensity, and applicable policies for the project area in the SCS.

10) Specifies, in the event a tax increment financing provision is included as part of an SCIA, and for the purposes of collecting tax increment under Section 16 of Article XVI of the California Constitution, that the terms "district" and "affected taxing entity" shall exclude a school district and special districts.

11) Permits a state or local pension fund system to invest capital in the public infrastructure projects and private commercial residential developments undertaken by an Authority.

12) Grants an Authority the ability to exercise the powers of the Marks-Roos Local Bond Pooling Act of 1985.

13) Allows an Authority to implement local transaction and use tax, except that the resolution authorizing the tax may designate the use of the tax.

14) Establishes a process to prequalify developers for construction contracts in excess of \$1,000,000.

15) Requires the Department of Industrial Relations to monitor and enforce compliance with prevailing wage requirements for projects that include funds from an Authority and shall charge each awarding body or developer for the reasonable and directly related costs of monitoring and enforcing compliance with the prevailing wage requirements of each project.

16) Defines, for the purpose of exempting small walkable communities from the California Environmental Quality Act (CEQA), the following terms:

a) "Floor area ratio" as the ratio of gross building area of development, exclusive of structured parking areas, proposed for the project divided by the total net lot area;

b) "Gross building area" as the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls; and,

c) "Net lot area" means the area of a lot excluding publicly dedicated land, private streets that meet local standards, and other public use areas as determined by the local land use authority.

1) Makes legislative findings and declarations.

EXISTING LAW:

1) Dissolves redevelopment agencies as of February 1, 2012.

2) Establishes the Community Redevelopment Law, which governs the authority to establish a redevelopment agency and the authority for a redevelopment agency to function as an agency and to adopt and implement a redevelopment plan.

3) Requires the California Law Revision Commission to draft a CRL clean-up bill for consideration by the Legislature no later than January 1, 2013.

4) Defines a "small walkable community project" as a project that is in an incorporated city that is not within the boundaries of an MPO and that satisfies the following requirements:

a) Has a project area of approximately one-quarter mile diameter of contiguous land completely within the existing incorporated boundaries of the city;

b) Has a project area that includes a residential area adjacent to a downtown retail area; and,

c) The project has a density of at least eight dwelling units per acre or a floor area ratio for retail or commercial uses of not less than 0.50.

5) Specifies that a "transit priority project" shall a) contain at least 50% residential use, based on total building square footage and, if the project contains between 26% and 50% nonresidential uses, a floor area ratio of not less than 0.75; b) provide a minimum net density of at least 20 dwelling units per acre; and, c) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed-route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25% of their area farther than one-half mile from the stop or corridor and if not more than 10% of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

6) Requires, under the provisions of SB 375 (Steinberg), Chapter 728, Statutes of 2008, a regional transportation plan to include a sustainable communities strategy designed to achieve the targets for greenhouse gas emission reductions.

FISCAL EFFECT:

Unknown. The bill is keyed fiscal.

COMMENTS:

1) In 2011, the Legislature approved and the Governor signed two measures, ABX1 26 and ABX1 27 that together dissolved redevelopment agencies as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association, League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. As a result, all redevelopment agencies were required to dissolve as of February 1, 2012.

Over the last sixty years, redevelopment agencies used tax increment to finance affordable housing, community development, and economic development projects. The dissolution of redevelopment agencies has created a void and an effort to create new tools that would support community and economic development activities. SB 1156 would allow a city or county to establish a Sustainable Communities Investment Authority to use tax increment financing, on a limited scale, along with other financing tools to support the goals of SB 375.

2) SB 375 created a new procedure for land use planning that would require local governments to plan in a way that would accomplish the greenhouse gas reduction goals of AB 32 (the California Global Greenhouse Gas Reduction Act of 2006). SB 375 required MPOs to adopt an SCS in their regional transportation plans for the purpose of reducing greenhouse gas emissions, required the alignment of planning for transportation and housing, and created specified incentives for the implementation of those strategies.

This bill would authorize the use of tax increment as well as other funding sources to finance some of the projects - small walkable communities, transit priority areas and clean energy manufacturing - that would be part of the SCS.

3) According to the author, "this bill sets forth a new vision of local economic development and housing policy for the 21st century, focused on building sustainable communities and creating the high skill, high wage jobs that are the key to our future prosperity.

The purpose of bringing together the cities and the counties as equal partners in an inclusive governance structure is to correct the old model of redevelopment that pitted cities against counties and schools for limited tax revenues. Both cities and counties have land use authority, and both share responsibility for directing growth toward infill and transit-oriented development consistent with SB 375 of 2008. This bill will encourage cooperation, not competition, between cities and counties in furtherance of sustainable economic development."

4) This bill relies upon tax increment financing, in addition to several other potential funding sources, including Mello Roos, capital investment from public pensions, and local transaction and use taxes, to support the development of transit priority areas, small walkable communities, and clean energy manufacturing. One of the challenges of using tax increment as a financing tool for community and economic development in the post-redevelopment world is carving out the schools' portion of the tax increment. Section 16 of Article XVI of the California Constitution gives authority to reapportion property taxes among a city, city and county, and district or other public corporation (otherwise known as taxing agencies) for the purpose of redevelopment. This bill excludes school districts and special districts from "district" and "affected taxing entity" for purposes of tax increment financing.

According to the author, this exclusion is intended to protect the general fund by excluding schools, but it may be unconstitutional to statutorily exclude schools and special districts since the Constitution includes them in the authorizing language for tax increment financing.

The Committee may wish to ask the author to discuss the constitutionality of these provisions that exempt school districts and special districts, and whether these legal issues can be resolved.

5) The CRL required redevelopment agencies to set aside 20% of tax increment generated in project areas for the creation, construction, and improvement of housing affordable to low- and moderate-income families and individuals. The CRL also contains inclusionary and production housing requirements. In redevelopment project areas, 15% of new and substantially rehabilitated dwellings developed must be

available at affordable housing cost to persons of low- or moderate-income.

To fulfill this requirement, RDAs could cause to be available two units outside the project area, for every one unit within the project area.

The Committee may wish to consider how this requirement would apply to transit priority areas and small walkable communities financed by the Authority. By definition, transit priority areas and small walkable communities are smaller geographically than redevelopment project areas.

6) Post-World War II, redevelopment was created as a tool to combat urban decay and eradicate blight. Redevelopment agencies were given fundamental tools including the ability to acquire property through the power of eminent domain, the authority to finance their activities by issuing bonds and taking on debt, and the authority and obligation to relocate people who have interests in the property acquired by an agency. To establish redevelopment project areas, a redevelopment agency was required to identify both physical and economic blight in the project area that could not be mitigated without the use tax increment. SB 1156 would allow an Authority to establish an SCIA without making a finding of blight. In order to eradicate blight, redevelopment agencies had authority to use eminent domain. SB 1156 would permit an Authority to use eminent domain without a finding of blight.

To avoid possible unintended consequences from broadly authorizing the use of the Community Redevelopment Law, the Committee may wish to consider amending SB 1156 to specify which Community Redevelopment Law powers a JPA can use without regard to blight.

7) According to the author, "SB 1156 would bring together cities and counties as equal partners in an inclusive governance structure to improve upon the old model of redevelopment that often pitted cities against counties and schools for limited tax revenues." In order to make a new tool for community and economic development work it needs to set reasonable and achievable standards for compliance. In order to use tax increment to finance projects in a sustainable communities investment area, this bill would require a city and or county to adopt a sustainable parking ordinance that encourages public transit and a jobs plan that would create careers that pay prevailing wage.

The Committee may wish to consider whether defining benchmarks for a sustainable parking plan would be useful in helping cities and counties comply with the requirements of the bill.

8) The California State Association of Counties (CSAC) has a "support in concept" position on the bill, but has raised concerns about the governance structure contained in the bill.

CSAC writes that "the bill as currently drafted is not clear about whether a county's permission is required before the creation of a Sustainable Communities Investment Authority.

Likewise, for governance options where the county is not a full equal partner with a city, the required permission should include specific minimum information about how the tax increment funds will be used and for how long the funds will be diverted. Any changes to that basic information should also require the permission of any entities whose money is being diverted for those purposes."

Additionally, CSAC notes that they "envision a new structure for community development and affordable housing that gives counties and cities working together the power to not only spur economic development, but at the same time provide the public infrastructure that would help ensure truly sustainable communities. This infrastructure should include transitional housing for people entering or reentering the workforce after incarceration or a childhood spent in the foster system, as well as others who need transitional and supportive housing.

It should include the child care facilities that allow parents to work, or the clinics that keep those housed locally healthy, working, and out of emergency rooms."

9) The League of California Cities (League), in their "notice of concerns" letter, raises several issues with respect to the creation of a tool that cities can use. The League notes that there are several issues remaining in the bill that would benefit from further clarity:

- a) How the existing governance options in the bill will affect its usefulness;
- b) A review of the practical effects of incorporating redevelopment law into this Authority;
- c) How this tool would interact in former redevelopment project areas which are likely to remain embroiled in controversy; and,

d) An evaluation of the impact on the usefulness of this tool given the other programs, policies and conditions added to the bill that would apply to the activities of the Authority and public and private entities that receive financial support from the Authority.

10) Given the issues pointed out by both CSAC and the League and their request to create a workable economic development tool for the future, and also given the current unwinding of redevelopment that gave the authority, rights, powers, duties and obligations previously vested with former redevelopment agencies (except for those that were repealed, restrict or revised in AB 26X) to the successor agencies, the Committee may wish to consider the following:

a) Is this economic development tool the right mechanism for local agencies? Are the uses specified in the bill for funding (transit priority areas, small walkable communities, and clean energy manufacturing) those that the Legislature, cities, and counties want to encourage, or are there other priorities that should be included?

b) How would this bill interplay with the current work of the successor agencies?

c) Are there other funding mechanisms or alternatives that should be discussed as part of a larger conversation about economic development tools for cities and counties?

11) Support arguments: Supporters argue that this bill sets forth a new vision of local economic development policy for the 21st century, focused on building sustainable communities and creating the high skill, high wage jobs that are the key to our future prosperity.

Opposition arguments: Concerns have been raised about the constitutionality of the funding mechanism that the bill creates and whether the priorities proposed to be funded by the Authority are those that the Legislature and local governments believe should be part of a new structure for economic and community development.

12) This bill was heard in the Assembly Housing and Community Development Committee on June 27, 2012, where it passed with a 5-2 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees BRIDGE Housing California Labor Federation California Special Districts Association California State Association of Counties [in concept] California Teamsters Public Affairs Council City of Burbank DMB Pacific Ventures Los Angeles Alliance for a New Economy Mission Bay Development Group Natural Resources Defense Council State Building and Construction Trades Council of California

Concerns

League of California Cities

Opposition

Associated Builders and Contractors of California California Taxpayers Association Plumbing-Heating-Cooling Contractors Association of California Western Electrical Contractors Association

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AMENDED IN SENATE JULY 3, 2012
AMENDED IN SENATE JUNE 21, 2012
AMENDED IN ASSEMBLY APRIL 16, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2144

**Introduced by Assembly Members John A. Pérez, Atkins, and
Dickinson
(Principal coauthor: Assembly Member Bonilla)**

February 23, 2012

An act to amend Sections 53395.1, 53395.2, 53395.3, 53395.4, 53395.5, 53395.10, 53395.14, 53395.15, 53395.19, 53395.23, 53395.24, 53397.6, and 53397.10 of, and to add Sections 53395.1.5, 53395.3.1, and 53395.26 to, the Government Code, and to amend Section 33459 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2144, as amended, John A. Pérez. Local government: infrastructure and revitalization financing districts.

Existing law authorizes the creation of infrastructure financing districts, as defined, for the sole purpose of financing public facilities, subject to adoption of a resolution by the legislative body and affected taxing entities proposed to be subject to division of taxes and $\frac{2}{3}$ voter approval. Existing law authorizes the legislative body to, by majority vote, initiate proceedings to issue bonds for the financing of district projects by adopting a resolution, subject to specified procedures and $\frac{2}{3}$ voter approval. Existing law requires an infrastructure financing plan

to include the date on which an infrastructure financing district will cease to exist, which may not be more than 30 years from the date on which the ordinance forming the district is adopted. Existing law prohibits a district from including any portion of a redevelopment project area. Existing law, the Polanco Redevelopment Act, authorizes a redevelopment agency to take any action that the agency determines is necessary and consistent with state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to specified conditions. Existing law also declares the intent of the Legislature that the areas of the district created be substantially undeveloped, and that the establishment of a district should not ordinarily lead to the removal of dwelling units.

This bill would authorize the creation of an infrastructure and revitalization financing district and the issuance of debt with 55% voter approval. The bill would authorize the creation of a district for up to 40 years and the issuance of debt with a final maturity date of up to 30 years, as specified. The bill would delete the prohibition on a district including any portion of a redevelopment project area, as defined, and authorize a district to finance projects in redevelopment project areas and former redevelopment project areas and former military bases. The bill would authorize the legislative body of a city to dedicate any portion of its funds received from the Redevelopment Property Tax Fund to the district, if specified criteria are met. The bill would authorize a city to form a district to finance a project or projects on a former military base, if specified conditions are met. The bill would provide that the issuance of debt by such a district on land of a former military base that is publicly owned is not subject to voter approval, as specified.

The bill would expand the projects that a district may fund to include watershed land used for the collection and treatment of water for urban uses, flood management, levees, bypasses, open space, habitat restoration, brownfields restoration, environmental mitigation, purchase of land and property for development purposes, including commercial property, hazardous cleanup, former military bases, and specified transportation purposes. The bill would authorize a district to implement hazardous cleanup pursuant to the Polanco Redevelopment Act, as specified. The bill would impose a specified reporting requirement on districts. The bill would delete the statement of the intent of the Legislature that the area of the district be substantially undeveloped, and would instead state that it is the intent of the Legislature that the

establishment of a district should not ordinarily lead to the removal of existing functional, habitable, and safe dwelling units, as specified. The bill would make a further statement of legislative intent and would change the name of an “infrastructure financing district” to “infrastructure and revitalization financing district.”

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. It is the intent of the Legislature to enact
2 legislation during the 2011–12 Regular Session that establishes
3 long-term, targeted programs that provide local governments with
4 tools and resources for specified purposes, including, but not
5 limited to, public infrastructure, affordable housing, economic
6 development and job creation, and environmental protection and
7 remediation, in a manner that encourages local cooperation and
8 includes appropriate protections for state and local taxpayers.

9 SEC. 2. Section 53395.1 of the Government Code is amended
10 to read:

11 53395.1. Unless the context otherwise requires, the definitions
12 contained in this article shall govern the construction of this
13 chapter.

14 (a) “Affected taxing entity” means any governmental taxing
15 agency that levied or had levied on its behalf a property tax on all
16 or a portion of the property located in the proposed district in the
17 fiscal year prior to the designation of the district, but not including
18 any county office of education, school district, or community
19 college district.

20 (b) “City” means a city, a county, or a city and county.

21 (c) “Debt” means any binding obligation to repay a sum of
22 money, including obligations in the form of bonds, certificates of
23 participation, long-term leases, loans from government agencies,
24 or loans from banks, other financial institutions, private businesses,
25 or individuals.

26 (d) “Designated official” means the city engineer or other
27 appropriate official designated pursuant to Section 53395.13.

28 (e) (1) “District” means an infrastructure and revitalization
29 financing district.

1 (2) An infrastructure and revitalization financing district is a
2 “district” within the meaning of Section 1 of Article XIII A of the
3 California Constitution.

4 (f) “Infrastructure and revitalization financing district” means
5 a legally constituted governmental entity established pursuant to
6 this chapter for the sole purpose of financing facilities authorized
7 by this chapter.

8 (g) “Landowner” or “owner of land” means any person shown
9 as the owner of land on the last equalized assessment roll or
10 otherwise known to be the owner of the land by the legislative
11 body. The legislative body has no obligation to obtain other
12 information as to the ownership of land, and its determination of
13 ownership shall be final and conclusive for the purposes of this
14 chapter. A public agency is not a landowner or owner of land for
15 purposes of this chapter, unless the public agency owns all of the
16 land to be included within the proposed district.

17 (h) “Legislative body” means the city council or board of
18 supervisors.

19 (i) “Project area” means a defined area within a district in which
20 the activities of the district share a common purpose or goal and
21 an overall financing plan.

22 (j) “Net available revenue” means periodic distributions to the
23 city from the Redevelopment Property Tax Trust Fund, created
24 pursuant to Section 34170.5 of the Health and Safety Code, that
25 are available to the city after all preexisting legal commitments
26 and statutory obligations funded from that revenue are made
27 pursuant to Part 1.85 (commencing with Section 34170) of Division
28 24 of the Health and Safety Code. Net available revenue shall only
29 include revenue remaining after all current distributions, including,
30 but not limited to, payment of enforceable obligations, all
31 distributions to other taxing entities, and applicable administrative
32 fees, have been made.

33 SEC. 3. Section 53395.1.5 is added to the Government Code,
34 to read:

35 53395.1.5. Notwithstanding any other law, any reference in
36 this title to an “infrastructure financing district” or “district” shall
37 instead be deemed to refer to an “infrastructure and revitalization
38 financing district.”

39 SEC. 4. Section 53395.2 of the Government Code is amended
40 to read:

1 53395.2. (a) The revenues available pursuant to Article 3
2 (commencing with Section 53396) may be used directly for work
3 allowed pursuant to Section 53395.3, may be accumulated for a
4 period not to exceed five years to provide a fund for that work,
5 may be pledged to pay the principal of, and interest on, bonds
6 issued pursuant to Article 4 (commencing with Section 53397),
7 or may be pledged to pay the principal of, and interest on, bonds
8 issued pursuant to the Improvement Bond Act of 1915 (Division
9 10 (commencing with Section 8500) of the Streets and Highways
10 Code) or the Mello-Roos Community Facilities Act of 1982
11 (Chapter 2.5 (commencing with Section 53311)), the proceeds of
12 which have been or will be used entirely for allowable purposes
13 of the district. The revenue of the district may also be advanced
14 for allowable purposes of the district to an Integrated Financing
15 District established pursuant to Chapter 1.5 (commencing with
16 Section 53175), in which case the district may be party to a
17 reimbursement agreement established pursuant to that chapter.
18 The revenues of the district may also be committed to paying for
19 any completed facility acquired pursuant to Section 53395.3 over
20 a period of time, including the payment of a rate of interest not to
21 exceed the bond buyer index rate on the day that the agreement to
22 repay is entered into by the city.

23 (b) The legislative body may enter into an agreement with any
24 affected taxing entity providing for the construction of, or
25 assistance in, financing facilities.

26 SEC. 5. Section 53395.3 of the Government Code is amended
27 to read:

28 53395.3. (a) A district may finance (1) the purchase,
29 construction, expansion, improvement, seismic retrofit, or
30 rehabilitation of any real or other tangible property with an
31 estimated useful life of 15 years or longer which satisfies the
32 requirements of subdivision (b), (2) may finance planning and
33 design work which is directly related to the purchase, construction,
34 expansion, improvement, rehabilitation, or seismic retrofit of that
35 property, and (3) the costs described in Sections 53395.5 and
36 53396.5. The facilities need not be physically located within the
37 boundaries of the district. A district may not finance routine
38 maintenance, repair work, or the costs of ongoing operation or
39 providing services of any kind.

- 1 (b) The district shall finance only facilities or projects of
 2 communitywide significance, including, but not limited to, any of
 3 the following:
- 4 (1) Highways, interchanges, ramps and bridges, arterial streets,
 5 parking facilities, and transit facilities.
 - 6 (2) Sewage treatment and water reclamation plants and
 7 interceptor pipes.
 - 8 (3) Facilities and watershed lands used for the collection and
 9 treatment of water for urban uses.
 - 10 (4) Flood management, including levees, bypasses, dams,
 11 retention basins, and drainage channels.
 - 12 (5) Child care facilities.
 - 13 (6) Libraries.
 - 14 (7) Parks, recreational facilities, open space, and habitat
 15 restoration.
 - 16 (8) Facilities for the transfer and disposal of solid waste,
 17 including transfer stations and vehicles.
 - 18 (9) Brownfields restoration and other environmental mitigation.
 - 19 (10) Purchase of land and property for development purposes
 20 and related site improvements.
 - 21 (11) Acquisition, construction, or repair of housing for rental
 22 or purchase, including multipurpose facilities.
 - 23 (12) Acquisition, construction, or repair of commercial or
 24 industrial structures for private use.
 - 25 (13) The repayment of the transfer of funds to a military base
 26 reuse authority pursuant to Section 67851.
- 27 (c) Any district that constructs dwelling units shall set aside not
 28 less than 20 percent of those units to increase and improve the
 29 community’s supply of low- and moderate-income housing
 30 available at an affordable housing cost, as defined by Section
 31 50052.5 of the Health and Safety Code, to persons and families of
 32 ~~low- and moderate-income~~ *low and moderate income*, as defined
 33 in Section 50093 of the Health and Safety Code.
- 34 (d) A district may utilize any powers under the Polanco
 35 Redevelopment Act (Article 12.5 (commencing with Section
 36 33459) of Chapter 4 of Part 1 of Division 24 of the Health and
 37 Safety Code), and finance any action necessary to implement that
 38 act.

1 (e) A district may finance any project that implements a
2 sustainable communities strategy prepared pursuant to Section
3 65074.

4 SEC. 6. Section 53395.3.1 is added to the Government Code,
5 to read:

6 53395.3.1. (a) A city may form a district to finance a project
7 or projects on a former military base pursuant to the requirements
8 set forth in this chapter.

9 (b) A district formed under this section may finance a project
10 pursuant to Section 53395.3 or this section only if the project is
11 consistent with the authority reuse plan and is approved by the
12 military base reuse authority, if applicable.

13 (c) Notwithstanding Section 53397.6, the issuance of debt by a
14 district formed under this section to finance facilities described in
15 the infrastructure financing plan shall not be subject to voter
16 approval, provided that, at the time of approval of the formation
17 of the district, all of the land within the proposed district, or a
18 designated project area within the district on which the facilities
19 to be financed with the bonds will be located is owned by one or
20 more public entities, military base reuse authorities, or entities
21 controlled by governmental agencies.

22 SEC. 7. Section 53395.4 of the Government Code is amended
23 to read:

24 53395.4. (a) A district may finance only the facilities or
25 services authorized in this chapter. The additional facilities or
26 services may not supplant facilities or services already available
27 within that territory when the district was created, except if those
28 facilities or services are essentially nonfunctional, obsolete, or
29 hazardous. The additional facilities or services may supplement
30 those facilities and services as needed to serve new developments.

31 (b) A district may include areas that are not contiguous. A
32 district may be divided into project areas, each of which may be
33 subject to distinct limitations established under this chapter. The
34 legislative body may, at any time, add territory to a district or
35 amend the infrastructure financing plan for the district by
36 conducting the same procedures for the formation of a district or
37 approval of bonds, if applicable, as provided pursuant to this
38 chapter.

1 (c) Any district may finance any project or portion of a project
2 that is located in, or overlaps with, any redevelopment project area
3 or former redevelopment project area or former military base.

4 (d) Notwithstanding subdivision (c), any debt or obligation of
5 a district shall be subordinate to an enforceable obligation of a
6 former redevelopment agency, as defined in Section 34171 of the
7 Health and Safety Code.

8 (e) The legislative body of the city forming the district may
9 choose to dedicate any portion of its net available revenue to the
10 district through the financing plan described in Section 53395.14.

11 SEC. 8. Section 53395.5 of the Government Code is amended
12 to read:

13 53395.5. It is the intent of the Legislature that the establishment
14 of a district should not ordinarily lead to the removal of existing
15 functional, habitable, and safe dwelling units. If, however, any
16 dwelling units are proposed to be removed or destroyed in the
17 course of private development or ~~public works facilities~~
18 construction within the area of the district, the legislative body
19 shall do all of the following:

20 (a) Within four years of the removal or destruction, cause or
21 require the construction or rehabilitation, for rental or sale to
22 persons or families of low or moderate income, of an equal number
23 of replacement dwelling units at affordable housing cost, as defined
24 in Section 50052.5 of the Health and Safety Code, or affordable
25 rent, as defined in Section 50053 of the Health and Safety Code,
26 within the territory of the district if the dwelling units removed
27 were inhabited by persons or families of low or moderate income,
28 as defined in Section 50093 of the Health and Safety Code.

29 (b) Within four years of the removal or destruction, cause or
30 require the construction or rehabilitation, for rental or sale to
31 persons of low or moderate income, a number of dwelling units
32 which is at least one unit but not less than 20 percent of the total
33 dwelling units removed at affordable housing cost, as defined in
34 Section 50052.5 of the Health and Safety Code, or affordable rent,
35 as defined in Section 50053 of the Health and Safety Code, within
36 the territory of the district if the dwelling units removed or
37 destroyed were not inhabited by persons of low or moderate
38 income, as defined in Section 50093 of the Health and Safety Code.

39 (c) Provide relocation assistance and make all the payments
40 required by Chapter 16 (commencing with Section 7260) of

1 Division 7 of Title 1, to persons displaced by any public or private
2 development occurring within the territory of the district. This
3 displacement shall be deemed to be the result of public action.

4 (d) Ensure that removal or destruction of any dwelling units
5 occupied by persons or families of low or moderate income not
6 take place unless and until there are suitable housing units, at
7 comparable cost to the units from which the persons or families
8 were displaced, available and ready for occupancy by the residents
9 of the units at the time of their displacement. The housing units
10 shall be suitable to the needs of these displaced persons or families
11 and shall be decent, safe, sanitary, and otherwise standard
12 dwellings.

13 SEC. 9. Section 53395.10 of the Government Code is amended
14 to read:

15 53395.10. A legislative body of a city may designate one or
16 more proposed infrastructure financing districts pursuant to this
17 chapter. Proceedings for the establishment of a district shall be
18 instituted by the adoption of a resolution of intention to establish
19 the proposed district and shall do all of the following:

20 (a) State that an infrastructure financing district is proposed to
21 be established under the terms of this chapter and describe the
22 boundaries of the proposed district, which may be accomplished
23 by reference to a map on file in the office of the clerk of the city.

24 (b) State the type of facilities proposed to be financed by the
25 district. The district may only finance facilities authorized by
26 Section 53395.3.

27 (c) State that incremental property tax revenue from the city
28 and some or all affected taxing entities within the district may be
29 used to finance these facilities.

30 (d) State that net available revenue from the city may be used
31 to finance these facilities and state the maximum portion of the
32 net available revenue to be committed to the district for each year
33 during which the district will receive these revenues.

34 (e) Fix a time and place for a public hearing on the proposal.

35 SEC. 10. Section 53395.14 of the Government Code is amended
36 to read:

37 53395.14. After receipt of a copy of the resolution of intention
38 to establish a district, the official designated pursuant to Section
39 53395.13 shall prepare a proposed infrastructure financing plan.
40 The infrastructure financing plan shall be consistent with the

- 1 general plan of the city within which the district is located and
 2 shall include all of the following:
- 3 (a) A map and legal description of the proposed district, which
 4 may include all or a portion of the district designated by the
 5 legislative body in its resolution of intention.
- 6 (b) A description of the ~~public~~ facilities required to serve the
 7 development proposed in the area of the district including those
 8 to be provided by the private sector, those to be provided by
 9 governmental entities without assistance under this chapter, those
 10 ~~public~~ improvements and facilities to be financed with assistance
 11 from the proposed district, and those to be provided jointly. The
 12 description shall include the proposed location, timing, and costs
 13 of the ~~public~~ improvements and facilities.
- 14 (c) A finding that the ~~public~~ facilities are of communitywide
 15 significance and provide significant benefits to an area larger than
 16 the area of the district.
- 17 (d) A financing section, which shall contain all of the following
 18 information:
- 19 (1) A specification of the maximum portion of the incremental
 20 tax revenue of the city and of each affected taxing entity proposed
 21 to be committed to the district for each year during which the
 22 district will receive incremental tax revenue. The portion need not
 23 be the same for all affected taxing entities. The portion may change
 24 over time.
- 25 (2) A projection of the amount of tax revenues expected to be
 26 received by the district in each year during which the district will
 27 receive tax revenues, including an estimate of the amount of tax
 28 revenues attributable to each affected taxing entity for each year.
 29 If applicable, the plan shall also include a specification of the
 30 maximum portion of the net available revenue of the city proposed
 31 to be committed to the district for each year during which the
 32 district will receive revenue. The portion may vary over time.
- 33 (3) A plan for financing the public facilities to be assisted by
 34 the district, including a detailed description of any intention to
 35 incur debt.
- 36 (4) A limit on the total number of dollars of taxes that may be
 37 allocated to the district pursuant to the plan.
- 38 (5) A date on which the district shall cease to exist, by which
 39 time all tax allocation, including any allocation of net available
 40 revenue, to the district will end. The date shall not be more than

1 40 years from the date on which the ordinance forming the district
2 is adopted pursuant to Section 53395.23, or a later date, if specified
3 by the ordinance, on which the allocation of tax increment will
4 begin. The district may issue debt with a final maturity date of up
5 to 30 years from the date of issuance of each debt issue, subject
6 to the time limit on tax allocation to the district.

7 (6) An analysis of the costs to the city of providing facilities
8 and services to the area of the district while the area is being
9 developed and after the area is developed. The plan shall also
10 include an analysis of the tax, fee, charge, and other revenues
11 expected to be received by the city as a result of expected
12 development in the area of the district.

13 (7) An analysis of the projected fiscal impact of the district and
14 the associated development upon each affected taxing entity.

15 (8) A plan for financing any potential costs that may be incurred
16 by reimbursing a developer of a project that is both located entirely
17 within the boundaries of that district and qualifies for the Transit
18 Priority Project Program, pursuant to Section 65470, including
19 any permit and affordable housing expenses related to the project.

20 (e) If any dwelling units occupied by persons or families of low
21 or moderate income are proposed to be removed or destroyed in
22 the course of private development or ~~public works facilities~~
23 construction within the area of the district, a plan providing for
24 replacement of those units and relocation of those persons or
25 families consistent with the requirements of Section 53395.5.

26 SEC. 11. Section 53395.15 of the Government Code is amended
27 to read:

28 53395.15. The infrastructure financing plan shall be sent to
29 each owner of land within the proposed district and to each affected
30 taxing entity together with any report required by the California
31 Environmental Quality Act (Division 13 (commencing with Section
32 21000) of the Public Resources Code) that pertains to the proposed
33 facilities or the proposed development project for which the
34 facilities are needed, and shall be made available for public
35 inspection. The report shall also be sent to the planning commission
36 and the legislative body.

37 SEC. 12. Section 53395.19 of the Government Code is amended
38 to read:

39 53395.19. (a) The legislative body shall not enact a resolution
40 proposing formation of a district and providing for the division of

1 taxes of any affected taxing entity pursuant to Article 3
 2 (commencing with Section 53396) unless a resolution approving
 3 the plan has been adopted by the governing body of each affected
 4 taxing entity which is proposed to be subject to division of taxes
 5 pursuant to Article 3 (commencing with Section 53396) has been
 6 filed with the legislative body at or prior to the time of the hearing.

7 (b) In the case of an affected taxing entity that is a special district
 8 that provides fire protection services and where the county board
 9 of supervisors is the governing authority or has appointed itself as
 10 the governing board of the district, the plan shall be adopted by a
 11 separate resolution approved by the district’s governing authority
 12 or governing board.

13 (c) Nothing in this section shall be construed to prevent the
 14 legislative body from amending its infrastructure financing plan
 15 and adopting a resolution proposing formation of the infrastructure
 16 financing district without allocation of the tax revenues of any
 17 affected taxing entity which has not approved the infrastructure
 18 financing plan by resolution of the governing body of the affected
 19 taxing entity.

20 SEC. 13. Section 53395.23 of the Government Code is amended
 21 to read:

22 53395.23. After the canvass of returns of any election pursuant
 23 to Section 53395.20, the legislative body may, by ordinance, adopt
 24 the infrastructure financing plan and create the district with full
 25 force and effect of law, if 55 percent of the votes upon the question
 26 of creating the district are in favor of creating the district.

27 SEC. 14. Section 53395.24 of the Government Code is amended
 28 to read:

29 53395.24. After the canvass of returns of any election
 30 conducted pursuant to Section 53395.20, the legislative body shall
 31 take no further action with respect to the proposed infrastructure
 32 financing district for one year from the date of the election if the
 33 question of creating the district fails to receive approval of 55
 34 percent of the votes cast upon the question.

35 SEC. 15. Section 53395.26 is added to the Government Code,
 36 to read:

37 53395.26. No later than June 30 of each year after the adoption
 38 of an infrastructure financing plan, the legislative body shall post
 39 an annual report in an easily identifiable and accessible location

1 on the legislative body’s Internet Web site. The annual report shall
2 contain all of the following:

- 3 (a) A summary of the district’s expenditures.
- 4 (b) A description of the progress made ~~towards~~ *toward* the
5 district’s adopted goals.
- 6 (c) An assessment of the status regarding completion of the
7 district’s projects.

8 SEC. 16. Section 53397.6 of the Government Code is amended
9 to read:

10 53397.6. (a) Except as provided in Section 53395.3.1, bonds
11 may be issued if 55 percent of the voters voting on the proposition
12 vote in favor of authorizing the issuance of the bonds.

13 (b) If the voters authorize the issuance of the bonds as provided
14 by subdivision (a), the legislative body may subsequently proceed
15 with the issuance of the bonds by adopting a resolution which shall
16 provide for all of the following:

- 17 (1) The issuance of the bonds in one or more series.
- 18 (2) The principal amount of the bonds, which shall be consistent
19 with the amount specified in subdivision (b) of Section 53397.2.
- 20 (3) The date the bonds will bear.
- 21 (4) The date of maturity of the bonds.
- 22 (5) The denomination of the bonds.
- 23 (6) The form of the bonds.
- 24 (7) The manner of execution of the bonds.
- 25 (8) The medium of payment in which the bonds are payable.
- 26 (9) The place or manner of payment and any requirements for
27 registration of the bonds.
- 28 (10) The terms of call or redemption, with or without premium.

29 SEC. 17. Section 53397.10 of the Government Code is amended
30 to read:

31 53397.10. (a) The bonds may be sold at discount not to exceed
32 5 percent of par at a negotiated or public sale. At least five days
33 prior to a public sale, notice shall be published, pursuant to Section
34 6061, in a newspaper of general circulation and in a financial
35 newspaper published in the City and County of San Francisco and
36 in the City of Los Angeles. The bonds may be sold at not less than
37 par to the federal government at private sale without any public
38 advertisement.

39 (b) *Notwithstanding any other law, a negotiated sale for bond*
40 *issuances of an infrastructure and revitalization financing district*

1 *that exceeds five million dollars (\$5,000,000) shall be contracted*
2 *for and let to the lowest responsible bidder.*

3 SEC. 18. Section 33459 of the Health and Safety Code is
4 amended to read:

5 33459. For purposes of this article, the following terms shall
6 have the following meanings:

7 (a) "Department" means the Department of Toxic Substances
8 Control.

9 (b) "Director" means the Director of Toxic Substances Control.

10 (c) "Hazardous substance" means any hazardous substance as
11 defined in subdivision (h) of Section 25281, and any reference to
12 hazardous substance in the definitions referenced in this section
13 shall be deemed to refer to hazardous substance, as defined in this
14 subdivision.

15 (d) "Local agency" means a single local agency that is one of
16 the following:

17 (1) A local agency authorized pursuant to Section 25283 to
18 implement Chapter 6.7 (commencing with Section 25280) of, and
19 Chapter 6.75 (commencing with Section 25299.10) of, Division
20 20.

21 (2) A local officer who is authorized pursuant to Section 101087
22 to supervise a remedial action.

23 (3) An infrastructure and revitalization financing district.

24 (e) "Qualified independent contractor" means an independent
25 contractor who is any of the following:

26 (1) An engineering geologist who is certified pursuant to Section
27 7842 of the Business and Professions Code.

28 (2) A geologist who is registered pursuant to Section 7850 of
29 the Business and Professions Code.

30 (3) A civil engineer who is registered pursuant to Section 6762
31 of the Business and Professions Code.

32 (f) "Release" means any release, as defined in Section 25320.

33 (g) "Remedy" or "remove" means any action to assess, evaluate,
34 investigate, monitor, remove, correct, clean up, or abate a release
35 of a hazardous substance or to develop plans for those actions.

36 "Remedy" includes any action set forth in Section 25322 and
37 "remove" includes any action set forth in Section 25323.

1 (h) “Responsible party” means any person described in
2 subdivision (a) of Section 25323.5 of this code or subdivision (a)
3 of Section 13304 of the Water Code.

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2011 CA A 2144: Bill Analysis - Senate Governance and Finance Committee - 06/27/2012

BILL ANALYSIS

SENATE GOVERNANCE & FINANCE COMMITTEE

Senator Lois Wolk, Chair

BILL NO: AB 2144
AUTHOR: Perez
VERSION: 6/21/12
CONSULTANT: Lui

HEARING: 6/27/12
FISCAL: Yes
TAX LEVY: No

INFRASTRUCTURE FINANCING AND REVITALIZATION DISTRICTS

Allows local governments to use Infrastructure and Revitalization Financing Districts to finance specified improvements.

Background and Existing Law

Cities and counties can create Infrastructure Financing Districts (IFDs) and issue bonds to pay for community scale public works: highways, transit, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities. To repay the bonds, IFDs divert property tax increment revenues from other local governments for 30 years. However, IFDs can't divert property tax increment revenues from schools (SB 308, Seymour, 1990).

Unlike in former redevelopment project areas, the property in an IFD doesn't have to be blighted, but an IFD can't overlap a redevelopment project area. The Legislature has declared, but not required, that IFDs should include substantially undeveloped areas.

Forming an IFD is cumbersome. The city or county must develop an infrastructure plan, send copies to every landowner, consult with other local governments, and hold a public hearing. Every local agency that will contribute its property tax increment revenue to the IFD must approve the plan. Once the other local officials approve, the city or county must still get the voters' approval.

The deadline for filing lawsuits to challenge an IFD's creation, financing plan, allocation of property tax increment revenues, and tax allocation bonds is 30 days after the local officials get voter approval.

Public officials continue to search for ways to raise the capital they need to invest in public works projects, like public transit facilities, infill development, or clean water. One concept recognizes that expanded public structures can boost the value of nearby property. Higher property values produce higher property tax revenues.

Property tax increment financing captures those property tax increment revenues. When redevelopment officials use property tax increment financing to eradicate blight, state law doesn't require voter approval. When local officials use IFDs to capture property tax increment revenues, state law requires 2/3-voter approval.

Proposed Law

Assembly Bill 2144 renames Infrastructure Financing Districts as "Infrastructure and Revitalization Financing Districts." AB 2144 makes the following changes to the statutes governing the districts:

I. Voter approval. Current law requires local officials to prepare an infrastructure financing plan and get voter approval to: Form the IFD, which requires 2/3-voter approval.

Issue bonds, which requires 2/3-voter approval.

Set the appropriations limit, which requires majority-voter approval.

Assembly Bill 2144 authorizes local officials to create infrastructure and revitalization financing district and issue debt with 55% voter approval.

II. Net available revenue. Citing a significant State General Fund deficit, Governor Brown's 2011-12

budget proposed eliminating RDAs and returning billions of dollars of property tax revenues to schools, cities, and counties to fund core services. The Legislature adopted AB X1 26 (Blumenfeld, 2011), which dissolved all RDAs. Current law creates the Redevelopment Property Tax Fund, which receives property taxes that formerly would have been allocated to a redevelopment agency. Money deposited in the fund is used to help a successor agency wind down its affairs. Any excess funds are allocated to local governments as property taxes.

AB 2144 defines "net available revenue" (NAR) as periodic distributions to the city from the Redevelopment Property Tax Trust Fund, pursuant to state law, available to the city after all preexisting legal commitments and obligations from that revenue are made, pursuant to state law. It must only include revenue remaining after all current distributions, including, but not limited to payment of enforceable obligations, all distributions to other taxing entities, an applicable administrative fees, have been made.

The bill: Authorizes the city's legislative body to dedicate any NAR through the financing plan; Requires a legislative body to state that NAR from the city may be used to finance public facilities and must state the maximum portion of NAR to be committed to the district for each year in the resolution of intention to establish the proposed district and in the IRFD's financing plan.

III. Bond sale. Current law allows IFD bonds to be sold at discount not to exceed 5% of par at public sale. Bonds may be sold at no less than par to the federal government at private sale without any public advertisement. At least five days prior to the sale, a notice must be published in a general circulation newspaper and financial newspaper published in the Cities of San Francisco and Los Angeles.

AB 2144 authorizes bonds to be sold at discount not to exceed five percent of par at negotiated sale. AB 2144 specifies that the notice of the bond sale in newspapers only apply to a public sale.

IV. Fire district approval. Before an IFD can divert property tax increment from another taxing entity, current law requires every local agency that will contribute its property tax increment revenue to the IFD must approve the infrastructure financing plan. Some special districts are governed ex officio by county boards of supervisors or city councils. In the case of a special district that provides fire protection services where the county board of supervisors is the governing authority, AB 2144 requires the special district to act on an IRFD's plan by adopting a separate resolution.

V. Term life. Current law limits the terms of IFDs' bonds to no more than 30 years. AB 2144 extends the maximum term of IFDs' bonds from 30 years to 40 years, or a later date, if specified by an ordinance, on which the allocation of tax increment will begin.

AB 2144 requires the resolution of intent to establish a district to state a date when the district and any NAR allocation will end.

The district may issue debt with a final maturity date of up to 30 years from the date of issuance of each debt issue, subject to the time limit on tax allocation to the district.

VI. Accountability. The current IFD law is silent on fiscal protections, project management, or reporting measures. AB 2144 requires that no later than June 30 each year after an IRFD is created, the legislative body must post on the legislative body's website an annual report, which must contain: A summary of the district's expenditures.

A progress report of the district's adopted goals.

An assessment of the status of the IRFD's public works projects.

VII. Redevelopment. An IFD can't overlap a redevelopment project area. AB 2144 repeals that statutory prohibition.

AB 2144 provides that any debt or obligation of a district must be subordinate to an enforceable obligation of a former redevelopment agency, pursuant to state law.

VIII. Types of projects. IFDs may finance the (1) purchase, construction, expansion, improvement, seismic retrofit rehabilitation of any real property, (2) planning and design work directly related to the purchase, construction, expansion, or rehabilitation, and (3) other authorized costs pertaining to replacement dwelling units or action seeking to void the creation of a district. An IFD must finance only public capital facilities of communitywide significance, like highways, transit, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities.

AB 2144 adds to the list of authorized improvements that an IRFD may finance to include: Watershed lands used for the collection and treatment of water for urban uses.

Flood management, including levees, bypasses.

Open space, and habitat restoration.

Brownfields restoration and other environmental mitigation.

Purchase of land and property for development purposes and related site improvements.

Acquisition, construction, or repair of housing for rental or purchase, including multipurpose facilities.

Acquisition, construction, or repair of commercial or industrial structures for private use.

The repayment of the transfer of funds to a military base reuse authority pursuant to state law.

AB 2144 requires a district to finance projects of communitywide significance. The bill also adds that an IRFD may finance the planning and design related to a property's seismic retrofit.

AB 2144 makes conforming changes throughout the bill pertaining to public facilities.

IX. Polanco Act. The Polanco Redevelopment Act encourages cleanup and development of brownfields-properties contaminated by hazardous waste. The Act authorized former redevelopment agencies to conduct a cleanup and to recover the costs of that cleanup from responsible parties. AB 2144 authorizes an IRFD to utilize any powers under the Polanco Act.

X. Sustainable Communities Strategy. The Sustainable Communities and Climate Protect Act requires the Air Resources Board to set regional targets for automobiles' and light trucks' greenhouse gas emission reduction, requires a regional transportation plan to include a Sustainable Communities Strategy to meet targets for greenhouse gas emission reduction, requires the California Transportation Commission to maintain guidelines for travel demand models, requires cities and counties to revise their housing elements every eight years in conjunction with the regional transportation plan, and relaxes CEQA requirements for housing developments that are consistent with a Sustainable Communities Strategy (SB 375, Steinberg, 2008).

AB 2144 allows IRFDs to finance any projects to implement a sustainable communities strategy.

XI. Military bases. AB 2144 authorizes cities and counties to finance a project on a former military base, only if the project is consistent with the authority reuse plan and is approved by the military base reuse authority, if applicable.

The bill removes voter approval for any debt issued pertaining to a former military base that is publicly owned, provided that, all land within the proposed district or project area is owned by one or more public entities, military base reuse authorities, or entities control by governmental agencies.

XII. Housing. IFD law provides that if any dwelling units are proposed to be removed or destroyed, the legislative body must: Within four years of the removal or destruction, require the construction or rehabilitation, for rental or sale to persons or families of low or moderate income, of an equal number of replacement dwelling units at affordable housing cost.

Within four years of the removal or destruction, require the construction or rehabilitation, for rental or sale to persons of low or moderate income, a number of dwelling units which is at least one unit but not less than 20 percent of the total dwelling units removed at affordable housing cost.

Provide relocation assistance and make all the payments required to displaced persons.

Ensure that removal or destruction of any dwelling units occupied by persons or families of low or moderate income not take place unless and until there are suitable housing units, at comparable cost to the units.

AB 2144 adds that an equal number of replacement dwelling units may also be at affordable rent, as defined in state law.

Current law states the Legislature's intent that an IFD's territory should be substantially undeveloped. AB 2144 removes this intent language and adds that an IRFD's establishment should not ordinarily lead to the removal of existing functional, habitable, and safe dwelling units XIII. Definitions. AB 2144 defines "district" as an infrastructure financing and revitalization district.

AB 2144 authorizes a district to be divided into project areas, which may be subject to distinct limitations. The legislative body may, at any time, add territory to a district or amend the IRFD financial plan, pursuant to procedures for the formation of the district and bond approval.

The bill defines "project area" as a defined area within a district in which activities of the district share a common purpose or goal and an overall financing plan.

XIV. Findings and declarations. AB 2144 makes finding to support the bill's purpose.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. AB 2144 creates a more flexible development tool to finance needed public works projects, while incorporating rigorous accountability measures to ensure local government diligence, positive project results, and healthier community development. AB 2144 recognizes the potential for infrastructure revitalization and financing districts to implement SB 375's sustainable communities strategy and the benefits of protecting and rehabilitating brownfields from hazardous waste. Local officials use tax increment financing to divert part of the property tax revenue stream to a separate IRFD. If a local government decides not to participate in the IRFD formation, its tax increment revenue shares aren't touched.

Before taxes are raised, assessments are levied, or bonds are issued, the California Constitution requires local officials to get voters' approval: special taxes require 2/3-voter approval; general taxes require majority-voter approval; benefit assessments require a weighted ballot approval by property owners; local general obligation bonds that require new property tax revenues need 2/3-voter approval; local revenue bonds that rely on new fee revenues require majority-voter approval. However, in contrast to taxes, assessments, or bonds, IFDs neither raise taxes nor generate new revenue. AB 2144 makes it easier for local governments to use property tax increment financing while retaining voter-approval.

2. Bond sales. Competitive sale" and "negotiated sale" are two principal methods by which a bond issuer selects an underwriter to purchase its bonds and resell them to investors. In a competitive sale, underwriters deliver sealed bids to the bond issuer. The underwriter with the lowest bid is awarded the sale of the bonds. The appropriate method for selling bonds depends on specific details of each individual debt issuance, but competitive sales of GO bonds usually cost less than negotiated sales.

AB 2144 allows negotiated sales, a significant change in how districts may currently sell bonds. While negotiated bond sales provide an opportunity to pre-market bonds that potential investors may not be familiar with, competitive sales provide the certainty of lower interest rates.

Because local governments need more certainty, the Committee may wish to consider amending AB 2144 to delete the authorization for negotiated sales.

3. IFDs vs. redevelopment. Albert Einstein once said that the only reason for time is so that everything doesn't happen at once. When Governor Brown eliminated redevelopment, the world of IFDs and redevelopment intertwined. In the 1990 political compromise that resulted in IFDs, legislators drew clear distinctions with redevelopment projects. The land use key to redevelopment was blight, but IFDs don't have to demonstrate blight. The fiscal key to redevelopment was access to the schools' share of property tax increment revenues, but IFDs can't touch any school funds. The housing key to redevelopment was that 20% of their property tax increment revenues must be set aside to support affordable housing, but IFDs have no state funds, so IFDs need only to replace destroyed housing and provide relocation assistance. Local governments are reconsidering IFDs as an alternative financing tool.

4. Net available revenues. The California Constitution requires 2/3-voter approval before cities or counties can issue long-term debt backed by local general purpose revenues; school districts need 55%-voter approval. That's why local general obligation bonds need 2/3-voter approval.

The courts have explained that cities need 2/3-voter approval before they dedicate portions of their

general funds to pay for bonds. That's why local limited obligation bonds need 2/3-voter approval. These new bonds are similar to limited obligation bonds because they rely on a pledge of existing revenues, but they also involve pledging other governments' revenues. AB 2144 authorizes cities and counties to use revenue in excess of general property tax revenue, after bonds, pass-through payments.

IFDs take a long time to accumulate the necessary capital to bond against large-scale projects. Authorizing cities and counties to use excess general property tax revenue, after all legal commitments are paid, provides a necessary additional source of revenue for an IRFD. It is unclear whether the use of net available revenue is different from a limited obligation bond, which requires 2/3-voter approval.

5. One building block at a time. For many years, local officials were reluctant to form IFDs because they worried about the constitutionality of using tax increment revenue from property not within a redevelopment project area. In 1998, an Attorney General's opinion allayed those concerns, and the City of Carlsbad formed an IFD to fund the public works for a new hotel and any future public works needed to develop Legoland theme park up to \$1.5 million. To date, it is the only example of a finished IFD project.

Intrigued by the concept, other local officials have persuaded legislators to pass special bills that adapt the IFD statute to their local circumstances: SB 207 (Peace, 1999): border development zone IFD.

SB 223 (Kelley, 1999): Salton Sea Authority IFD.

SB 1085 (Migden, 2005): San Francisco waterfront IFD.

AB 2882 (De La Torre, 2006): Orangeline mag-lev train IFD.

The existence of one complete IFD project underscores the lack of evidence on IFD's viability as a local financing tool. Rather, the list of incomplete projects attests to the practical barriers that exist when implementing an IFD.

6. Related legislation. AB 2144 is not the only bill seeking to update the IFD financing mechanism.

SB 214 (Wolk, 2011) removes the vote requirement to issue bonds, form an IFD, and to set the appropriation limit. SB 214 requires annual construction progress reports, prohibits big-box subsidies, and promotes the use of IFDS for Polanco Act clean-up, transit priority projects, and disadvantaged communities. The Senate Governance and Finance Committee passed the bill on a vote of 6-3.

SB 310 (Hancock, 2011) SB 310 seeks to use IFDs for transit priority projects. This bill was signed by Governor Brown.

AB 485 (Ma, 2011) removes the vote requirement to issue bonds, form an IFD, and to set the appropriations limit, if an infrastructure financing district implements a transit village plans. Also, the bill requires the transit village plan to set-aside 20% of the IFD's property tax increment for affordable housing. The Senate Governance and Finance Committee passed the bill on a vote of 6-3.

AB 664 (Ammiano, 2011) allows San Francisco to use IFD revenues along its waterfront to support the America's Cup venue. Governor Brown signed this bill.

AB 910 (Torres, 2011) adds affordable housing, economic development, and transit villages to the list of authorized IFD projects.

AB 1827 (Bonilla, 2012) authorizes military base reuse authority to form IFDs. The bill authorizes IFDs to finance homeless accommodations.

AB 2551 (Hueso, 2012) authorizes local agencies to form IFDs in renewable energy infrastructure districts, as defined. The bill exempts local agencies from voter-approval requirements when creating an IFD in a renewable energy infrastructure district. The Senate Governance and Finance Committee will hear this bill at its July 3 hearing.

AB 2259 (Ammiano, 2012) amends provisions pertaining to San Francisco's use of IFD revenues to support America's Cup. The Senate Governance and Finance Committee will hear this bill at its July hearing.

7. Technical. AB 2144 expands the list of projects financed by a district. It makes technical conforming changes to reflect that not all projects may be public capital facilities. Some portions of the bill strike out the word "public" but not in others. The Committee may wish to consider amending the bill to make further

conforming clarifications: On page 8, line 18, after "or" strike "public works" On page 8, line 19, strike "construction" and insert "facilities" On page 10, line 10, after "the" strike "public" On page 10, line 14, before "improvements" strike "public" On page 10, line 17, after "the" strike "public" On page 10, line 18, after "the" strike "public" On page 11, line 27, strike out "public works construction" and insert "facilities" On page 37, line 27, after "the" strike "public"

Assembly Actions

Assembly Local Government Committee: 6-3

Assembly Appropriations Committee: 12-5

Assembly Floor: 50-25

Support and Opposition (6/22/12)

Support: California Special Districts Association.

Opposition: California Association of Realtors; California Taxpayers Association; Fieldstead and Company; Howard Jarvis Taxpayers Association.

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