

Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2578 (Chiu) – As Amended March 22, 2018

SUBJECT: Infrastructure financing districts: City and County of San Francisco.

SUMMARY: Makes a number of changes to existing infrastructure financing district (IFD) law related to the San Francisco waterfront, and creates shoreline protection districts in IFD law to specifically finance improvements related to the seawall and shoreline. Specifically, **this bill:**

- 1) Expands IFD law to allow IFDs to finance the following:
 - a) Permitting that directly relates to the purchase, construction, expansion or rehabilitation of a specified property; and,
 - b) Additional public capital facilities of communitywide significance, which provide significant benefits to an area larger than the area of the IFD, including: bike, pedestrian, and mobility facilities; pumps related to sewage treatment and water reclamation plants and interceptor pipes; environmental polishing related to facilities for the collection and treatment of water for urban uses; barriers, breakwaters, retention boxes, pump structures, grading, railings, and platforms related to flood control.
- 2) Expands the types of projects a waterfront district (specific to the City and County of San Francisco) may finance to include: installation of new bay fill, as specified; enhancements to bay habitat; improvements to protect against flood risks; required environmental mitigation, including living shorelines, habitat enhancement, and public access facilities; port or harbor infrastructure; creek daylighting; auxiliary water supply systems; emergency response facilities; and, waterproofing and dry proofing.
- 3) Expands the authorization for the creation of waterfront districts by the City and County of San Francisco to include a shoreline protection district in which the ERAF share is used to finance structural repairs and improvements and acquisition, construction or replacement of seawalls or other improvements for the purposes of strengthening the port's shoreline to withstand a seismic event, liquefaction or lateral spreading or to protect against flood risks in waterfront lands in San Francisco.
- 4) Requires, for a shoreline protection district, a shoreline financing plan to be developed, and specifies that the shoreline protection district shall not be formed and become effective prior to January 1, 2019. Specifies the provisions that shall be contained in the financing plan.
- 5) Allows the shoreline protection enhanced financing plan to contain a provision meeting specified requirements that would allocate a portion of the incremental tax revenue of San Francisco and other designated affected taxing entities to the shoreline protection district, and to direct the school's share of tax increment (ERAF) to specified shoreline improvements, in direct proportion to the local share of tax increment committed to specified IFDs.
- 6) Contains procedures concerning the allocation of the portion of taxes to the shoreline protection district.

- 7) Requires the shoreline financing plan to be mailed to the Director of Finance and the Secretary of the Natural Resources Agency.
- 8) Defines applicable terms related to a shoreline protection district.
- 9) Deletes existing IFD law related to the Port America's Cup.
- 10) Revises provisions related to the Pier 70 IFD to capture an additional seven acres not included in the original Pier 70 IFD statute.
- 11) Finds and declares that a special statute is necessary because of the unique circumstances relating to the establishment of one or more infrastructure financing districts by the City and County of San Francisco to finance public facilities along the San Francisco waterfront through its port.
- 12) Makes other findings and declarations.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary.** This bill revises and expands provisions related to San Francisco's IFD law to expand the purpose of the districts to include shoreline protection, in order to address urgent seismic and flood risks posed by the San Francisco seawall. The bill authorizes the City to direct the school's share of tax increment (ERAF) to shoreline improvements, in direct proportion to the local share of tax increment committed to Port IFDs, authorizes the use of IFD revenues for shoreline improvements, authorizes the City to direct the portion of the motor vehicle fee in-lieu property tax allocation that corresponds to increases in assessed valuation in a Port IFD district to such a district, and repeals provisions of existing law that relate to the Port America's Cup IFD, which was never used.

This bill is sponsored by the Port of San Francisco and San Francisco Mayor Mark E. Farrell.

- 2) **Author's Statement.** According to the author, "The Historic Embarcadero Promenade has many of San Francisco's iconic tourist destinations, recreation and park facilities, restaurants and local businesses – bringing in an estimated 24 million people a year and supporting nearly \$100 billion in assets and economic activity. The Promenade is supported primarily by the Embarcadero Seawall which was constructed more than a century ago and is the foundation of over three miles of the city's northern waterfront.

"The seawall sits on public trust lands and supports key utility networks and transportation infrastructure for the BART, Muni, and ferry transportation networks. It's older than most other major pieces of infrastructure in the city, including the Golden Gate Bridge and Coit Tower. The seawall sits on poor soils and has settled and cracked, and it was built before engineers understood how to build infrastructure to survive earthquakes. A recent vulnerability report showed that the seawall is under threat in the short- to mid- term from a significant earthquake and from growing flood risks over the long term as sea levels rise.

"Full infrastructure improvements are estimated to cost up to \$5 billion. The City has already planned for a proposed \$350-500 million General Obligation bond for the program,

which will be considered for the November 2018 ballot. Even with the funds the City is planning to dedicate, there is still a significant budget gap that needs closing.

“Fortunately, the Legislature already delegated to the Board of Supervisors of the San Francisco the right to form infrastructure financing districts (IFDs) along the Port of San Francisco to fund public improvements to aging infrastructure and historic resources. AB 2578 revises the provisions of San Francisco’s IFD by expanding the purpose of the district to include shoreline protection which will address urgent seismic and flood risks posed by the San Francisco Seawall. The new IFD will generate \$55 million in the first ten years of the program and a total of \$250 million over the life of the program. While the City is working to secure local, federal and private dollars, AB 2578 is critical to secure the state’s investment in an infrastructure project that not only sits on public trust lands but also supports transportation networks, emergency response and utility infrastructure, and is a major economic driver in the region.”

- 3) **Earthquake and Flood Risks.** The Port of San Francisco provides the following background regarding the Embarcadero Seawall:

“The State of California constructed the Embarcadero Seawall over 100 years ago to create a deep water port in San Francisco to support the state’s burgeoning economy. The California State Board of Harbor Commissioners commissioned the design and oversaw its construction of the seawall over four decades, starting in 1878. This effort was an amazing feat of engineering and underscores how public infrastructure provides the backbone of the State’s economic development. Unfortunately, this effort preceded the development of modern seismic engineering standards that govern construction in areas subject to seismic activity and lateral spreading.

“The Embarcadero Seawall stretches for three miles from Fisherman’s Wharf to Mission Creek and created over 500 acres of new land along the northern waterfront. In 2016, the Port of San Francisco completed a Seawall Earthquake Vulnerability Study which concluded that the norther waterfront is highly susceptible to earthquake damage. In a major seismic event, the Embarcadero Seawall is likely to move up to five feet bayward, causing loss of life and significant damage to utility systems, transit infrastructure and staging areas that will be vital for earthquake response. According to the Unity States Geological Survey, there is a 72% change of a major seismic event taking place in the Bay Area in the next 30 years.

The Embarcadero Seawall supports an extensive network of public infrastructure, including transportation, utility and firefighting infrastructure. Regional and private entities, such as the Bay Area Rapid Transit District, Golden Gate Ferry, and Pacific Gas and Electric, also own and operate critical infrastructure that the Seawall protects. Further, the Seawall supports infrastructure for businesses along the waterfront that contribute to the City’s economic vitality and diversity. The Seawall is the spine of the Embarcadero Historic District listed on the National Register of Historic Places, a district which includes the Ferry Building and the nation’s most intact set of historic breakbulk piers. A recent economic analysis concluded that the Embarcadero Seawall protects \$100 billion in assets and economic activity.

San Francisco also faces flooding. San Francisco is currently planning for sea level rise of up to 24 inches by 2050 and 66 inches by year 2100. The City closely monitors evolving state guidance on sea level rise to inform its capital plan. However, the City and the region

face an immediate flood risk: the MUNI tunnel along The Embarcadero is subject to flood risk today from a 100-year storm. During King Tide events, San Francisco Bay overtops the Seawall, frequently resulting in closures of traffic lanes.

In response to all these risks, the City initiated the Seawall Program. The City estimates that the cost of a program to rehabilitate the Embarcadero Seawall and adapt to sea level rise is up to \$5 billion, and that the City, working through the Port, would complete the project in phases over a 30-year period. The first phase of the Seawall Program will require specialized planning, engineering, and related services to address immediate life-safety issues from seismic vulnerabilities while laying a foundation to address sea level rise over time. Phase I will include near term actions, with construction expected to begin in 2021, as well as development of a longer term program to potentially replace the Embarcadero Seawall with all necessary seismic and sea level rise adaptation measures. The City estimates that Phase I will cost \$500 million.

For a program of this scale, local, state and federal resources will be required. The City and County of San Francisco is investing considerable local resources in this effort, with current contracts and past expenditures exceeding \$50 million in local funding commitments. The City and County of San Francisco's capital planning committee has scheduled a General Obligation bond of \$350 million or more for the November 2018 ballot. The Port and the City are engaged with the United States Army Corps of Engineers, making best efforts to bring federal resources to the project, which will require substantial matching funds.

- 4) **Background and Previous Legislation.** SB 1085 (Migden), Chapter 213, Statutes of 2005, allowed for the formation of IFDs along San Francisco's waterfront. SB 1085, among other things, waived the requirement for an election to form the IFD if all of the land within the proposed IFD was publicly owned, expanded the scope of what could be financed by the IFD, and clarified that an IFD included tidelands and submerged lands, and that facilities on those lands must serve and promote uses and purposes consistent with the public trust.

AB 1199 (Ammiano), Chapter 664, Statutes of 2010, enacted a new special statute governing the formation and activities of IFDs along the San Francisco's waterfront, including provisions related to the Pier 70 IFD. AB 1199 expanded the scope of what a San Francisco waterfront IFD could pay for, and required the adoption of a detailed infrastructure plan for the waterfront IFD. AB 1199 allowed, specifically for the Pier 70 IFD, the allocation of property tax increment revenues from San Francisco and other taxing entities. The bill specified that if Pier 70's financing plan called for allocating 100% of San Francisco's property tax increment revenues, then the IFD would not make a payment to ERAF. However, if the plan allocated less than that, then the IFD was required to pay a proportionate share of its property tax increment revenues to ERAF.

AB 664 (Ammiano), Chapter 314, Statutes of 2011, allowed San Francisco to form a special waterfront IFD for the Port America's Cup. According to the sponsor, that authority was never used.

- 5) **Arguments in Support.** Supporters argue that this bill help to address urgent seismic and flood risks, and is critical to making waterfront infrastructure more resilient to these flood risks and seismic activity.
- 6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Mark Farrell, Mayor, City and County of San Francisco [SPONSOR]

Port of San Francisco [SPONSOR]

Barbary Coast Neighborhood Association

Bay Planning Coalition

Maritime Commerce Advisory Committee

Northeast Waterfront Advisory Group

Walk San Francisco

Waterfront Plan Working Group

SF Easter Neighborhoods Democratic Club

South Beach/Rincon/Mission Bay Neighborhood Association

Individual letter

Opposition

None on file

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