Date of Hearing: May 1, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Juan Carrillo, Chair
AB 1819 (Waldron) – As Introduced January 11, 2024

**SUBJECT**: Enhanced infrastructure financing districts: public capital facilities: wildfires.

**SUMMARY**: Specifies that certain enhanced infrastructure financing districts (EIFDs) are allowed to finance certain fire related projects and equipment. Specifically, **this bill**:

1) Provides that for EIFDs at least partially in high or very high fire hazard severity zones designated by the State Fire Marshall, as specified, an EIFD may finance the following:

   a) Heavy equipment to be used for vegetation clearance and firebreaks.

   b) Fortification of utilities against wildfires.

   c) Equipment used for fire watch, prevention, and fighting, including, but not limited to, helicopters, air tankers, and technological advancements to weather and wind science infrastructure, risk modeling, and prediction.

**FISCAL EFFECT**: None.

**COMMENTS**:

1) **Redevelopment.** Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of RDAs to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Generally, property tax increment financing involves a local government forming a tax increment financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area.

   To calculate the increased property tax revenues captured by the district, the amount of property tax revenues received by any local government participating in the district is "frozen" at the amount it received from property within a project area prior to the project area's formation. In future years, as the project area's assessed valuation grows above the frozen base, the resulting additional property tax revenues — the so-called property tax "increment" revenues — flow to the tax increment financing district instead of other local governments. After the bonds have been fully repaid using the incremental property tax revenues, the district is dissolved, ending the diversion of tax increment revenues from participating local governments.

   Prior to Proposition 13, very few RDAs existed; however, after its passage, RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set aside 20% of funding generated in a project area to increase the supply of low and moderate income housing in the project areas. At the time RDAs were dissolved, the

Controller estimated that statewide, RDAs were obligated to spend $1 billion on affordable housing. At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over $5.6 billion yearly.

In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved and the Governor signed two measures, ABX1 26 (Blumenfield), Chapter 5 and ABX1 27 (Blumenfield), Chapter 6 that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the 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 RDAs were required to dissolve as of February 1, 2012.

2) **Attempts to Replace RDAs**. After the Supreme Court's 2011 Matosantos decision dissolved all RDAs, legislators enacted several measures creating new tax increment financing tools to pay for local economic development. The Legislature authorized the creation of Enhanced Infrastructure Financing Districts (EIFDs) [SB 628 (Beall), Chapter 785, Statutes of 2014] quickly followed by Community Revitalization and Investment Authorities (CRIAs) [AB 2 (Alejo), Chapter 319, Statutes of 2015]. Similar to EIFDs, CRIAs use tax increment financing to fund infrastructure projects. CRIAs may currently only be formed in economically depressed areas.

   The Legislature has also authorized the formation of affordable housing authorities (AHAs), which may use tax increment financing exclusively for rehabilitating and constructing affordable housing and also do not require voter approval to issue bonds [AB 1598 (Mullin), Chapter 764, Statutes of 2017]. SB 961 (Allen), Chapter 559, Statutes of 2018, removed the vote requirement for a subset of EIFDs to issue bonds and required these EIFDs to instead solicit public input, and AB 116 (Ting), Chapter 656, Statutes of 2019, removed the voter requirement for any EIFD to issues bonds in favor of a formal protest process. SB 852 (Dodd), Chapter 266, Statutes of 2022, created climate resilience districts (CRDs), which can also utilize tax-increment financing. CRDs were also given the authority to issue general obligation bonds and impose special taxes. While these entities share fundamental similarities with RDAs in terms of using various forms of tax-increment financing, they differ in two significant aspects, 1) not having access to the school's share of property tax increment, and 2) not automatically including the tax increment of other taxing entities.

3) **Governor's Office of Planning and Research (OPR) Report.** SB 961 (Allen), Chapter 559, Statutes of 2018, required OPR to, on or before January 1, 2021, complete a study and make recommendations on (1) the effectiveness of tax increment financing tools, (2) the relative advantages and disadvantages of different types of tax increment financing tools, and (3) the impacts of extending the Second Neighborhood Infill Finance and Transit Improvement Act (NIFTI-2s) to areas around bus stops, including segregated bus lanes. The first report identified several key limitations current tax increment financing districts share:

   a) They have limited revenue potential to make district formation worthwhile.

b) Unlike redevelopment, where taxing entity participation was mandatory, current tax increment financing districts rely on volunteer participation.

c) They have limited powers compared to RDAs.

d) Some technical challenges interfere with their development.

4) **EIFDs.** EIFDs can finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community with an estimated useful life of 15 years or more. This includes projects that enable communities to adapt to the impacts of climate change, including higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts, extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought [AB 733 (Berman), Chapter 657, Statutes of 2017]. Additionally, EIFDs may finance projects that include:

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

b) Sewage treatment and water reclamation plants and interceptor pipes.

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

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

e) Child care facilities.

f) Libraries.

g) Parks, recreational facilities, and open space.

h) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income for rent or purchase, and more.

In addition to construction costs, EIFDs can finance: (1) planning and design work; (2) costs to cover the replacement of affordable housing, and offer relocation assistance to displaced residents; (3) defending the district against protests over their formation; and (4) the ongoing or capitalized costs to maintain the projects the district finances. The EIFD must not use bond proceeds to finance maintenance of any kind, and must not finance costs for ongoing operations or providing services.

An EIFD is governed by a public financing authority (PFA) with three members of each participating taxing entity's legislative body and a minimum of two public members. Member agencies can also appoint an alternate member from their legislative body. If at least three taxing entities participate in the district, they can agree to reduce the district's governing board to one member and one alternate member of each legislative body and a minimum of two public members.

To create an EIFD, the legislative body of a city or county must adopt a resolution of intention to establish the financing district. The resolution must state a time and place for a hearing on the proposal, the proposed district's boundaries, the types of facilities and development to be financed, the need for the district, the goals the district proposes to achieve, and that incremental property tax revenues may be used to finance the EIFD's activities.

Until the Legislature enacted AB 116 (Ting, 2019), EIFDs required 55% voter approval to issue bonds. AB 116 replaced voter approval with a protest process. This process requires the PFA to make the draft infrastructure financing plan available to the public and to each landowner within the area at least 30 days before noticing the first public meeting.

5) **Bill Summary and Author's Statement.** Specifies that EIFDs within a designated high or very high fire severity zone are allowed to finance specified fire related projects and equipment. This bill is sponsored by the author.

According to the author, "As climate change progresses, our state is affected by longer, more intense, and increasingly hazardous wildfires. In San Diego alone, almost one-fourth of all wildfires start from the combustion of roadside vegetation by vehicles. It is crucial to have the proper firefighting equipment to prevent wildfires. Obtaining funding to increase prevention response and fire-fighting equipment in backcountry areas has been difficult. The creation of an infrastructure financing district for this purpose will raise the necessary funding without the need to raise taxes."

6) **Policy Consideration.**

   a) **What Should be Financed?** A primary consideration in a financing plan is the relationship between the term of the financing and the life of the asset being financed. For example, short-term operating and maintenance needs are usually paid for out of general revenues, while capital assets are typically financed with debt instruments having longer maturities—such as general obligation bonds, certificates of participation, lease revenue bonds, or revenue bonds—that are repaid over the useful life of the asset. EIFD law requires that the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property have an estimated useful life of 15 years or longer. However, this bill provides that certain EIFDs can finance heavy equipment used for vegetation clearance and firebreaks and equipment used for fire watch, prevention, and fighting, as specified. The Committee may wish to consider if EIFDs should be authorized to use bond proceeds to finance certain equipment that has or might have a shorter useful life.

   b) **Which Utilities?** This bill allows for EIFDs within a high or very high fire severity zone to finance the fortification of utilities against wildfires. However, it is not entirely clear what the fortification of utilities means and if this applies to both public and investor-owned utilities. Should EIFDs be allowed to provide the public revenue it receives to be used on projects related to for-profit investor-owned utilities? The Committee may wish to consider if additional clarification is needed.

7) **Committee Amendments.** In response to the above policy considerations, the Committee may wish to amend this bill as follows:

**53398.50 (b)(21).** For districts at least partially in high or very high fire hazard severity zones designated by the State Fire Marshal pursuant to Article 9 (commencing with Section 4201) of Part 2 of Division 4 of the Public Resources Code, the following:
(A) Heavy equipment to be used for vegetation clearance and firebreaks.
(B) ~~**Fortification**~~ **Undergrounding** of **local publicly owned utilities, as defined in Section 224.3 of the Public Utilities Code,** ~~utilities~~ against wildfires.
(C) **(i)** Equipment used for fire watch, prevention, and fighting, including, but not limited to, helicopters, air tankers, and technological advancements to weather and wind science infrastructure, risk modeling, and prediction.
**(ii) Notwithstanding clause (i), a district shall not use the proceeds of bonds issued pursuant to the authority in Article 4 (commencing with Section 53398.77) to finance the equipment described in clause (i).**

8) **Previous Legislation.** AB 464 (Mullin), Chapter 25, Statutes 2021, expanded the types of facilities and projects EIFDs may fund to include small business structures impacted by the COVID-19 pandemic and nonprofit community organizations' facilities.

SB 1145 (Leyva), Chapter 563, Statutes of 2018, authorized EIFDs to fund maintenance of public capital facilities, excluding revenue from bond proceeds.

AB 733 (Berman), Chapter 657, Statues of 2017, added climate change projects to the list of projects that may be financed by an EIFD.

AB 313 (Atkins, 2015), Chapter 320, Statutes of 2015, clarified the process for replacing dwelling units and residents displaced by EIFD projects, and makes technical changes that clarifies that the public financing authority of an EIFD must remain separate from the legislative body that created the EIFD.

SB 628 (Beall), Chapter 785, Statutes of 2014, allowed a city or county to create an EIFD to finance specific local infrastructure projects and community public works.

9) **Related Legislation.** SB 1140 (Caballero) makes a number of changes to the EIFD formation process, and expands the types of projects that these districts and other similar districts can finance to include projects that improve air quality.

10) **Arguments in Support.** According to the Deer Springs Fire Protection District, "The legislation will give local governments an additional tool to mitigate wildfires. High and Very-High Fire Hazard Severity Zones face longer, more intense, and increasingly hazardous wildfires. Having the option of an Enhanced Infrastructure Financing District (EIFD) for wildfire mitigation will help fund these efforts.

"Special districts, cities, and counties currently can choose to participate in an EIFD to help fund critical infrastructure and other local projects. AB 1819 explicitly allows EIFDs to invest in essential tools and equipment for wildfire mitigation, including heavy equipment to clear vegetation, create firebreaks, harden utility infrastructure against wildfires, and obtain air resources and new technologies for firefighting and prevention.

"Deer Springs FPD was formed in 1982 to provide fire prevention and suppression services along with Emergency Medical Services to several San Diego County rural communities. Over 90% of the District includes Very High classified Fire Hazard Severity Zones, protected by our three fire stations staffed year round in cooperation with CAL FIRE."

11) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

Alpine Fire Protection District
California Special Districts Association
Deer Springs Fire Protection District
North County Fire Protection District
Valley Center Fire Protection District

**Opposition**

None on file

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