Date of Hearing: August 28, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Juan Carrillo, Chair
AB 761 (Friedman) – As Amended May 20, 2024

SUBJECT: Local finance: enhanced infrastructure financing districts.

SUMMARY: Allows an enhanced infrastructure financing district (EIFD) enacted primarily to develop and construct passenger rail projects in Los Angeles County to last 75 years instead of 45 years if it receives specified federal transportation loans. Specifically, **this bill**:

1) Specifies that for infrastructure financing plans proposed on or after January 1, 2025, for EIFDs enacted primarily for the purpose of development and construction of passenger rail projects in Los Angeles County, where at least 75% of the revenue from the EIFD is used for debt service on a federal Transportation Infrastructure Finance and Innovation Act (TIFIA) loan, the date on which the district shall cease to exist shall not be more than 75 years from the date on which the issuance of a TIFIA loan is approved by the United States Department of Transportation (USDOT).

2) Provides that 45 years after the issuance of the TIFIA loan, incremental tax revenue shall only be used for the purposes of the TIFIA loan repayment, including debt service.

3) Makes conforming changes.

4) Find and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique timelines of districts enacted primarily for the purpose of development and construction of zero-emission mass transit projects

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. 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.

i) Projects that enable communities to adapt to the impacts of climate change, projects that implement a sustainable communities strategy, 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). 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. The PFA then directs an official to prepare an infrastructure financing plan (IFP) that includes:

a) A map and legal description of the proposed district, including a requirement that the plan be consistent with the local agency's general plan.

b) A description, including location, timing, and costs, of the public facilities and other forms of development or financial assistance proposed in the district, including those to be provided by the private sector, by governmental entities, or jointly.

c) If funding from affected taxing entities is incorporated into the financing plan, a finding that the development and financial assistance are of communitywide significance and provide significant benefits to an area larger than the area of the district.

The plan must also include a financing section that includes:

a) The maximum annual tax revenues contributed to the EIFD.

b) A plan for financing the public facilities to be assisted by the district, including a detailed description of any intention to incur debt.

c) A limit on the total amount of taxes that may be allocated to the district pursuant to the plan.

d) A date on which the district will cease to exist, by which time all tax allocation to the district will end, which shall not be more than 45 years from the date the EIFD issues bonds or the city, county, or special district loans funds to the EIFD.

Once approved by the initiating city or county, an EIFD can use a portion of the property tax increment, if the local governments approve it. They may also use revenue such as money from assessments, fees, loans, and grants. An EIFD may issue bonds backed by these revenues to pay for projects.

5) **Los Angeles Metro K Line Northern Expansion.** The Los Angeles County Metropolitan Transportation Authority (LA Metro) is planning to extend its K Line north, which would connect four major rail lines and six of the highest ridership bus lines in Los Angeles County. Under LA Metro's expenditure plan, the project will begin construction in 2041, and open at some point between 2047 and 2049.

   LA Metro, Los Angeles County, and other agencies are considering funding the expansion, in part with a TIFIA loan from USDOT. The TIFIA loan program allows the federal government to provide long-term, low-interest loans to public entities for large transportation infrastructure projects. To secure a TIFIA loan, the public entity applying for the loan must have a dedicated repayment source. Generally, TIFIA loan repayment terms could not exceed 35 years after the date the project is substantially completed. In 2021, President Biden signed the Infrastructure Investment and Jobs Act (IIJA) to support public infrastructure projects. Among its many provisions, IIJA extended TIFIA loan terms for projects with an estimated useful life over 40 years to the lesser of (1) 75 years after the date the project is substantially completed, or (2) 75% of the estimated useful life of the project.

According to the City of West Hollywood, to accelerate funding for the project, and repay the TIFIA loan, local partners, like Los Angeles County and the City of West Hollywood have evaluated a range of local revenue options. To accelerate project construction, they would have to contribute at least 25% of total project costs, which the County estimates is around $3.7 billion. If they were able to contribute these funds, they expect the project could be expedited by 10-15 years. Bonds are not anticipated to be needed.

Since EIFDs cannot exist beyond 45 years from the date they issue bonds or receive a loan from the city or county that created them, a local agency could not currently use an EIFD to repay a TIFIA loan over the entire 75-year repayment term.

6) **Bill Summary and Author's Statement.** Assembly Bill 761 allows EIFDs enacted primarily to develop and construct passenger rail projects in Los Angeles County, where the EIFD uses at least 75 percent of its revenue for TIFIA debt service, to last 75 years from the date the DOT approves the TIFIA loan. Starting 45 years after the loan approval, the EIFD can use incremental tax revenue only for TIFIA loan repayment, including debt service. The City of West Hollywood and Los Angeles County Supervisor Lindsey Horvath are the sponsors of this bill.

   According to the Author, "AB 761 makes it easier for local communities to invest in key transportation infrastructure projects. The bill allows an Enhanced Infrastructure Financing District (EIFD) established to fund transit projects to utilize a longer maximum term for financing by extending the term from 45 years to 75 years to align with the newly extended maximum term of a Transportation Infrastructure Finance and Innovation (TIFIA) loan established by the federal Infrastructure Investment and Jobs Act of 2021."

7) **Policy Consideration.** As noted in the Senate Local Government Committee Analysis, "AB 761 gives EIFDs formed to pay off TIFIA loans an additional 30 years to operate compared to other EIFDs. While the measure is clear that the 75-year clock starts when the TIFIA loan is entered into, it is far less clear on the details of the financial arrangement. The local agencies that form the EIFD will have to consider the following key implementation details:

   a) AB 761 does not specify whether the EIFD, LA Metro, or other local agency partner has to be the one that enters into the TIFIA loan, or whether it can repay another agency that enters into a TIFIA loan.

   b) The measure does not specify when the EIFD should form. Should LA Metro enter into the TIFIA before the EIFD can form? Or, should the EIFD form before the TIFIA loan is entered into so it starts to generate property tax increment before loan repayment begins?

   c) Does the EIFD have to generate a certain amount of property tax revenue before the TIFIA loan can be entered into?

   "These details are important because (1) they could affect how successful LA Metro is in securing a TIFIA loan, and (2) the EIFD could start diverting property tax revenue away from the taxing entities that created it without assurance that the EIFD will be able to fulfill its primary purpose to repay a TIFIA loan. The County has not discussed this approach directly with DOT, but it does not expect it to treat this repayment strategy differently from other loan repayment sources. Supporters of bill believe using this EIFD strategy could

expedite a multi-billion dollar project by over a decade. Does the Legislature have enough assurance that AB 761 sets up these districts to successfully fulfill their primary purpose to repay TIFIA loan debt?"

8) **Related Legislation.** AB 1819 (Waldron) provides that specified EIFDs are allowed to finance certain fire related projects and equipment. This bill is currently pending on the Senate Floor.

   SB 1140 (Caballero) would make numerous changes to EIFD law and specifies that an eligible project for climate resilience districts (CRDs) includes a project that intends to improve air quality. This bill is currently pending on the Governor's Desk.

9) **Arguments in Support.** According to the City of West Hollywood, "The City of West Hollywood has been pursuing an Enhanced Infrastructure Financing District (EIFD) as a central element of planning for the Metro K Line Northern Extension light rail project (formerly the Crenshaw/LAX Line). For several years, the City of West Hollywood has been advancing this key project in collaboration with Metro, the City of Los Angeles, and Los Angeles County. After years of analysis, Metro is now nearing completion of their Environmental Impact Report (EIR) making certainty on the terms of the innovative funding strategy that would be enabled by the timely passage of AB 761 *the* critical path towards implementing this transformative project.

   "To leverage long-term property tax increment revenue through an EIFD, which is slow to ramp up for upfront investment, we are exploring a federal 'Transportation Infrastructure Finance and Innovation Act' (TIFIA) loan. Fortunately, the new federal 'Infrastructure Investment and Jobs Act' (IIJA) made the terms of TIFIA loans more generous by allowing longer maximum terms (up to 75 years). To take advantage of this new provision, AB 761 would align the maximum term of EIFDs to the same 75 years rather than the current limit of 45 years. Doing so would reduce annual payments for local agencies, increase the financing capacity of EIFDs, and make EIFDs more viable as a funding tool for jurisdictions pursuing critical transit capital investments.

   "If approved, AB 761 would benefit not only the K Line Northern Extension, but also other LA Metro rail projects by providing local governments with a new fiscal tool to support planned rail infrastructure projects in their communities. LA Metro is in the middle of one of the largest transit expansions in the nation. Though most projects are fueled by Los Angeles County's Measure R or M sales taxes and State or Federal grants, rising project costs are increasingly limiting the pace of that expansion, meaning more support from local cities and counties will be needed to keep projects and climate goals on schedule.

   "This commonsense proposal will have a big impact on the ability of local governments to make meaningful contributions toward the critical infrastructure investments that are needed to address major mobility, climate, and congestion challenges. Finally, AB 761 implements a recommendation of the California Forward *'Building a More Inclusive and Sustainable California: Maximizing the Federal Infrastructure Funding Opportunity'* report released by Governor Newsom to align state EIFD regulations with provisions of the federal TIFIA loan program."

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

REGISTERED SUPPORT / OPPOSITION:

Support

City of West Hollywood [SPONSOR]
Los Angeles County Supervisor, Lindsey Horvath [SPONSOR]
Beverly Hills Chamber of Commerce
BikeLA
California Conference of Carpenters
California Contract Cities Association
Greater Los Angeles Realtors
Hollywood Chamber of Commerce
LAX Coastal Chamber of Commerce
Los Angeles County
Los Angeles County Division, League of California Cities
Los Angeles County Metropolitan Transportation Authority
Move LA
Southern California Association of Governments
Streets for All
Valley Industry and Commerce Association
West Hollywood Bicycle Coalition
Western States Regional Council of Carpenters
Westside Cities Council of Governments

Opposition

None on file

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