

Date of Hearing: September 13, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
AB 116 (Ting) – As Amended September 6, 2019

**SUBJECT:** Local government.

**SUMMARY:** Modifies the requirement that Enhanced Infrastructure Financing Districts (EIFDs) receive voter approval prior to issuing bonds. Specifically, **this bill:**

- 1) Deletes the existing election and 55% voter approval requirements for EIFDs to issue bonds.
- 2) Specifies that the public financing authority (PFA) shall consider adoption of the enhanced infrastructure financing plan at three public hearings that shall take place at least 30 days apart.
- 3) Requires specific actions to be taken by the PFA during each hearing.
- 4) Requires each hearing to be publicly noticed and specifies the information that shall be included in each hearing notice.
- 5) Provides that the PFA shall terminate the proceedings if there is a majority protest; requires an election to be called if between 25% and 50% of the combined number of landowners and residents file a protest; and, specifies that if less than 25% of the combined number of landowners and residents, the PFA may adopt the plan at the conclusion of the third public hearing by ordinance.
- 6) Prohibits the PFA from proposing a new or revised plan to the affected landowners and residents for at least one year following the date of an election in which the plan was rejected.
- 7) Requires the PFA to review the plan at least annually.
- 8) Specifies that the PFA shall adopt an annual report on or before June 30 of each year after holding a public hearing, and provides that the annual report shall contain specific information.
- 9) Requires specified information to be included in the resolution adopted by the PFA to issue bonds.
- 10) Makes numerous conforming and technical changes.

**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). 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) **Previous 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 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, with two big differences: CRIAs may only be formed in economically depressed areas, but do not require voter approval. Two years ago, the Legislature 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]. Last year, 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. While these entities share fundamental similarities with RDAs in terms of using various forms of tax-increment financing, they differ in one significant aspect, which is not having access to the school's share of property tax revenue.
- 3) **Bill Summary and Author's Statement.** This bill authorizes EIFDs to issue debt without voter approval, and specifies that an EIFD must hold three public hearings prior to issuing debt. This bill requires the EIFD to hold an election for voter approval of the proposed debt issuance if between 25% and 50% of eligible landowners and residents in the EIFD protest the issuance during the hearings. This bill provides that the EIFD must cancel the issuance of debt if there is a majority protest. Lastly, this bill make numerous technical and conforming changes related to the conduct and process of EIFD bond issuance.

According to the author, "This bill reflects an Administration proposal that was first included in the Governor's 2019 budget proposal, but has been moved into a policy bill. After RDAs were dissolved in 2011, local officials sought other ways to use tax increment financing to raise the capital they need to fund public works projects. In response, the Legislature enacted SB 628 (Beall) in 2014 to allow local officials to create EIFDs, which augment the tax

increment financing powers available to local governments under existing infrastructure financing district statutes. This bill gives EIFDs the authority and financing tools that RDAs once held and authorizes EIFDs to issue debt.”

- 4) **Related Legislation.** SB 128 (Beall) would have also authorized EIFDs to issue bonds without voter approval. SB 128 was gutted and amended in the Assembly and now deals with public contracting.
- 5) **Arguments in Support.** Unknown.
- 6) **Arguments in Opposition.** The Howard Jarvis Taxpayers Association argues, “AB 116 disregards over 100 years of precedent on the issue of local voter approved debt. Dating back to 1879, practically all bonds have required a supermajority threshold, 55% or higher, to be approved. A supermajority vote threshold for the approval of long-term debt is in the public interest. This is debt that will remain on the books long after the EIFD Board or other local government officials have termed out. This is especially true as it pertains to EIFD bonds because the debt repayment can be as long as 45 years.”

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Unknown

##### **Opposition**

Howard Jarvis Taxpayers Association

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