

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 464 (Mullin) – As Amended March 25, 2021

SUBJECT: Enhanced Infrastructure Financing Districts: allowable facilities and projects.

SUMMARY: This bill expands the types of facilities and projects Enhanced Infrastructure Financing Districts (EIFDs) may fund. **Specifically, this bill:**

- 1) Authorizes EIFDs to fund the acquisition, construction, or repair of commercial structures by the small business occupant, if such acquisition, construction, or repair is for purposes of fostering economic recovery from the COVID-19 pandemic and of ensuring the long-term economic sustainability of small businesses.
- 2) Defines “small business” as an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and together with affiliates, has 100 or fewer employees, and average annual gross receipts of \$15 million or less over the previous three years, or is a manufacturer with 100 or fewer employees, as specified.
- 3) Specifies that an “independently owned and operated business” shall include a formula retail business that is an independently owned franchise.
- 4) Authorizes EIFDs to fund facilities in which nonprofit community organizations provide health, youth, homeless, and social services.

EXISTING LAW:

- 1) Authorizes the legislative body of a city or a county to establish an EIFD.
- 2) Permits EIFDs to finance projects of communitywide significance that provide benefits with an estimated 15 years or longer to the district or the surrounding community.
- 3) Permits EIFDs to finance only public capital facilities or other specific projects, including, but not limited to, all of the following:
 - 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, recreation facilities, and open space;
 - h) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles;
 - i) Brownfield restoration and other environmental mitigation;
 - j) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable;
 - k) The repayment of the transfer of funds to a military base reuse authority pursuant to the Military Base Reuse Authority Act, as specified, that occurred on or after the creation of the district;
 - l) Housing for persons of very low, low, and moderate income;
 - m) Industrial structures for private use; and,
 - n) Transit priority projects that are located within a transit priority project area.
- 4) Specifies that an EIFD shall require that housing units shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.
- 5) Specifies that an EIFD may utilize any powers under the Polanco Redevelopment Act or Chapter 6.10 of Division 20 of the Health and Safety Code.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Redevelopment.** Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of redevelopment agencies (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. 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 issue bonds in favor of a formal protest process. 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.** This bill expands the types of facilities and projects EIFDs may fund to include the acquisition, construction, or repair of commercial structures of small businesses, or facilities in which nonprofit community organizations provide health, youth, homeless, and social services, as specified. This bill is sponsored by the author.
- 4) **Author Statement.** According to the author, "Locally-established EIFDs were authorized by State legislation in 2014 [SB 628 (Jim Beall) 2014] to make up for the loss of former Redevelopment Agency 'tax increment' bond financing for civic infrastructure projects and affordable housing development. Tax-exempt 30-year EIFD bonds can be sold up-front and then paid off gradually from future increases in annual local property tax revenues. EIFD districts can be authorized by city legislation, and then bond issues can be issued. It is generally recognized that economic and community recovery from the devastating impacts of the Covid pandemic on local employment, small businesses, and disadvantaged communities depends on public investment as soon as possible in order to restart local economies. Prospects for substantial Federal aid remain uncertain, and the hard-pressed State has little budget capacity to provide large, significant, investments.

"Local communities have few alternatives to raise significant funding on their own. They cannot borrow large amounts via long-term loans. Revenue bonds and assessment districts can be utilized only in very limited circumstances. Enhanced Infrastructure Finance Districts can solve this civic investment crisis quickly, when it is most needed. Tax-exempt bond interest rates are rock bottom today – well under 4% – and will stay that way until the

American economy recovers fully. This is exactly the right time to leverage civic financial capabilities to the maximum.

“To date EIFD’s have only been used for small individual projects in only a few cities. Widening the scope and authority of EIFDs would allow for more access to capital to address large and pressing needs at the local level. Under AB 464, funding for counties, school districts, transit districts, etc. would not be affected, but access to funding for needed new infrastructure projects could now be made available. The current crisis-level needs for affordable housing, homeless and community facilities, and small business capital could finally be addressed at sufficient scale to have a real impact.”

- 5) **Arguments in Support.** Build Affordable Faster California (BAFCA) argues, “While dozens more are also in early consideration across the state, EIFDs as a viable financing mechanism is not being activated sufficiently across the state. To open the door for wider use of EIFDs and to address the impacts of the pandemic, Assembly Member Mullin introduced AB 464 to allow California cities to assist small businesses – the sector of the State’s economy that has been most devastated by the Covid-19 Pandemic – to buy and/or renovate their own business locations as part of their communities economic recovery. This bill will also allow cities to support the acquisition and improvement of new facilities for community nonprofit agencies that provide homeless, youth, health, and social services to the residents of their neighborhoods and cities.”
- 6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Democratic Party
 Better Way California
 Build Affordable Faster California (BAFCA)
 Non-Profit Housing Association of Northern California
 San Francisco Bay Area Planning and Urban Research Association (SPUR)
 Wellstone Democratic Renewal Club

Opposition

None on file

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