

Date of Hearing: June 13, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 1145 (Leyva) – As Amended April 16, 2018

SENATE VOTE: 37-0

SUBJECT: Enhanced infrastructure financing districts: maintenance.

SUMMARY: Authorizes enhanced infrastructure financing districts (EIFDs) to fund maintenance of public capital facilities, excluding revenue from bond proceeds.

EXISTING LAW:

- 1) Allows a legislative body of a city or county to designate one or more proposed EIFDs pursuant to EIFD law, and requires the establishment of a district to be instituted by the adoption of a resolution of intention to establish the proposed district, and include the following:
 - a) State that an EIFD is proposed and describe the boundaries of the proposed district, as specified;
 - b) State the type of public facilities and development proposed to be financed or assisted by the EIFD in accordance with existing EIFD law;
 - c) State the need for the EIFD and the goals the district proposes to achieve;
 - d) State the incremental property tax revenue from the city or county and some or all affected taxing entities within the EIFD, if approved by resolution of the affected agencies, may be used to finance these activities; and,
 - e) Fix a time and place for a public hearing on the proposal.
- 2) Requires, after the resolution of intention to establish a district, the designated official to prepare a proposed infrastructure financing plan, which shall be consistent with the general plan of the city or county within which the district is located. Requires the plan to include a financing section, containing the following information:
 - a) A specification of the maximum portion of the incremental tax revenue of the city or county and of each affected taxing entity proposed to be committed to the district for each year during which the district will receive incremental tax revenue, as specified;
 - b) A projection of the amount of tax revenues expected to be received by the district for each year during which the district will receive incremental tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year;
 - c) A plan for financing the public facilities to be assisted by the district, including a detailed description of any intention to incur debt;

- d) A limit on the total number of tax dollars that may be allocated in the district pursuant to the plan; and,
 - e) A date on which the district will cease to exist, by which time all tax allocation to the district will end. Requires the date to not be more than 45 years from the date on which the issuance of bonds is approved or the issuance of a loan is approved by the governing board of a local agency.
- 3) Requires the infrastructure financing plan to be sent to each owner of land within the proposed district and to each affected taxing entity together with any report required by the California Environmental Quality Act (CEQA).
- 4) Allows the legislative body of the city or county forming the district to choose to dedicate any portion of its net available revenue to the district through the financing plan.
- 5) Prohibits EIFDs from funding maintenance and operations.
- 6) Provides, in EIFD law, that provisions shall not be construed to prevent a district from utilizing revenues from the following sources to support its activities that the applicable voter approval has been obtained, and the infrastructure financing plan has been approved, as specified:
- a) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code);
 - b) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code);
 - c) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code);
 - d) The Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code);
 - e) The Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18 of the Streets and Highways Code);
 - f) The Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18 of the Streets and Highways Code);
 - g) The Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of this code);
 - h) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of this title);
 - i) The Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of Part 1 of Division 2 of this title); and,

- j) The so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.

FISCAL EFFECT: None

COMMENTS:

- 1) **RDAs.** Until 2011, the Community Redevelopment Law allowed local officials to set up redevelopment agencies (RDAs), prepare and adopt redevelopment plans, and finance redevelopment activities. Citing a significant State General Fund deficit, Governor Brown's 2011-12 budget proposed eliminating RDAs and returning billions of dollars of property tax revenues to schools, cities, and counties to fund core services. Among the statutory changes that the Legislature adopted to implement the 2011-12 budget, AB X1 26 (Blumenfield) Chapter 5, Statutes of 2011, dissolved all RDAs. The California Supreme Court's 2011 ruling in *California Redevelopment Association v. Matosantos* upheld AB X1 26, but invalidated AB X1 27 (Blumenfield) Chapter 6, Statutes of 2011, which would have allowed most RDAs to avoid dissolution.

RDAs used property tax revenues generated by growth in the assessed value of properties in a project area – commonly known as tax increment revenues – to finance their redevelopment activities. The fundamental premise behind property tax increment under Redevelopment Law was that investment in a blighted area would increase property values, and thus the “increment” of that increase would go to the RDA while other jurisdictions continue to get the same property tax amount (or “base”), over the life of the RDA. RDAs issued long-term bonds backed by this increment to obtain upfront capital to construct infrastructure and invest the property tax dollars at a much quicker rate. However, RDAs' dissolution deprived many local governments of the primary tool they used to eliminate physical and economic blight, finance new construction, improve public infrastructure, rehabilitate existing buildings, and increase the supply of affordable housing.

- 2) **Background on EIFDs.** After the dissolution of redevelopment agencies in 2011, the Legislature worked on the creation of several new tools to help cities and counties finance infrastructure improvements, including the creation of EIFDs. SB 628 (Beall), Chapter 785, Statutes of 2014, authorizes the legislative body of a city or county to establish an EIFD to capture property tax increment, adopt an infrastructure financing plan, and issue bonds upon approval by 55% of the voters, in order to finance public capital facilities or other specified projects of communitywide significance, including, but not limited to, brownfield restoration and other environmental mitigation, the development of projects on a former military base, transit priority projects, and projects to implement a sustainable communities strategy.

SB 628 also allowed other affected taxing entities to participate in the EIFD by contributing their property tax increment revenues to the EIFD, and provided the method for this division and allocation of taxes. Provisions in SB 628 specify that the allocation of tax increment revenues to an EIFD must not be construed to prevent an EIFD from using revenues authorized by other specified statutes, subject to applicable voter approval requirements.

- 3) **Bill Summary.** Currently, EIFDs are limited to financing the planning, design, purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of real or tangible

property with an estimated useful life of 15 years or longer. However, financing the routine maintenance or ongoing operation of the property is expressly prohibited. This bill authorizes EIFDs to utilize funding, excluding bond funding, to perform ongoing maintenance of capital facilities. The California Association for Local Economic Development is the sponsor of this bill.

- 4) **Author’s Statement.** According to the author, “A number of different types of infrastructure districts have recently been approved by the California Legislature, the most prominent of which was the ‘Enhanced Infrastructure Financing District’ (EIFD) authorized by Senate Bill 628 signed into law in 2014. EIFDs are an important economic development finance tool for local jurisdictions (i.e. cities, counties) to move economic development projects forward that would otherwise remain inactive or cost prohibitive, given the dissolution of redevelopment. Long-term maintenance costs are oftentimes overlooked in infrastructure development. While costs currently eligible for EIFD financing include construction, acquisition and rehabilitation, as well as planning and design expenses, they exclude maintenance costs. This situation is problematic since many communities will need funds from these districts to maintain the structures they have built in whole or in part using this economic development tool. SB 1145 makes a minor adjustment to state law to allow EIFD’s to finance ongoing or capitalized maintenance costs for public facilities financed in whole or in part by the EIFD.”
- 5) **How will Maintenance be Funded?** Similar to RDAs, EIFDs can receive property tax increment from the participating agencies and use it to issue long-term debt to create upfront capital. However, long-term bonds are typically not issued for operations or maintenance of public facilities. 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. Amendments to this bill were previously taken to prohibit the use of bond proceeds to fund maintenance of any kind.
- 6) **Prior Legislation.** Last year, AB 1568 (Bloom), Chapter 562, Statutes of 2017, expanded the authority of EIFDs to collect and use the Bradley-Burns local sales tax to fund infrastructure development. That same year, AB 1598 (Mullin), Chapter 764, Statutes of 2017, allowed cities and counties to establish new affordable housing authorities that are similar to EIFDs to collect and utilize sales and use taxes, as well as transaction and use taxes to fund affordable housing projects.
- 7) **Arguments in Support.** The League of California Cities argues that, “Long-term maintenance costs are often overlooked, which is problematic in that many communities will need funds from these districts to maintain the structures they have already built. Furthermore, allowing EIFDs to perform routine maintenance and repairs during the life of the district and associated revenues provides security to local general funds and allows budgets to reflect the true cost of building and maintaining infrastructure.”
- 8) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association for Local Economic Development [SPONSOR]

American Planning Association

California Business Properties Association

League of California Cities

Opposition

None on file

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