

Date of Hearing: June 9, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 780 (Cortese) – As Amended May 3, 2021

**SENATE VOTE:** 34-0

**SUBJECT:** Local finance: public investment authorities.

**SUMMARY:** Makes numerous changes to enhanced infrastructure financing districts (EIFDs) and community revitalization infrastructure authorities (CRIAs). Specifically, **this bill:**

**Changes to EIFD Law:**

- 1) Authorizes a legislative body to appoint one of its members of an EIFD’s public financing authority to be an alternate member of the legislative body who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the authority.
- 2) Specifies that if an EIFD has two or more participating taxing entities, a legislative body of a participating entity may appoint one of its members to be an alternate member of the legislative body who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the authority.
- 3) Provides that if an EIFD has more than three participating affected entities, the legislative bodies of the taxing entities may, upon agreement by all participating affected taxing entities, appoint only one member and one alternate member of their respective legislative bodies to the public financing authority, and a minimum of two members of the public chosen by the legislative bodies of the participating entities. The appointment of the public member shall be appointed as specified.
- 4) Authorizes a boundary map to identify, within and EIFD, certain areas which shall be referred to as “project areas”.
- 5) Requires the EIFD plan to contain either of the following:
  - a) A date on which the EIFD will cease to exist, not more than 45 years from the date on which the issuance of bonds is approved or the issuance of a loan is approved by a governing board of a local agency.
  - b) If the district is subdivided into project areas, a date on which the plan will cease to be in effect and all tax allocations to the district will end and a date on which the authority to repay indebtedness with incremental tax revenues will end, not to exceed 45 years, as specified.
- 6) Provides for an alternative schedule to mailing the EIFD plan and any California Environmental Quality Act (CEQA) documents, as specified.

- 7) Requires the draft-enhanced infrastructure financing plan to be made available to the public on a designated internet website, as specified.
- 8) Specifies that amendments to an approved infrastructure financing plan, including proposals to finance affordable housing projects and additional eligible projects, as specified, may be approved by a majority vote of the governing board at a public hearing held following the provision of a 30-day mailed notice describing the proposed changes to all property owners, residents, and affected taxing entities.
- 9) Requires amendments that propose any of the following to be adopted in accordance with all existing notices and hearing requirements for the affected landowners and residents within the proposed additional territory applicable to an initial proposed enhanced infrastructure financing plan:
  - a) Addition of new territory to a district.
  - b) Increase of the limit of the total number of dollars in local taxes allocated to the plan.
  - c) Approval of a public facility or development that was not proposed to be financed or assisted by the EIFD in the approved plan.
- 10) Provides that, if after the date of EIFD formation, an affected taxing entity adopts a resolution approving the plan and to participate in the division of taxes used to finance an EIFD, the division of taxes shall be based on the last equalized assessment roll that is used for the EIFD.
- 11) Makes other technical, clarifying, and conforming changes to EIFD law.

**Changes to CRIA Law:**

- 1) Authorizes a legislative body to appoint one of its members to a CRIA's governing body to be an alternate member of the legislative body who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the authority.
- 2) Specifies that if a CRIA has two or more participating taxing entities, as specified, a legislative body may appoint one of its members to be an alternate member of the legislative body who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the authority.
- 3) Provides that if a CRIA has more than three participating affected entities, the legislative bodies of the taxing entities may, upon agreement by all participating affected taxing entities, appoint only one member and one alternate member of their respective legislative bodies to the CRIA, and a minimum of two members of the public chosen by the legislative bodies of the participating entities. The appointment of the public member shall be appointed as specified.
- 4) Requires not less than 70%, instead of 80%, of the CRIA plan area to meet specified criteria.

- 5) Adds sites identified in a local government's housing element that are suitable for residential development, including parcels that allow transit priority projects, to the list of alternative locations where local agencies can establish CRIAs if they comply with either a sustainable communities strategy or an alternative planning strategy.
- 6) Authorizes a CRIA to provide direct assistance to businesses within the plan area for the redevelopment or conversion of underutilized office or retail structures or parcels into housing, except as specified.
- 7) Provides that a community revitalization and investment plan may include project areas.
- 8) Requires the plan to specify that the CRIA shall dissolve in no more than 45 years from the date upon which the issuance of the debt is approved for a plan, or approved for a project area designated by the CRIA, as specified.
- 9) Provides that, if a CRIA divides the plan into multiple project areas, the date on which the plan will cease to be in effect and all tax allocations to the CRIA will end and a date on which the repayment of indebtedness with incremental tax revenues will not exceed 45 years, as specified.
- 10) Requires the CRIA to prepare an annual independent financial audit paid for from revenues from the CRIA.
- 11) Specifies that amendments to an approved plan, including proposals to finance affordable housing, and additional eligible projects, may be approved by a majority vote of the authority's governing board at a public hearing held following the provision of a 30-day mailed notice describing the proposed changes to all property owners, residents, and taxing agencies.
- 12) Provides that amendments that propose any of the following shall be adopted in accordance with all notice and hearing requirements for the affected landowners and residents within the proposed additional territory applicable to an initial plan:
  - a) Addition of new territory or project areas to a plan.
  - b) Increase the limit of the total number of dollars in local taxes allocated.
  - c) Approve a public facility or development that was not proposed to be financed or assisted by the district in the approved plan.
- 13) Requires the CRIA, every 15 years, to consider whether property owners and residents within the plan area wish to prepare amendments to the plan, as specified.
- 14) Makes numerous technical, clarifying, and conforming changes to CRIA law.

**EXISTING LAW:**

- 1) Authorizes local governments to create EIFDs and to use tax increment financing to finance public capital facilities or other specified projects.

- 2) Requires an EIFD to have a membership consisting of one of the following:
  - a) If an EIFD has only one participating taxing entity, then the membership shall consist of three members of the legislative body of the participating entity and two members of the public chosen by the legislative body.
  - b) If an EIFD has two or more participating affected taxing entities, the membership shall consist of a majority of members from the legislative bodies of the participating entities, and a minimum of two members of the public chosen by the legislative bodies of the participating entities.
- 3) Requires a legislative body, when designating an EIFD, to adopt a resolution of intention to establish a proposed district. The resolution of intention shall include, among other things, a statement that an EIFD is proposed to be established and a description of the boundaries, which may be accomplished by reference to a map.
- 4) Authorizes the EIFD, among other things, to purchase, construct, or improve of real property or maintain of public facilities, as specified.
- 5) Requires a designated official to prepare a proposed EIFD plan, which shall contain, among other things, a financing section, as specified.
- 6) Requires the EIFD plan to be sent to each property owner within the proposed EIFD and to each taxing entity together with any reports required by CEQA, as specified.
- 7) Requires the authority to review the EIFD plan at least annually and authorizes the authority to make amendments as needed.
- 8) Authorizes a local government to establish a CRIA to use property tax increment revenues to finance a community revitalization plan within a community revitalization area.
- 9) Requires a governing board to be appointed by the local government that created the CRIA and include three members of the legislative body of the local government and two public members.
- 10) Authorizes a CRIA to carry out a plan within a community revitalization area. Not less than 80% of the land shall be characterized by both of the following conditions:
  - a) An annual median income that is less than 80% of the statewide, countywide, or citywide annual median income.
  - b) Three of the following conditions: specified high unemployment rates, specified high crime rates, deteriorated or inadequate infrastructure, or deteriorated commercial or residential structures.
- 11) Authorizes a CRIA to carry out a plan, as an alternative, within a community revitalization area if it meets either of the following: the area is established within a former military base

that is as specified, or the census tracts or census block groups are situated within a disadvantaged community.

- 12) Authorizes a CRIA to, among other things, provide funding to rehabilitate, repair, upgrade, or construct infrastructure, provide for low- and moderate-income housing, acquire and transfer real property, issue bonds, borrow money, receive grants or accept financial or other gifts, and provide direct assistance to businesses within the plan area in connection with new or existing facilities for industrial or manufacturing uses.
- 13) Requires that the repayments of the CRIAs debts and obligations shall not exceed 45 years. The plan shall specify that a CRIA shall dissolve as a legal entity in no more than 45 years.
- 14) Requires the CRIA to review the plan at least annually and make amendments necessary and appropriate, as specified.
- 15) Requires cities and counties to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policy objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.
- 16) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.
- 17) Defines a transit priority project as a project that shall contain at least 50% residential use, provide a minimum net density of at least 20 dwelling units per acre, and be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan.

**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). 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) **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 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. 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.

Similar to EIFDs, a CRIA considers the adoption of its plan over three public hearings. It requires the public financing authority terminate the EIFD infrastructure plan if there is a majority protest. A majority protest exists if protests have been filed representing over 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age. Finally, it requires an election if between 25 percent and 50 percent of the

combined number of landowners and residents in the area who are at least 18 years of age file a protest. Unlike EIFDs, CRIAs must repeat this protest process every ten years.

- 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 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.

The reports found that despite the multitude of tax increment financing tools available for local agencies to choose from, only five EIFDs had been created by the end of 2020: Otay Mesa (San Diego County), Placentia (Orange County), La Verne (Los Angeles County), West Sacramento (Yolo County), and Sacramento (Sacramento County). Of these five, only the Placentia and La Verne EIFDs will include County participation. Three additional tax increment financing districts are under consideration in the cities of Fresno, Ontario, and Redondo Beach. Within the EIFDs created, the total housing anticipated is around 38,000 units. The report notes that while the funds will not fund affordable housing, some will indirectly help to enable affordable housing, either by providing supportive infrastructure or through the use of an inclusionary housing requirement. To overcome these challenges and encourage the creation of more tax increment financing districts, OPR recommended the following:

- a) Make online resources and technical assistance available to practitioners to better understand their application.
  - b) Explore ways to encourage participation of multiple taxing entities and leverage state resources to increase tax increment financing district revenue potential.
  - c) Explore changes to tax increment financing districts to encourage their adoption in alignment with state affordable housing and location efficiency goals.
  - d) Make various technical changes to resolve potential confusion with tax increment financing statutes.
- 4) **Bill Summary.** This bill allows local agencies forming an EIFD or CRIA to appoint an alternate member of their legislative body, form “project areas” within a proposed CRIA or EIFD rather than create separate districts, and allows an EIFD or CRIA to adopt certain plan amendments through an alternate process. This bill requires the EIFD to make the EIFD plan

available to the public on its website, clarifies that when a taxing entity joins an EIFD, its tax increment calculation is based on the last equalized assessment roll, and provides for an alternative schedule to mailing the EIFD plan and any CEQA documents.

Additionally, this bill adds sites identified in a local government's housing element that are suitable for residential development, including parcels that allow transit priority projects, to the list of alternative locations where local agencies can establish CRIAs if they comply with either a sustainable communities strategy or an alternative planning strategy. Lastly, this bill requires a CRIA, every 15 years, to consider whether the property owners and residents within the plan area wish to propose amendments to the plan. This bill is sponsored by the California Association of Local Economic Development.

- 5) **Author's Statement.** According to the author, "After the elimination of redevelopment agencies, the state has tried to find effective solutions to spur economic development and build affordable housing in local communities. Enhanced Infrastructure Finance Districts (EIFD's) and Community Revitalization Investment Authorities (CRIA's) have shown promise, yet have proven to be overly cumbersome to establish and operate. SB 780 will successfully revitalize these tools, empowering local agencies to leverage their tax increment to spur the development of affordable housing and public infrastructure in their communities."
- 6) **Policy Considerations.** The Committee may wish to consider the following:
  - a) **Plan Amendments.** This bill would allow an EIFD or CRIA to make certain amendments to the respective infrastructure plan by a majority vote of the EIFD or CRIA board at a public hearing following a 30 day mailed notice of the proposed changes to all property owners, residents, and affected taxing entities. According to the sponsors, this would expedite approval by avoiding a 120 day hearing process and protest option that is required for initial formation. Although this bill specifically requires that more significant changes like adding territory or increasing tax allocation to the EIFD or CRIA must follow the 120 day hearing process, the Committee may wish to consider if this bill strikes the correct balance between public participation and flexibility for EIFDs and CRIAs.
  - b) **Are Additional Changes Needed?** RDAs were widely adopted for two reasons. First, they allowed cities and counties to take increment from the school share of the property tax, which the state backfilled from the General Fund in many cases. This generated billions of dollars in additional funds that cities and counties could only access through redevelopment. Second, they allowed cities and counties to avoid voter approval requirements on debt issuance. While both EIFDs and CRIAs do not require voter approval to issue bonds, this bill does not grant them any funds beyond what would be otherwise available, making them significantly less attractive. While certain changes like consolidating boards with more than three tax entities seem to align with OPR's recommendation to encourage participation of other taxing entities, they do not address other recommendations such as leveraging state funding, or finding a way for tax increment financing districts to be successful in areas that do not receive a significant share of property tax revenue. The Committee may wish to consider whether this bill's proposed changes would make a meaningful impact on EIFD and CRIA formation



without resolving these other issues.

- 7) **Arguments in Support.** The City of San Diego argues, “Following the dissolution of redevelopment agencies, the Legislature created several tax increment financing tools to support infrastructure, economic development and affordable housing in local communities. Enhanced Infrastructure Finance Districts (EIFDs) have emerged as the most flexible tool for local agencies considering infrastructure development. Community Revitalization Investment Authorities (CRIAs) have broader redevelopment powers and a focus on affordable housing but are currently viewed as too cumbersome to establish and operate.

“In 2017, the City of San Diego established an EIFD at the Otay Mesa community. The goal of the Otay Mesa EIFD is to fund and implement the priorities and projects outlined in the Otay Mesa Community Plan and the Otay Mesa Public Facilities Financing Plan. Using tax increment collected above the base 2017 year, the Otay Mesa EIFD will fund economic development, infrastructure development, and public facility improvements including housing development, economic development near the airport, public facility improvements (transportation, park, water & sewer) and industrial infrastructure development. The Otay Mesa EIFD is projected to bring in \$970 million over the course of its life.

“The reforms included in SB 780 are commonsense and will streamline the administrative functions of the City of San Diego EIFD at Otay Mesa. SB 780 will help ensure that limited tax increment dollars are allocated to important projects rather than for duplicative or unnecessary administrative purposes.”

- 8) **Arguments in Opposition.** None on file.
- 9) **Double Referral.** This bill is double-referred to Assembly Housing and Community Development Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Association for Local Economic Development [SPONSOR]  
 California Building Industry Association  
 California Business Properties Association  
 California Forward Action Fund  
 City of Concord  
 City of Lakewood  
 City of Lynwood  
 City of San Diego  
 City of West Sacramento  
 County of Monterey  
 Desert Valleys Builders Association  
 Inland Valley Development Agency  
 Keyser Marston Associates, Inc.  
 League of California Cities  
 Luis Alejo, District One, Monterey County Board of Supervisors  
 RSG, Inc.  
 San Francisco Bay Area Planning and Urban Research Association (SPUR)

Southern California Edison  
Southwest California Legislative Council

**Opposition**

None on file.

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