

Date of Hearing: June 15, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 852 (Dodd) – As Amended June 6, 2022

SENATE VOTE: 29-7

SUBJECT: Climate resilience districts: formation: funding mechanisms.

SUMMARY: Allows cities and counties to create climate resilience districts (CRDs) and provides these CRDs with various financing powers. Specifically, **this bill:**

- 1) Defines the following terms:
 - a) “District” to mean a CRD.
 - b) “Participating entity” as a city, county, or special district within a CRD that adopts a resolution directing the county auditor or auditor-controller to allocate its share of property tax increment within the area covered by the CRD to the CRD, as specified.
 - c) “Property tax increment” as that portion of the ad valorem taxes, as defined, excluding any ad valorem taxes or assessment levied pursuant to subdivision (b) of Section 1 of Article XIII A of the California Constitution, divided as specified.
- 2) Provides that, unless otherwise specified in this bill, a CRD shall be deemed an enhanced infrastructure financing district (EIFD) and shall be subject to statutory provisions for EIFDs.
- 3) Specifies that “eligible project” means a project, including a capital project, that is designed and implemented to address climate change mitigation, adaptation, or resilience, including, but not limited to, all of the following:
 - a) A project that addresses river, bay, or sea level rise, or rising groundwater, including wetlands or marsh restoration, vegetated dunes, living shorelines, erosion control, or levees.
 - b) A project that addresses extreme heat or the urban heat island effect, including increasing shade, deploying cool building and surface materials, using cool pavement; constructing, improving, or modifying new or existing facilities; or increasing access to cooling opportunities.
 - c) A project that addresses extreme cold, rain, or snow, including constructing, improving, or modifying new or existing facilities.
 - d) A project that address the risk of wildlife, including establishing fire breaks, prescribed burning, structure hardening, or vegetation control.
 - e) A project that addresses drought, including multiuse land repurposing, groundwater replenishment, groundwater storage, or conjunctive use.

- f) A project that addresses risk of flooding, including structure elevation or relocation, wetlands restoration, flood easements or bypasses, or levees.
- 4) Provides that, at a minimum, a CRD shall give priority to a project that does any of the following:
 - a) Utilizes natural infrastructure, as defined, to address climate change adaptation or resilience based upon the best available science.
 - b) Addresses the needs of under-resourced communities, as defined, or vulnerable communities, as specified.
 - 5) Authorizes a CRD to adopt additional priorities for projects.
 - 6) Requires a CRD to seek the input of under-resourced or vulnerable communities in the planning, development, and implementation of projects.
 - 7) Provides that a city, county, city and county, or combination of any of those entities may form a CRD.
 - 8) Requires the boundaries of a CRD to be one of the following:
 - a) Coterminous with the city, county, or city and county forming the CRD.
 - b) Within a city, county, or city and county forming the CRD.
 - c) Across two or more cities, counties, or cities and counties that are forming the CRD.
 - d) A special district may join a CRD initiated by a city, county, city and county, or a combination of cities and counties.
 - 9) Specifies that a CRD shall be formed for the purpose of raising and allocating funding for eligible projects and the operating expenses of eligible projects. Operating expenses may include the following:
 - a) The expenses of operating the CRD.
 - b) The planning of eligible projects.
 - c) The operational expenses of any eligible project.
 - 10) Specifies that a district shall only finance projects enumerated in EIFD law if the project meets the definition of an eligible project.
 - 11) Provides that a district shall use the bond proceeds issued by a CRD to finance only eligible activities that meet specified requirements.
 - 12) Deems a CRD an “agency” described in Subdivision (b) of Section 16 of Article XVI of the California Constitution only for the purposes of receiving property tax increment revenues.

- 13) Specifies that the proceedings for the establishment of a CRD shall be instituted by the adoption of a resolution of intention to establish the proposed CRD and shall do all of the following:
 - a) State that a CRD is proposed to be established and describe the boundaries of the proposed district, which may be accomplished by reference to a map on file in the office of the clerk of the city or in the office of the recorder of the county, as applicable.
 - b) State the type of eligible projects proposed to be financed or assisted by the CRD
 - c) State the need for the CRD and the goals the CRD proposes to achieve.
 - d) The city, county, or city and county, shall not enact a resolution providing for the division of taxes of any participating entity unless it follows the procedures for the preparation and adoption of an infrastructure financing plan, as specified. A CRD that completes these procedures shall follow the procedures in EIFD law for the division of taxes and issuance of tax increment bonds, as specified.
- 14) Provides that a CRD shall be governed by a board that has the same membership as a public financing authority described in EIFD law. The board shall have the same powers and requirements as a public financing authority, unless otherwise provided.
- 15) Requires the legislative body to ensure the CRD board is established at the same time that it adopts a resolution of intention.
- 16) Specifies that a minimum of 95% of the allocated tax increment revenues shall be used to fund eligible projects.
- 17) Provides that not more than 5% of allocated revenues may be used for administration.
- 18) Specifies that, in addition to the powers granted to an EIFD, a CRD has the power to do all of the following within the territorial jurisdiction of a city, county, or city and county that is a participating entity and is represented on the governing board of the CRD:
 - a) Levy a benefit assessment, special tax, or property-related fee or other service charge or fee consistent with the requirements of the California Constitution. A CRD may levy a benefit assessment pursuant to any of the following:
 - i) The Improvement Act of 1911.
 - ii) The Improvement Act of 1915.
 - iii) The Municipal Improvement Act of 1913.
 - iv) The Landscaping and Lighting Act of 1972.
 - v) Any other statutory authorization.
 - b) Apply for and receive grants from federal and state agencies.
 - c) Solicit and accept gifts, fee, grants, and allocations from public and private entities.

- d) Issue revenue bonds, subject to the Revenue Bond Law of 1941 and any applicable constitutional requirements.
 - e) Incur general obligation bonded indebtedness for the acquisition or improvement of real property or for funding or refunding of any outstanding indebtedness, subject to any applicable constitutional requirements.
 - f) Receive and manage a dedicated revenue source.
 - g) Deposit or invest moneys of the CRD in banks or financial institutions in the state in accordance with state law.
 - h) Sue and be sued, except as otherwise provided by law, in all action and proceedings, in all courts and tribunals of competent jurisdiction.
 - i) Engage counsel and other professional services.
 - j) Enter into and perform all necessary contracts.
 - k) Enter into joint powers agreements.
 - l) Hire staff, define their qualifications and duties, and provide a schedule of compensation for the performance of their duties.
 - m) Use interim or temporary staff provided by local agencies that are members of the CRD. A person who performs duties as interim or temporary staff shall not be considered an employee of the district.
- 19) Provides that, if a district proposes a measure that will generate revenues for the CRD that requires voter approval, the board of supervisors of the county or counties in which the CRD has determined to place the measure on the ballot shall call a special election on the measure.
- 20) Specifies that the special election shall be consolidated with the next regularly scheduled statewide election and the measure shall be submitted to the voters consistent with the California Constitution.
- 21) Specifies additional election requirements for measures that require voter approval and subjects CRDs to specified provisions of the Elections Code.
- 22) Provides that each CRD shall prepare an annual expenditure plan that identifies and describes operations and eligible projects undertaken by the CRD. The expenditure plan shall be, after public review and hearing, adopted by the governing body of the district and subject to review and revision at least annually.
- 23) Specifies that each district shall prepare and adopt an annual operating budget and capital improvement budget. The annual operating budget and capital improvement budget shall be, after public review and hearing, adopted by the governing body of the CRD and subject to review and revision at least annually.
- 24) Requires a CRD to provide for regular audits of its accounts and records, maintain accounting records, and report accounting transactions in accordance with generally accepted

accounting principles adopted by the Governmental Accounting Standards Board of the Financial Accounting Foundation for both public reporting purposes and for reporting of activities to the Controller.

- 25) Specifies that a CRD shall provide for annual financial reports and make copies of the annual reports available to the public.
- 26) Provides that, commencing in the calendar year in which a CRD has allocated a cumulative total of more than \$1 million in property tax increment revenues or other revenues as specified, and each year thereafter, the CRD shall contract for an independent audit conducted in accordance with generally accepted governmental auditing standards.
- 27) Requires that all meetings of a CRD be subject to the Ralph M. Brown Act (open meetings law).
- 28) Specifies that all records prepared, owned, used, or retained by the CRD are public records for purposes of the California Public Records Act.
- 29) Provides that the following requirements shall apply to a project that is undertaken or financed by a CRD:
 - a) Construction, alteration, demolition, installation, and repair work on the project shall be deemed a public work for which prevailing wages must be paid.
 - b) The CRD shall obtain an enforceable commitment from the developer or general contractor that the developer or general contractor and all its contractors and subcontractors at every tier will individually use a skilled and trained workforce to perform all work on the project that falls within an apprenticeship occupation in the building and construction trades.
 - c) Provides that b) above, shall not apply if all contractors and subcontractors at every tier performing the work will be bound by a project labor agreement that requires the use of a skilled and trained workforce and provides for enforcement of that obligation through an arbitration procedure.
- 30) Specifies that the Sonoma County Regional Climate Protection Authority (RCPA) is a CRD.
- 31) Provides that this bill does not grant RCPA the power to use any tax increment revenues until it complies with the requirements for CRDs to use tax increment financing.
- 32) Finds and declares that the allocation of revenues derived from a sales and use tax or a transactions and use tax to a climate resilience district is not subject to Section 29 of Article XIII of the California Constitution because a district is not a city, county, or city and county within the meaning of that provision, but is rather a separate political entity as added by this act.
- 33) Specifies that no reimbursement is required by this bill for certain costs incurred by a local agency or school district because this bill creates a new crime or infraction, eliminates a new crime or infraction, changes the penalty for a crime or infraction, or changes the definition of a crime.

- 34) Provides that if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made.

EXISTING LAW:

- 1) Creates EIFDs and allows them to 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. This includes projects that enable communities to adapt to the impacts of climate change.
- 2) Allows, in addition to construction costs, EIFDs to finance planning and design work, displacement of affordable housing residents, defending the district against protests over their formation, and the ongoing or capitalized costs to maintain the projects the district finances.
- 3) Prohibits EIFDs from using bond proceeds to finance maintenance of any kind, and provides that EIFDs must not finance costs for ongoing operations or providing services.
- 4) Provides that an EIFD is governed by a public financing authority (PFA), generally with three members of each participating taxing entity's legislative body and a minimum of two public members. Member agencies can also appoint an alternate member from their legislative body.
- 5) Specifies that, 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.
- 6) Provides that the city or county must create the PFA at the same time it adopts the resolution of intention. The PFA then provides public notice, as specified, and directs an official to prepare an infrastructure financing plan that includes specified information.
- 7) Requires the PFA to make the draft-enhanced infrastructure financing plan available to the public and to each landowner within the area at least 30 days before noticing the first public hearing.
- 8) Specifies that the PFA must hold three public hearings to hear and comment on all public comments to consider the EIFD infrastructure plan. The PFA must terminate the EIFD infrastructure plan if there is a majority protest. A majority protest exists if protests have been filed representing over 50% of the combined number of landowners and residents in the area who are at least 18 years of age.
- 9) Provides that an election is required if between 25% and 50% of the combined number of landowners and residents in the area who are at least 18 years of age file a protest during the process outlined in 8) above.
- 10) Specifies procedures for the division of property tax increment from affected taxing entities.

- 11) Permits an EIFD to issue bonds backed by property tax increment revenues to pay for projects.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8. negligible state costs.

COMMENTS:

- 1) **Bill Summary.** This bill authorizes a city, county, city and county, or a combination of these to form a CRD for the purpose of raising and allocating funding for eligible projects to address climate change mitigation, adaptation, or resilience and the operating expenses of these projects. This bill requires the agency forming the CRD to adopt a resolution describing the intent, boundaries, projects, and goals for the district, as well as whether it intends to use property tax increment to finance projects.

This bill also prohibits the agency forming the CRD from enacting a resolution providing for the division of taxes of any participating entity unless it follows the procedures for the preparation and adoption of an infrastructure financing plan in EIFD law. A district that completes these procedures must follow the procedures for the division of taxes and issuance of tax increment bonds described in EIFD law.

This bill provides that a district must be governed by a board that has the same membership as a public financing authority as described in EIFD law. The board must have the same powers and requirements as a public financing authority, unless otherwise specified. This bill provides that CRDs can only use bond proceeds to finance eligible projects that meet the requirements for capital projects EIFDs can finance.

This bill grants CRDs specific powers, establishes a process for revenue measure elections, and requires each CRD to adopt an annual expenditure plan and operating and capital improvement budget that, adopted after a public hearing, are subject to review and revision at least annually. Regular audits for its accounts and records and annual financial reports are required, and the projects CRDs finance must pay prevailing wages and employ a skilled-and-trained workforce, as specified.

Lastly, this bill deems the RCPA to be a CRD, except that it does not have the power to use tax increment financing until it complies with the requirements for CRDs to use tax increment financing.

Insurance Commissioner Ricardo Lara and CivicWell are the sponsors of this bill.

- 2) **Author's Statement.** According to the author, "The Legislature has taken a number of steps to respond to the climate crisis including AB 32 in 2006 and SB 32 in 2016. SB 852 fills a significant gap in the framework of addressing climate change by permitting local governments to establish climate financing districts which would have the authority to finance, plan, and implement projects and programs to tackle global warming. The bill will give communities and regions the means of establishing local entities which span jurisdictional boundaries and focus resources on the most urgent aspects of climate change as determined locally.

The bill will also allow local governments to channel local, state, federal, and private funds in a coordinated manner within a jurisdiction or across jurisdictional lines to have the greatest impact possible. SB 852 conveys EXISTING taxing authority upon a CRD, and sustains all the constitutional requirements for voter approval if the CRD wants to utilize any of the revenue raising measures. Any jurisdiction...city or county...currently has the authority to use these same revenue raising measures acting alone. SB 852 simply gives cities and counties who choose to work collectively as a CRD the same authorities to raise revenue as long as the CRD adheres to public vote and participation requirements now in the state Constitution or in existing statute.”

- 3) **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.

- 4) **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 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.

- 5) **Bonds.** When public agencies issue bonds, they borrow money from investors, who provide cash in exchange for the agencies’ commitment to repay the principal amount of the bond plus interest. Bonds are usually either revenue bonds, which repay investors out of revenue generated from the project the agency buys with bond proceeds, or general obligation bonds, which the public agency pays out of general revenues and the agency guarantees with its full faith and credit. Since bonds produce interest costs, they are generally used for financing projects with useful lives that correspond to the bond’s term, such as an affordable housing project. Public agencies generally do not use bonds to fund services, such as procuring legal services. Generally, issuing bonds requires a 2/3 voter approval. However, some types of revenue bonds do not require a 2/3 vote, or any vote at all. For example, the Revenue Bond Law of 1941 only requires majority voter approval.
- 6) **Sonoma County Regional Climate Protection Authority.** RCPA was created by AB 881 (Huffman), Chapter 375, Statutes of 2009, and has the same board as the Sonoma County Transportation Authority. The RCPA has three main areas of focus: decarbonization, carbon sequestration, and resilience. The RCPA coordinates climate protection activities countywide and performs a variety of related functions including advocacy, project management, planning, finance, grant administration, and research. The RCPA coordinates the activities of local jurisdictions with regional, state, and federal entities at both policy and administrative levels.
- 7) **Insurance Commissioner Report.** According to the co-sponsor of this bill, Insurance Commissioner Ricardo Lara, “Climate change is intensifying events now, and impacts are expected to accelerate. According to the U.S. Environmental Protection Agency, ‘the changing climate is likely to further decrease the supply of water, increase the risk of wildfires, and threaten coastal development and ecosystems’ for California. As part of my focus on reducing greenhouse gas emissions and closing insurance protection gaps, I convened the Climate Insurance Working Group in 2019. The Climate Insurance Working Group (Working Group), established pursuant to my Senate Bill 30 (Chapter 614, Statutes of

2018) and comprised of environmental advocates, researchers, and insurance experts, presented 40 recommendations for various policies to reduce the costs from wildfires, extreme heat, and flooding, among other challenges, in its July 2021 report titled ‘Protecting Communities, Preserving Nature, and Building Resiliency -- How First-of-its-Kind Climate Insurance Will Help Combat the Costs of Wildfires, Extreme Heat, and Floods.’

“A strong message coming out of the climate insurance report was that in order to improve insurance availability, reliability, and affordability, California needs community mitigation to improve dramatically. This Working Group identified community mitigation and resilience as essential to protecting vulnerable populations and reducing future insurance losses. Furthermore, the Working Group emphasized the importance of localized pre-disaster mitigation that focused on wetlands, forest management, and urban forests to reduce the impact of wildfires, severe storms, flooding, sea-level rise, and extreme heat.

“To strengthen community resilience, the Working Group recommended establishing special districts to invest in nature-based solutions that reduce risks to communities in ‘Cross-cutting Recommendation 16: Catalyze new Climate Hazard Abatement Districts.’ This recommendation pointed to special districts in existence today for geologic hazards and perils, which provide an important example of what a special district can do to strengthen its community. Currently, there are over 35 Geologic Hazard Abatement Districts (GHADs) operating in California. GHADs provide several advantages in mitigating, abating, and controlling geologic hazards. They focus on prevention and provide rapid response capabilities, thereby increasing public safety. They offer a broader range of remedial measures and they enable collaboration, grant-seeking, and funding on a regional scale beyond geopolitical boundaries.”

8) **Policy Considerations.** The Committee may wish to consider the following:

- a) **Will it Work?** SB 961 (Allen), Chapter 559, Statutes of 2018, required the Governor’s Office of Planning and Research (OPR) to, on or before January 1, 2021, complete a study and make recommendations on (1) the effectiveness of tax increment financing tools, and (2) the relative advantages and disadvantages of different types of tax increment financing tools. The first report identified several key limitations current tax increment financing districts share, including the limited revenue potential to make district formation worthwhile. In addition, unlike RDAs, where taxing entity participation was mandatory, current tax increment financing districts rely on volunteer participation, and they have limited powers compared to RDAs. 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.

Despite the authority to finance infrastructure with tax increment financing, these financing mechanisms have been used infrequently in part because they do not have access to the school share of property tax increment like RDAs did. While SB 852 does not grant CRDs access to a greater share of property tax increment, it does give CRDs substantial new powers that these other districts do not have. For example, EIFDs cannot issue general obligation bonds or revenue bonds, or impose special taxes or property-related fees. The Committee may wish to consider if creating a new type of infrastructure financing district with these broad financing powers will be more successful than the

existing tools in helping local agencies address their infrastructure needs.

- b) **Why not Others?** AB 733 (Berman), Chapter 657, Statutes of 2017, added climate change projects to the list of projects that may be financed by EIFDs. While CRDs have a more flexible set of powers than other financing districts created after RDAs, it is unclear why a new district type is needed when EIFDs already have the authority to finance climate change projects. If the limitations of other financing districts as identified by the OPR report are too constraining, would it make sense to instead provide existing types of districts with the increased authority provided in this bill? The Committee may wish to consider if it would be more prudent to enhance the existing tools instead of creating a new one.
 - c) **Projects vs. Services.** SB 852 allows CRDs to finance many different types of climate change projects, including those that address extreme heat, sea level rise, extreme cold, and risks of wildfire, among others. However, some of these projects, such as vegetation control, fire breaks, and wetlands restoration, may not meet the typical definition of capital projects. Additionally, SB 852 allows CRDs to finance operational expenses. In comparison, EIFDs are prohibited from financing ongoing operations or services and can only finance projects that have an estimated useful life of 15 years or more. Should CRDs have the authority to finance operations or projects that may not have a useful life of at least 15 years? Amendments were previously taken to limit the use of bond proceeds for CRDs consistent with EIFD law, but the Committee may wish to consider if the increased financing authority proposed in this bill is too expansive.
 - d) **Is Clarity Needed?** AB 852 contains a number of provisions that link CRDs to EIFDs through multiple cross-references to existing requirements placed on EIFDs. Consequently, a number of potentially inconsistent terms and definitions are used between CRD and EIFD law, which could cause confusion and conflict during implementation. In order to avoid confusion and potential conflicts between the two sets of laws, the Committee may wish to consider if additional clarification is needed.
- 9) **Arguments in Support.** According to CivicWell, co-sponsors of this bill, “The effects of climate change are becoming more evident every day. The Intergovernmental Panel on Climate Change (IPCC) has said we are in a ‘code red’ condition to take action to reduce the rate and extent of global warming in order to avoid a catastrophe. Scientists have calculated that 2021 was the sixth warmest year ever. The increasing frequency and severity of wildfire; extreme heat; extreme cold, snow, and rain; and drought are all manifestations of the influence of climate change. California has taken a number of steps at the state level to respond to the climate crisis including AB 32 (Nunez) in 2006 to set up a cap-and-trade system to reduce greenhouse gas (GHG) emissions and SB 32 (Pavley) in 2016 to require that GHG emissions are reduced by 40% from 1990 levels by 2030 as well as many other pieces of legislation that address climate change in some manner. The 2021-22 state budget includes a \$15 billion package to address wildfire and forest resilience, drought and water resilience, and climate resilience over three years.

“SB 852 fills a significant gap in the framework of tackling climate change. While important actions have been taken and resources allocated at the state level, it is local communities and governments that are on the front lines of meeting the challenge. Although some local governments have acted aggressively to meet this challenge, there is no systematic,

sustained, and predictable source of funding and staffing at the local level to take on the planning and implementation of projects and programs to combat the effects and impacts of climate change.

“SB 852 would permit cities, counties, or special districts, either alone or in combination, to establish climate resilience districts. The districts would be able to raise revenue through tax increment financing and voter-approved supplemental property taxes, property benefit assessments, or fees. The districts would have the authority to plan and implement projects and programs to address climate change either through mitigation or adaptation. This bill will give communities and regions the means to focus resources on the most urgent aspects of climate change as determined locally. The bill will also create the ability to channel local, state, federal, and private funds in a coordinated manner within a jurisdiction or across jurisdictional boundaries to have the greatest and most effective impact.”

10) **Arguments in Opposition.** The California Chamber of Commerce is opposed unless amended and writes, “SB 852 is proposing to allow climate resiliency districts to deviate from established financing law for EIFDs and have a special tax authority....

“Thus, this bill would not only create a new kind of TIF district, but also a never-seen-before special tax authority for the districts. This exceeds current EIFD law. Benefit assessment, property-related fee, or other service charges or fees are well recognized funding sources, however, EIFDs do not have special tax authority, nor do other TIF agencies.

“Californians are already the highest taxed residents in the country and these districts should not be incentivized to tax us even more. Voter initiated local tax ballot measures are no longer subject to the protection of two thirds vote and granting climate resiliency districts with a new special tax authority will further denigrate the small amount of tax protection Californians have left.”

According to the California Taxpayers Association, “SB 852 does not specify a sunset date for the proposed special taxes it would authorize. A sunset date would ensure that voters would have an opportunity to review the district’s use of their tax dollars after an appropriate amount of time, thereby increasing accountability. The Legislature has consistently required sunset dates on tax incentives including exemptions, deductions, and credits, and fairness would dictate that the same standard be applied to tax increases.”

11) **Double-Referral.** This bill is double-referred to the Natural Resources Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

CivicWell [SPONSOR]
Insurance Commissioner Ricardo Lara [SPONSOR]
350 Bay Area Action
American Planning Association, California Chapter
California Association for Local Economic Development
California Forward Action Fund
California Special Districts Association

City/County Association of Governments of San Mateo County (If Amended)
City of Alameda
City of Culver City
City of El Cerrito
Councilmember Zach Hilton, City of Gilroy
City of Oakland
City of Thousand Oaks
Climate Center
Humboldt County
Los Angeles Regional Collaborative for Climate Action and Sustainability
Monterey County
Napa Valley Transportation Authority
Nature Conservancy
Sonoma County Regional Climate Protection Authority
Sonoma County Transportation Authority
State Building & Construction Trades Council of California, AFL-CIO

Opposition

California Association of Realtors (Unless Amended)
California Chamber of Commerce (Unless Amended)
California Taxpayers Association

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