

Date of Hearing: July 3, 2013

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Ed Chau, Chair

SB 628 (Beall) – As Amended: June 17, 2013

SENATE VOTE: 24-11

SUBJECT: Infrastructure financing: transit priority projects.

SUMMARY: Authorizes a city or a county to create an infrastructure financing district (IFD) to implement a transit priority project without having to hold an election and requires the city or county to use 25% of the resulting revenues for affordable housing. Specifically, this bill:

- 1) Allows an IFD to finance any project that implements a transit priority project.
- 2) Provides that for an IFD proposed to implement a transit priority project, an election is not required to form the IFD, issue bonds, or establish or change the appropriations limit pursuant to existing IFD law.
- 3) Requires that at least 25% of all revenues derived from the property tax increment of the IFD be used for the purpose of increasing, improving, and preserving the supply of lower- and moderate-income housing available in the district at an affordable housing cost, and occupied by persons and families of low or moderate income, lower-income households, very low-income households, and extremely low-income households.
- 4) Requires that the provisions of the bill be implemented in accordance with the section of Community Redevelopment Law (CRL) that required a 20% set-aside from tax increment proceeds to increase, improve, and preserve the community's supply of affordable housing, and all other applicable affordable housing provisions of the CRL, to the extent that those provisions are not inconsistent with the provisions of this bill.
- 5) Allows an IFD to provide for the receipt of tax increment funds for purposes of a project subject to the bill's provisions, provided that the local government with land use jurisdiction has adopted an ordinance that requires the replacement of dwelling units that house extremely low-, very low-, or low-income households, upon their removal from the district, as specified, within two years of their displacement.
- 6) Makes findings and declarations related to the need for California local governments to have a sustainable funding source to accommodate transportation and land use planning and to develop projects that are consistent with the state's climate, air quality, and energy conservation goals, and for the need to expedite the process for local governments to create IFDs to implement transit priority projects.
- 7) Declares the intent of the Legislature that the development of transit priority projects throughout the state be environmentally conscious and sustainable, and that related construction meet or exceed the requirements of the California Green Building Standards Code.

EXISTING LAW

- 1) Authorizes cities and counties to create IFDs and issue bonds to pay for community-scale public works, including highways, transit facilities, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities (Government Code Section 53395, et seq.).
- 2) Allows an IFD to divert property tax increment revenues from other local governments, excluding school districts, for up to 30 years in order to pay back bonds issued by the IFD (Government Code Section 53395.14).
- 3) Requires a city or county to develop an infrastructure plan, send copies to every landowner, consult with other local governments, and hold a public hearing in order to form an IFD (Government Code Section 53395.10, et seq.).
- 4) Requires local officials, when forming an IFD, to find that its public facilities are of communitywide significance and provide significant benefits to an area larger than the IFD (Government Code Section 53395.3).
- 5) Requires every local agency that will contribute its property tax increment revenue to the IFD to approve the plan (Government Code Section 53395.19).
- 6) Requires two-thirds voter approval for the formation of an IFD and for the issuance of bonds (Government Code Sections 53395.24 and 53397.6).
- 7) Requires majority voter approval for setting an IFD's appropriations limits.
- 8) Specifies that public agencies that own land within a proposed IFD may not vote on issues regarding the district (Government Code Section 53395.1).
- 9) Authorizes IFDs to issue a variety of debt instruments, including bonds, certificates of participation, leases, and loans (Government Code Section 53395.1).
- 10) Requires any IFD that constructs dwelling units to set aside not less than 20% of those units to increase and improve the community's supply of low- and moderate-income housing available at an affordable housing cost to persons and families of low and moderate income (Government Code Section 53395.3).
- 11) Requires the city or county to do all of the following if any dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the area of the IFD:
 - a) Within four years of removal, cause or require the construction or rehabilitation, for rental or sale to persons or families of low or moderate income, of an equal number of replacement dwelling units at affordable housing cost within the IFD if the dwelling units removed were inhabited by persons or families of low or moderate income.
 - b) Within four years of removal, cause or require the construction or rehabilitation, for rental or sale to persons of low or moderate income, of at least 20% of the total dwelling

units removed at affordable housing cost within the IFD if the dwelling units removed or destroyed were not inhabited by persons of low or moderate income.

- c) Provide relocation assistance to persons displaced by any public or private development occurring within the IFD.
- d) Ensure that removal of any dwelling units occupied by persons or families of low or moderate income not take place until there are suitable housing units, at comparable cost to the units from which the persons or families were displaced, available and ready for occupancy by the residents of the units at the time of their displacement.

(Government Code Section 53395.5)

- 12) Defines a transit priority project to a) contain at least 50% residential use, based on total building square footage and, if the project contains between 26% and 50% nonresidential uses, a floor area ratio of not less than 0.75; b) provide a minimum net density of at least 20 dwelling units per acre; and, c) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan (Public Resources Code 21155).
- 13) Defines "persons and families of low or moderate income" to mean persons and families whose income does not exceed 120% of area median income, adjusted for family size by the Department of Housing and Community Development (HCD) in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937 (Health and Safety Code Section 50093).
- 14) Defines "lower income households" to mean persons and families whose income does not exceed the qualifying limits for lower-income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The limits shall be published by HCD in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development (Health and Safety Code Section 50079.5).
- 15) Defines "extremely low income households" to mean persons and families whose incomes do not exceed the qualifying limits for extremely low-income families as established and amended from time to time by the Secretary of Housing and Urban Development and defined in Section 5.603(b) of Title 24 of the Code of Federal Regulations (Health and Safety Code Section 50106).

FISCAL EFFECT: None

COMMENTS:

Background: Existing law authorizes a city or county to create an Infrastructure Financing District (IFD) and through the IFD issue bonds to pay for community-scale public works, including transit facilities, highways, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities. The city or county repays the bonds by capturing a portion of the increase in property taxes that is generated within the IFD, generally referred to as the tax increment.

Under an IFD, tax increment is diverted for 30 years from the host city or county and other local governments, excluding schools, but only if the other local governments agree to the diversion. Each IFD must have a detailed infrastructure financing plan, and the voters of the jurisdiction must approve with a two-thirds vote the formation of the district and the issuance of bonds and with a majority vote set a limit as to the funds it will appropriate.

With respect to housing, existing IFD law requires that:

- If the IFD removes or destroys any housing units occupied by low- or moderate-income persons, then the IFD must within four years ensure the construction or rehabilitation of an equal number of replacement units in the district's territory for persons of low- or moderate-income.
- If an IFD removes or destroys any affordable housing units that are not occupied by persons of low or moderate incomes, then the IFD must within four years ensure the construction or rehabilitation of replacement units equal to 20% of the number it destroyed.

The IFD must also provide relocation assistance and ensure that there are suitable replacement housing units at comparable costs for persons or families of low or moderate income before removing or destroying those units.

SB 375 (Steinberg), Chapter 728, Statutes of 2008, required the Air Resources Board (ARB), by September 30, 2010, to provide each region that has a metropolitan planning organization (MPO) with a greenhouse gas emission reduction target for the automobile and light truck sector for 2020 and 2035, respectively. Each MPO, in turn, must include within its regional transportation plan a sustainable communities strategy (SCS) designed to achieve the ARB targets for greenhouse gas emission reduction. Each MPO must submit its SCS to ARB for review. ARB must accept or reject the MPO's determination that the SCS submitted would, if implemented, achieve the greenhouse gas emission reduction targets.

SB 375 also created and defines a "transit priority project" as one that:

- Is located within one-half mile of an existing or planned major transit stop or high-quality transit corridor included in the regional transportation plans;
- Is consistent with the general plan land use designation, density, building intensity, and applicable policies specified for the project area in its SCS, for which ARB has accepted an MPO's determination that the SCS would, if implemented, achieve the greenhouse gas emission reduction targets;
- Contains at least 50% residential use, based on total building square footage and, if the project contains between 26% and 50% nonresidential uses, a floor area ratio of not less than 0.75; and
- Provides a minimum net density of at least 20 dwelling units per acre.

Purpose of the bill: SB 628 allows a city or county to form an IFD to implement a transit priority project without an election. The bill also requires that 25% of revenues from such IFDs be used to increase, improve, and preserve the supply of affordable housing within the territory of the IFD. Finally, the bill requires IFDs formed to implement transit priority projects to provide any

required replacement housing within two years, rather than the four years that is required under current IFD law.

Arguments in support: According to the author's office, increasingly transit-oriented projects are helping communities deal with the negative impacts of growth and sprawl, such as growing traffic gridlock, increased commute times and pollution. These projects have been shown to be one of the most cost-effective ways to reduce the emission of greenhouse gases. The author's office notes that in essentially every transit-oriented project there are critical components that have very little or no source of funds, such as place making features (pedestrian plazas, pocket parks, community facilities, etc.), access improvements (additional bus access services, bicycle facilities, parking, etc.) and affordable housing. The sponsor, BART, has completed a number of transit-oriented projects around its stations in the San Francisco Bay Area.

Proponents assert that this bill could be an important tool for local jurisdictions as they develop sustainable communities' strategies pursuant to SB 375, and related transit priority projects. The bill will assist in critical place-making development around fixed rail stations, bus centers, and high-speed rail stations, improving the livability of local communities.

Arguments in opposition: The California Taxpayers Association (CalTax) opposes this bill because it repeals the vote of the people to establish an IFD and for that IFD to issue bonds. CalTax points out that the California Constitution requires two-thirds voter approval before a city or county can issue long-term debt backed by general purpose revenues. Proposition 13 added this requirement to the constitution to protect property owners and to ensure that local spending is carefully prioritized. CalTax further asserts that this bill creates a funding gap for critical government services and drives the demand for increasing local taxes. Rather than utilizing tax increment financing, local government should use existing tools to provide economic development in our communities.

Proposed amendments:

1. On page 4, starting on line 22, make the following change to improve clarity:

(c) (1) At least 25 percent of all revenues derived from the property tax increment under this section shall be used for the purposes of increasing, improving, and preserving the supply of lower and moderate-income housing available in the district at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, ~~and occupied~~ *Units funded pursuant to this subsection shall be restricted to occupancy* by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, lower income households, as defined in Section 50079.5 of the Health and Safety Code, very low income households, as defined in Section 50105 of the Health and Safety Code, and extremely low income households, as defined in Section 50106 of the Health and Safety Code.

2. On page 5, starting on line 1, make the following change to ensure that there is no net loss of affordable housing units within the IFD. This language is similar to language that appears in SB 1 (Steinberg):

(d) The district may provide for the receipt of tax increment funds pursuant to this chapter for, purposes of a project subject to this section, provided that the local

government with land use jurisdiction has adopted *an ordinance that does both of the following*:

(1) *Prohibits the number of housing units occupied by extremely low, very low, and low-income households, including the number of bedrooms in those units, in the district at the time the district is established from being reduced during the effective period of the infrastructure plan.*

(2) ~~an ordinance that requires~~ *Requires the replacement of dwelling units that house extremely low, very low, or low-income households, upon their removal from the district, pursuant to subdivision (a) of Section 33413, within two years of their displacement.*

Related legislation: SB 1 (Steinberg) provides for the creation of new Sustainable Communities Investment Authorities to set up a new system of tax increment financing that excludes the school share of property taxes and relies on consensus among the local agencies, to confer new revenue authority, and to retain all the other powers that redevelopment agencies possessed under state law, except it limits the areas that would qualify as project areas.

Double referral: This bill was also referred to the Local Government Committee, where it passed on June 26 by a vote of 6 to 3.

REGISTERED SUPPORT / OPPOSITION:

Support

San Francisco Bay Area Rapid Transit District (BART) (sponsor)
California Rural Legal Assistance Foundation
California Transit Association
City of Burbank
San Francisco Bay Area Rapid Transit District
Santa Clara Valley Transportation Authority
Western Center on Law and Poverty

Opposition

CalTax
Howard Jarvis Taxpayers Association

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