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TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] (Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 2.99. Enhanced Infrastructure Financing District [53398.50 - 53398.88] (Chapter 2.99 added by Stats. 2014, Ch. 785, Sec. 1.)

ARTICLE 1. General Provisions [53398.50 - 53398.58] (Article 1 added by Stats. 2014, Ch. 785, Sec. 1.)

53398.50. The Legislature finds and declares that with the dissolution of redevelopment agencies, public benefits will accrue if local agencies, excluding schools, are provided a means to finance the reuse and revitalization of former military bases, fund the creation of transit priority projects and the implementation of sustainable communities plans, fund projects that enable communities to adapt to the impacts of climate change, including to improve air quality, mitigate wildfires, construct and rehabilitate affordable housing units, fund port and harbor infrastructure, fund projects to improve broadband internet access service, construct facilities for nonprofit community organizations that provide health, youth, homeless, and social services, and construct facilities to house providers of consumer goods and services in the communities served by these efforts.

(Amended by Stats. 2024, Ch. 599, Sec. 2.5. (SB 1140) Effective January 1, 2025.)

53398.51. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Affected taxing entity" means any governmental taxing agency which levied or had levied on its behalf a property tax on all or a portion of the property located in the proposed district in the fiscal year prior to the designation of the district, but not including any county office of education, school district, or community college district. An "affected taxing entity" may include a special district if the special district is providing any portion of the funding included in the infrastructure financing plan adopted pursuant to Section 53398.63. For the purposes of this section, "special district" means an agency of the state formed for the performance of governmental or proprietary functions within limited geographic boundaries, and shall not include a school district or community college district.

(b) "County" means a county or a city and county.

(c) "Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(d) "Designated official" means the city or county engineer or other appropriate official designated pursuant to Section 53398.62.

(e) (1) "District" means an enhanced infrastructure financing district.

(2) An enhanced infrastructure financing district is a district within the meaning of Section 1 of Article XIII A of the California Constitution.

(f) "Enhanced infrastructure financing district" means a legally constituted governmental entity separate and distinct from the city or county that established it pursuant to this chapter for the sole purpose of financing public facilities or other projects as authorized by this chapter. An enhanced infrastructure financing district shall be a local agency for purposes of Chapter 9 (commencing with Section 54950).

(g) "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, unless the public agency owns all of the land to be included within the proposed district.

(h) "Legislative body" means the city council or board of supervisors.

(i) "Public financing authority" means the governing board of the district established pursuant to this chapter.

(Amended by Stats. 2015, Ch. 320, Sec. 1. (AB 313) Effective January 1, 2016.)

53398.51.1. (a) The public financing authority shall have a membership consisting of one of the following, as appropriate:

(1) If a district has only one participating affected taxing entity, the public financing authority's 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. The 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. The appointment of the public members shall be subject to the provisions of Sections 54970 and 54972.

(2) If a district has two or more participating affected taxing entities, the public financing authority's 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. A legislative body of a participating affected taxing 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. The appointment of the public members shall be subject to the provisions of Sections 54970 and 54972.

(3) If a district has more than three participating affected taxing 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 members shall be subject to the provisions of Sections 54970 and 54972.

(4) For purposes of this subdivision, "legislative body" may include a directly elected mayor of a charter city who is not a member of the city's legislative body under the city's adopted charter.

(b) The legislative body shall ensure the public financing authority is established at the same time that it adopts a resolution of intention pursuant to Section 53398.59.

(c) Members of the public financing authority established pursuant to this chapter shall not receive compensation but may receive reimbursement for actual and necessary expenses incurred in the performance of official duties pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2.

(d) Members of the public financing authority are subject to Article 2.4 (commencing with Section 53234) of Chapter 2.

(e) The public financing authority created pursuant to this chapter shall be a local public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)), the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(f) Notwithstanding any other law, any member of the legislative body of a participating affected taxing entity who serves as a member of the public financing authority pursuant to this section may also serve as a member of the governing body of an agency or entity formed pursuant to an agreement for the joint exercise of power that the participating affected taxing entity has entered into in accordance with the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1).

(Amended by Stats. 2022, Ch. 28, Sec. 72. (SB 1380) Effective January 1, 2023.)

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(D) (i) The ongoing or capitalized costs to maintain public capital facilities financed in whole or in part by the district.

(ii) Notwithstanding clause (i), a district shall not use the proceeds of bonds issued pursuant to the authority in Article 4 (commencing with Section 53398.77) to finance maintenance of any kind.

(2) The facilities are not required to be physically located within the boundaries of the district. However, any facilities financed outside of a district shall have a tangible connection to the work of the district, as detailed in the infrastructure financing plan

adopted pursuant to Section 53398.69.

(3) A district shall not finance the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Childcare facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) 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.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) (A) Acquisition, construction, or repair of commercial structures by the small business occupant of such structures, 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.

(B) For purposes of this paragraph and subject to subparagraph (C), "small business" means 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 which, together with affiliates, has 100 or fewer employees, and average annual gross receipts of fifteen million dollars (\$15,000,000) or less over the previous three years, or is a manufacturer, as defined in subdivision (c) of Section 14837, with 100 or fewer employees. An "independently owned and operated business" shall include a formula retail business that is an independently owned franchise.

(C) A district may set a lower threshold for the average annual gross receipts over the previous three years and for the number of employees described in subparagraph (B).

(15) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(16) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(17) Projects that enable communities to adapt to the impacts of climate change, including, but not limited to, higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts, extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought. This paragraph includes projects intended to improve air quality.

(18) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(19) The acquisition, construction, or improvement of broadband Internet access service. For purposes of this section, "broadband Internet access services" has the same meaning as defined in Section 53167. A district that acquires, constructs, or improves broadband Internet access service may transfer the management and control of those facilities to a local agency that is authorized to provide broadband Internet access service, and that local agency when providing that service shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5.

(20) Facilities in which nonprofit community organizations provide health, youth, homeless, and social services.

(21) (A) For districts at least partially in high or very high fire hazard severity zones designated by the State Fire Marshal pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, the following:

(i) Heavy equipment to be used for vegetation clearance and firebreaks.

(ii) Undergrounding of local publicly owned electric utilities, as defined in Section 224.3 of the Public Utilities Code, against wildfires.

(iii) Equipment used for fire watch, prevention, and fighting, including, but not limited to, helicopters, air tankers, and technological advancements to weather and wind science infrastructure, risk modeling, and prediction.

(B) A district shall not use the proceeds of bonds issued pursuant to the authority in Article 4 (commencing with Section 53398.77) to finance the equipment described in clause (i) or (iii) of subparagraph (A).

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section 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.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes as defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for childcare, after school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

(Amended by Stats. 2024, Ch. 599, Sec. 3.5. (SB 1140) Effective January 1, 2025.)

53398.53. Notwithstanding subdivision (b) of Section 53398.52, a district may reimburse a developer of a project that is located entirely within the boundaries of that district for any permit expenses incurred and to offset additional expenses incurred by the developer in constructing affordable housing units pursuant to the Transit Priority Project Program established in Section 65470.

(Added by Stats. 2014, Ch. 785, Sec. 1. (SB 628) Effective January 1, 2015.)

53398.54. A city or county that created a redevelopment agency, as defined in Section 33003 of the Health and Safety Code, shall neither initiate the creation of a district, nor participate in the governance or financing of a district, until each of the following has occurred:

(a) The successor agency for the former redevelopment agency created by the city or county has received a finding of completion, as specified in Section 34179.7 of the Health and Safety Code.

(b) The city or county certifies to the Department of Finance and to the public financing authority that no former redevelopment agency assets that are the subject of litigation involving the state, if the city or county, the successor agency, or the designated local authority are a named plaintiff, have been or will be used to benefit any efforts of an enhanced infrastructure financing district formed under this chapter, unless the litigation and all possible appeals have been resolved in a court of law. The city or county shall provide this certification to the Department of Finance within 10 days of its legislative body's action to participate in an enhanced infrastructure financing district pursuant to Section 53398.68, or of its legislative body's action to form an enhanced infrastructure financing district pursuant to Section 53398.69.

(c) The office of the Controller has completed its review as specified in Section 34167.5 of the Health and Safety Code.

(d) The successor agency and the entity that created the former redevelopment agency have complied with all of the office of the Controller's findings and orders stemming from the reviews as specified in subdivision (c).

(e) Notwithstanding subdivision (a), the City of Selma may initiate, participate in, finance, or govern an enhanced infrastructure financing district, if the City of Selma, acting as the successor agency to the former Selma Redevelopment Agency, is in compliance with subdivisions (b), (c), and (d), and has paid in full the amount outstanding specified in subdivision (b) of Section 34183.5 of the Health and Safety Code.

(f) Notwithstanding subdivision (a), the City of Merced may initiate, participate in, finance, or govern an enhanced infrastructure financing district if the City of Merced, and the Merced Designated Local Authority acting as the successor agency to the former Redevelopment Agency of the City of Merced, are in compliance with subdivisions (b), (c), and (d), and have paid in full the amounts outstanding specified in Section 34179.5 of, and subdivision (b) of Section 34183.5 of, the Health and Safety Code, including amounts remaining due under any applicable installment payment plan entered into with the Department of Finance.

(Amended by Stats. 2023, Ch. 678, Sec. 1. (AB 1259) Effective January 1, 2024.)

53398.55. (a) A district may include any portion of a former redevelopment project area that was previously created pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, provided that the city or county that created the former redevelopment agency has met the requirements of Section 53398.54.

(b) A district may finance only the facilities authorized in this chapter to the extent that the facilities are in addition to those provided in the territory of the district before the district was created. The additional facilities may not supplant facilities already available within that territory when the district was created but may supplement, rehabilitate, upgrade, or make more sustainable those facilities.

(c) A district may include areas which are not contiguous.

(Added by Stats. 2014, Ch. 785, Sec. 1. (SB 628) Effective January 1, 2015.)

53398.56. It is the intent of the Legislature that the creation of the districts should not ordinarily lead to the removal of existing dwelling units. If, however, any dwelling units are proposed to be removed or destroyed in the course of public works construction within the area of the district or private development within the area of the district that is subject to a written agreement with the district or that is financed in whole or in part by the district then the infrastructure financing plan adopted pursuant to Section 53398.69 shall contain provisions to do all of the following:

(a) If the dwelling units to be removed or destroyed are or were inhabited by persons or families of very low, low, or moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, at any time within five years prior to establishment of the district, cause or require the construction or rehabilitation of an equal number of replacement dwelling units, within one-half mile of the location of the units to be removed or destroyed, that have an equal or greater number of bedrooms as those removed or destroyed units, within two years of the removal or destruction of the dwelling units. The replacement dwelling units shall be available for rent or sale to persons or families of very low, low, or moderate income, at affordable rent, as defined in Section 50053 of the Health and Safety Code, or at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to persons in the same or a lower income category (extremely low, very low, low, or moderate), as the persons displaced from, or who last occupied, the removed or destroyed dwelling units.

(b) If the dwelling units to be removed or destroyed were not inhabited by persons of low or moderate income within the period of time specified in subdivision (a), cause or require the construction or rehabilitation within one-half mile of the location of the units to be removed or destroyed of at least one unit but not less than 25 percent of the total dwelling units removed or destroyed, within two years of the removal or destruction of the dwelling units. The units constructed or rehabilitated pursuant to this subdivision shall be of equivalent size and type to the units to be removed or destroyed. An equal percentage of the replacement dwelling units constructed or rehabilitated pursuant to this subdivision shall be available for rent or sale at affordable rent, as defined in Section 50053 of the Health and Safety Code, or affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, to extremely low and very low income persons or families, as defined in Sections 50106 and 50105 of the Health and Safety Code.

(c) Comply with all relocation assistance requirements of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1, for persons displaced from dwelling units by any public works construction within the area of the district or private development within the area of the district that is subject to a written agreement with the district or that is financed in whole or in part by the district as a result of the infrastructure financing plan adopted pursuant to Section 53398.69. The displacement of any persons from a dwelling unit as a result of the plan shall be deemed to be the result of public action.

(d) Ensure that removal or destruction of any dwelling units occupied by persons or families of low or moderate income not take place unless and until there has been full compliance with the relocation assistance requirements of this section, Section 53398.63, and Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(e) (1) The district shall require, by recorded covenants or restrictions, that all dwelling units constructed or rehabilitated pursuant to this section shall remain available at affordable rent or housing cost to, and occupied by, persons and families of the same income categories as required by subdivision (a) or (b), as applicable, for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(2) The district may permit sales of owner-occupied units prior to the expiration of the 45-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the district's investment of moneys in the unit or units, including, but not limited to, an equity sharing program, not in conflict with another public funding source or law, which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. For purposes of this paragraph, the terms of the equity sharing program shall be consistent with the

provisions of paragraph (2) of subdivision (c) of Section 65915, provided, however, that the program shall require any amounts recaptured by the district to be used within five years for any of the affordable housing purposes described in Section 34176.1 of the Health and Safety Code.

(Amended by Stats. 2015, Ch. 320, Sec. 4. (AB 313) Effective January 1, 2016.)

53398.57. Any action or proceeding to attack, review, set aside, void, or annul the creation of a district, adoption of an infrastructure financing plan, including a division of taxes thereunder, or an election pursuant to this chapter shall be commenced within 30 days after the enactment of the resolution creating the district pursuant to Section 53398.69. Consistent with the time limitations of this section, such an action or proceeding with respect to a division of taxes under this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(Amended by Stats. 2015, Ch. 320, Sec. 5. (AB 313) Effective January 1, 2016.)

53398.58. An action to determine the validity of the issuance of bonds pursuant to this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. However, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, the action shall be commenced within 30 days after adoption of the resolution pursuant to Section 53398.77 providing for issuance of the bonds if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

(Amended by Stats. 2019, Ch. 656, Sec. 1. (AB 116) Effective January 1, 2020.)