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GOVERNMENT CODE - GOV

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 2. Preparation and Adoption of Infrastructure Financing Plan [53398.59 - 53398.74] (Article 2 added by Stats. 2014, Ch. 785, Sec. 1.)

53398.59. A legislative body of a city or county may designate one or more proposed enhanced infrastructure financing districts pursuant to this chapter. Proceedings for the establishment of a district shall be instituted by the adoption of a resolution of intention to establish the proposed district and shall do all of the following:

(a) State that an enhanced infrastructure financing district is proposed to be established under the terms of this chapter 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. The map may identify, within a district, certain areas which shall be referred to as "project areas."

(b) State the type of public facilities and development proposed to be financed or assisted by the district in accordance with Section 53398.52.

(c) State the need for the district and the goals the district proposes to achieve.

(d) State that incremental property tax revenue from the city or county and some or all affected taxing entities within the district, if approved by resolution pursuant to Section 53398.68, may be used to finance these activities.

(e) (1) State that a city, county, or city and county may allocate tax revenues derived from local sales and use taxes imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) or transactions and use taxes imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code) to an enhanced infrastructure financing district pursuant to Section 53398.75.5, if applicable.

(2) The legislative body of the city or county that elects to make an allocation pursuant to paragraph (1) shall adopt an ordinance to establish the following:

(A) The procedure by which the city or county will calculate the revenues derived from sales and use taxes and transactions and use taxes to be allocated to the enhanced infrastructure financing district.

(B) The decision process by which the city or county will determine the amount that will be dedicated to the proposed district.

(f) Fix a time and place for a public hearing on the proposal.

(Amended by Stats. 2021, Ch. 391, Sec. 2. (SB 780) Effective January 1, 2022.)

53398.60. (a) The legislative body shall direct the city official or county official, as applicable, selected by the legislative body, to mail a copy of the resolution of intention to create the district to each owner of land within the district.

(b) As an alternative to mailing a copy of the resolution of intention pursuant to subdivision (a), the legislative body may direct the city official or county official, as applicable, selected by the legislative body, to mail a single-page notice of intention to create the district to each owner of land within the district. For purposes of this section, the notice of intention shall indicate the physical location or Internet Web site where documents related to the district, including the resolution of intention, will be made available for public

viewing or inspection. The notice of intention shall also state the date of the public hearing on the proposal and include a brief description of the types of public facilities to be financed by the district.

(Amended by Stats. 2018, Ch. 467, Sec. 60. (SB 1498) Effective January 1, 2019.)

53398.61. The legislative body shall direct the city official or county official, as applicable, selected by the legislative body, to mail or electronically submit a copy of the resolution to each affected taxing entity.

(Amended by Stats. 2024, Ch. 599, Sec. 4. (SB 1140) Effective January 1, 2025.)

53398.62. (a) Except as provided in subdivision (b), after adopting the resolution pursuant to Section 53398.59, the legislative body shall send a copy of the resolution to the public financing authority. The public financing authority shall designate and direct the city or county engineer or other appropriate official to prepare an infrastructure financing plan pursuant to Section 53398.63.

(b) In the case of a district proposed for port or harbor infrastructure, the legislative body shall designate and direct the harbor agency, except as provided in Section 1719 of the Harbors and Navigation Code, to prepare an infrastructure financing plan pursuant to Section 53398.63.

(Amended by Stats. 2015, Ch. 793, Sec. 3.5. (SB 63) Effective January 1, 2016.)

53398.63. After receipt of a copy of the resolution of intention to establish a district, the official designated pursuant to Section 53398.62 shall prepare a proposed infrastructure financing plan. A plan shall be proposed for the district that shall include any project areas, if proposed, within the district. The infrastructure financing plan shall be consistent with the general plan, and specific plan, if applicable, of the city or county within which the district is located and shall include all of the following:

(a) A map and legal description of the proposed district, which may include all or a portion of the district designated by the legislative body in its resolution of intention.

(b) A description of the public facilities and other forms of development or financial assistance that is proposed in the area of the district, including those to be provided by the private sector, those to be provided by governmental entities without assistance under this chapter, those public improvements and facilities to be financed with assistance from the proposed district, and those to be provided jointly. The description shall include the proposed location, timing, and costs of the development and financial assistance.

(c) If funding from affected taxing entities is incorporated into the financing plan, a finding that the development and financial assistance are of communitywide significance and provide significant benefits to an area larger than the area of the district.

(d) A financing section, which shall contain all of the following information:

(1) A specification of the maximum portion of the incremental tax revenue of the city or county and of each affected taxing entity proposed to be committed to the district for each year during which the district will receive incremental tax revenue. The portion need not be the same for all affected taxing entities. The portion may change over time.

(2) A projection of the amount of tax revenues expected to be received by the district in each year during which the district will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year.

(3) A plan for financing the public facilities to be assisted by the district, including a detailed description of any intention to incur debt.

(4) A limit on the total number of dollars of taxes that may be allocated to the district pursuant to the plan.

(5) Either of the following:

(A) A date on which the district will cease to exist, by which time all tax allocation to the district will end.

(i) For plans proposed on or after January 1, 2025, for districts enacted primarily for the purpose of development and construction of passenger rail projects in the County of Los Angeles, where at least 75 percent of the revenue from the district is used for debt service on a federal Transportation Infrastructure Finance and Innovation Act (TIFIA) loan, the date shall not be more than 75 years from the date on which the issuance of a TIFIA loan is approved by the United States Department of Transportation. Starting 45 years after the issuance of the TIFIA loan, incremental tax revenue received shall only be used for the purposes of the TIFIA loan repayment, including debt service.

(ii) For all other districts, the date shall not be more than 45 years from the date on which the issuance of bonds is approved pursuant to Section 53398.77, or the issuance of a loan is approved by the governing board of a local agency pursuant to Section 53398.87.

(B) If the district is divided into project areas, a date on which the infrastructure financing plan will cease to be in effect and all tax allocations to the district will end and a date on which the district's authority to repay indebtedness with incremental tax revenues received under this chapter will end, not to exceed 45 years from the date the district or the applicable project area has actually received one hundred thousand dollars (\$100,000) in annual incremental tax revenues under this chapter. After the time limits established under this subparagraph, a district or project area shall not receive incremental tax revenues under this chapter. If the district is divided into project areas, a separate and unique time limit shall be applicable to each project area that does not exceed 45 years from the date the district has actually received one hundred thousand dollars (\$100,000) in incremental tax revenues under this chapter from that project area.

(6) An analysis of the costs to the city or county of providing facilities and services to the area of the district while the area is being developed and after the area is developed. The plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city or county as a result of expected development in the area of the district.

(7) An analysis of the projected fiscal impact of the district and the associated development upon each affected taxing entity.

(8) A plan for financing any potential costs that may be incurred by reimbursing a developer of a project that is both located entirely within the boundaries of that district and qualifies for the Transit Priority Project Program, pursuant to Section 65470, including any permit and affordable housing expenses related to the project.

(e) If any dwelling units within the territory of the district 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, a plan providing for replacement of those units and relocation of those persons or families consistent with the requirements of Section 53398.56.

(f) The goals the district proposes to achieve for each project financed pursuant to Section 53398.52.

(Amended by Stats. 2024, Ch. 344, Sec. 1. (AB 761) Effective January 1, 2025.)

53398.64. The infrastructure financing plan shall be sent to each owner of land within the proposed district and to each affected taxing entity together with any report required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that pertains to the proposed public facilities or the proposed development project for which the public facilities are needed, and shall be made available for public inspection. The report shall also be sent to the public financing authority, the planning commission, and the legislative body.

(Amended by Stats. 2024, Ch. 599, Sec. 5. (SB 1140) Effective January 1, 2025.)

53398.65. The designated official shall consult with each affected taxing entity, and, at the request of any affected taxing entity, shall meet with representatives of an affected taxing entity. Any affected taxing entity may suggest revisions to the plan.

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

53398.66. (a) The draft-enhanced infrastructure financing plan shall be made available to the public and to each landowner within the area on a designated internet website and at a meeting held at least 30 days before the first public hearing. The purposes of the meeting shall be to allow the staff of the public financing authority to present the draft-enhanced infrastructure financing plan, answer questions about the enhanced infrastructure financing plan, and consider comments about the enhanced infrastructure financing plan.

(b) (1) (A) The public financing authority shall consider adoption of the enhanced infrastructure financing plan at two public hearings that shall take place at least 30 days apart.

(B) In addition to the notice given to landowners and affected taxing entities pursuant to Sections 53398.60 and 53398.61, the public financing authority shall post notice of each meeting or public hearing required by this section in an easily identifiable and accessible location on the enhanced infrastructure financing district's internet website and shall mail a written notice of the meeting or public hearing to each landowner, each resident, and each taxing entity at least 10 days before the meeting or public hearing.

(2) At the first public hearing, the public financing authority shall consider any written and oral comments and take action to modify or reject the enhanced infrastructure financing plan.

(3) If the enhanced infrastructure financing plan is not rejected at the first public hearing, then the public financing authority shall conduct a protest proceeding at the second public hearing to consider whether the landowners and residents within the enhanced infrastructure financing plan area wish to present oral or written protests against the adoption of the enhanced infrastructure financing plan.

(c) (1) The notices required in subparagraph (B) of paragraph (1) of subdivision (b) shall do all of the following, as applicable:

(A) Describe specifically the boundaries of the proposed area.

(B) Describe the purpose of the enhanced infrastructure financing plan.

(C) State the day, hour, and place when and where any and all persons having any comments on the proposed enhanced infrastructure financing plan may appear to provide written or oral comments to the enhanced infrastructure financing district.

(D) Notice of the first public hearing shall include a summary of the enhanced infrastructure financing plan and shall identify a location accessible to the public where the enhanced infrastructure financing plan proposed to be presented at the first public hearing can be reviewed.

(E) Notice of the second public hearing to consider any written or oral protests shall contain a copy of the enhanced infrastructure financing plan, and shall inform the landowner and resident of their right to submit an oral or written protest before the close of the public hearing. The protest may state that the landowner or resident objects to the public financing authority taking action to implement the enhanced infrastructure financing plan.

(2) At the second public hearing, the public financing authority shall consider all written and oral protests received before the close of the public hearing along with the recommendations, if any, of affected taxing entities, and shall terminate the proceedings or adopt the enhanced infrastructure financing plan subject to confirmation by the voters at an election called for that purpose. The public financing authority shall terminate the proceedings 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. An election shall be called 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.

(d) An election required pursuant to paragraph (2) of subdivision (c) shall be held within 90 days of the public hearing and may be held by mail-in ballot. The public financing authority shall adopt, at a duly noticed public hearing, procedures for this election.

(e) If a majority of the landowners and residents vote against the enhanced infrastructure financing plan, then the public financing authority shall not take any further action to implement the proposed enhanced infrastructure financing plan. The public financing authority shall not propose a new or revised enhanced infrastructure financing plan to the affected landowners and residents for at least one year following the date of an election in which the enhanced infrastructure financing plan was rejected.

(f) At the hour set in the notices required by subparagraph (B) of paragraph (1) of subdivision (b), the public financing authority shall consider all written and oral comments.

(g) If less than 25 percent of the combined number of landowners and residents in the area who are at least 18 years of age file a protest, the public financing authority may adopt the enhanced infrastructure financing plan at the conclusion of the second public hearing by resolution. The resolution adopting the enhanced infrastructure financing plan shall be subject to referendum as prescribed by law.

(h) The public financing authority shall consider and adopt an amendment or amendments to an enhanced infrastructure financing plan in accordance with the provisions of this section.

(i) (1) A separate notice of the first public hearing shall also be published not less than once a week for four successive weeks before the first public hearing in a newspaper of general circulation published in the county in which the area lies. The notice shall state that the district will be used to finance public facilities or development, briefly describe the public facilities or development, briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the proposed district, and state the day, hour, and place when and where any persons having any objections to the proposed infrastructure financing plan, or the regularity of any of the prior proceedings, may appear before the public financing authority and object to the adoption of the proposed plan by the public financing authority.

(2) A separate notice of the second public hearing shall also be published not less than 10 days before the second public hearing in a newspaper of general circulation in the county in which the area lies. The notice shall state that the district will be used to finance public facilities or development, briefly describe the public facilities or development, briefly describe the proposed financial arrangements, describe the boundaries of the proposed district, and state the day, hour, and place when and where any persons having any objections to the proposed infrastructure financing plan, or the regularity of any of the prior proceedings, may appear before the public financing authority and object to the adoption of the proposed plan by the public financing authority.

(j) (1) The public financing authority shall review the enhanced infrastructure financing plan at least annually and make any amendments that are necessary and appropriate and shall require the preparation of an annual independent financial audit paid for from revenues of the enhanced infrastructure financing district.

(A) Amendments to an approved infrastructure financing plan, including proposals to finance affordable housing and additional eligible projects, as specified in Section 53398.52, 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.

(B) Amendments that propose any of the following shall be adopted in accordance with all notices and hearing requirements for the affected landowners and residents within the proposed additional territory applicable to an initial proposed enhanced infrastructure financing plan:

- (i) Addition of new territory to a district.
- (ii) Increase of the limit of the total number of dollars in local taxes allocated to the plan.
- (iii) Approval of a public facility or development that was not proposed to be financed or assisted by the district in the approved plan.

(2) A public financing authority shall adopt an annual report on or before June 30 of each year after holding a public hearing. Written copies of the draft report shall be made available to the public 30 days before the public hearing. The public financing authority shall cause the draft report to be posted in an easily identifiable and accessible location on the enhanced infrastructure financing district's internet website and shall mail a written notice of the availability of the draft report on the internet website to each owner of land and each resident within the area covered by the enhanced infrastructure financing plan and to each taxing entity that has adopted a resolution pursuant to Section 53398.68.

(3) The annual report shall contain all of the following:

- (A) A description of the projects undertaken in the fiscal year, including any rehabilitation of structures, and a comparison of the progress expected to be made on those projects compared to the actual progress.
- (B) A chart comparing the actual revenues and expenses, including administrative costs, of the public financing authority to the budgeted revenues and expenses.
- (C) The amount of tax increment revenues received.
- (D) An assessment of the status regarding completion of the enhanced infrastructure financing district's projects.
- (E) The amount of revenues expended to assist private businesses.

(4) If the public financing authority fails to provide the annual report required by paragraph (3), the public financing authority shall not spend any funds received pursuant to a resolution adopted pursuant to this chapter until the public financing authority has provided the report.

(Amended by Stats. 2024, Ch. 599, Sec. 6. (SB 1140) Effective January 1, 2025.)

53398.68. (a) The public financing authority shall not adopt a resolution proposing formation of a district and providing for the division of taxes of any affected taxing entity pursuant to Article 3 (commencing with Section 53398.75) unless a resolution approving the plan has been adopted by the governing body of each affected taxing entity that is proposed to be subject to division of taxes pursuant to Article 3 (commencing with Section 53398.75) and has been filed with the legislative body at or before the time of the hearing.

(b) Nothing in this section shall be construed to prevent the public financing authority from amending its infrastructure financing plan and adopting a resolution proposing formation of the enhanced infrastructure financing district without allocation of the tax revenues of any affected taxing entity that has not approved the infrastructure financing plan by resolution of the governing body of the affected taxing entity.

(c) If after the date of district formation, an affected taxing entity adopts a resolution approving the plan and to participate in the division of taxes used to finance an enhanced infrastructure financing district, the division of taxes shall be based upon the last equalized assessment roll that is used for the district pursuant to paragraph (2) of subdivision (a) of Section 53398.75.

(Amended by Stats. 2024, Ch. 599, Sec. 7. (SB 1140) Effective January 1, 2025.)

53398.69. (a) (1) At the conclusion of the hearings pursuant to Section 53398.66, the public financing authority may adopt a resolution proposing adoption of the infrastructure financing plan, as modified, and formation of the enhanced infrastructure financing district in a manner consistent with Section 53398.68, or it may adopt a resolution abandoning the proceedings. If the proceedings are abandoned, then the public financing authority shall cease to exist by operation of this section with no further action required of the legislative body and the legislative body may not enact a resolution of intention to establish a district that includes the same geographic area within one year of the date of the resolution abandoning the proceedings.

(2) In the case of an infrastructure financing plan adopted pursuant to Section 53398.75.7, the proceedings set forth in subdivision (e) of that section shall govern the adoption of the infrastructure financing plan.

(b) The infrastructure financing plan shall take effect upon the adoption of the resolution. The infrastructure financing plan shall specify if the district shall be funded solely through the district's share of tax increment, governmental or private loans, grants, bonds, assessments, fees, or some combination thereof. However, the public financing authority shall not issue bonds or levy assessments or fees that may be included in the infrastructure financing plan before one or more of the following:

(1) The adoption of a resolution meeting the requirements of Section 53398.77, and, if applicable, subdivision (c) of Section 53398.78, to issue bonds to finance the infrastructure financing plan.

(2) Compliance with the procedures required in subdivision (f) of Section 53398.75, to levy assessments or fees to finance the infrastructure financing plan.

(c) In addition, the district may expend up to 10 percent of any accrued tax increment in the first two years of the effective date of the enhanced infrastructure financing district on planning and dissemination of information to the residents within the district's boundaries about the infrastructure financing plan and planned activities to be funded by the district.

(Amended by Stats. 2019, Ch. 656, Sec. 5. (AB 116) Effective January 1, 2020.)

53398.70. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall govern all elections conducted pursuant to this chapter. Except as provided in subdivision (b), there shall be prepared and included in the ballot material provided to each voter, an impartial analysis pursuant to Section 9160 or 9280 of the Elections Code, arguments and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive, and Section 9190 of the Elections Code or pursuant to Sections 9281 to 9287, inclusive, and Section 9295 of the Elections Code.

(b) If the vote is to be by the landowners of the proposed district, analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election.

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

53398.71. (a) If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials pursuant to subdivision (d) of Section 53326 and Section 53327, together with all supplies and instructions necessary for the use and return of the ballot.

(b) The identification envelope for return of mail ballots used in landowner elections shall contain the following:

(1) The name of the landowner.

(2) The address of the landowner.

(3) A declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope.

(4) The printed name and signature of the voter.

(5) The address of the voter.

(6) The date of signing and place of execution of the declaration pursuant to paragraph (3).

(7) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

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

53398.72. (a) As an alternative to mailing documents pursuant to Section 53398.64 and Section 53398.66, the official designated pursuant to Section 53398.62 may mail a notice to each landowner, resident, and affected taxing entity at least 40 days before the meeting held pursuant to subdivision (a) of Section 53398.66. This notice shall include all of the following, as applicable:

(1) A summary of the plan, including all required information listed in paragraph (1) of subdivision (c) of Section 53398.66.

(2) The internet website where the applicable documents, including those described in Section 53398.64, will be made available for public viewing or inspection.

(3) A designated contact person to receive and process any requests for a mailed or electronically mailed packet of all materials.

(4) The location, date, and time of the meeting and two scheduled public hearings held in accordance with Section 53398.66.

(5) A description of the actions that may be taken at the meeting and each of the public hearings described in paragraph (4).

(6) A description of the schedule, information, and process for accessing any amendments to the plan in accordance with paragraph (1) of subdivision (j) of Section 53398.66.

(7) A description of the schedule, information, and process for accessing annual reports in accordance with paragraph (2) of subdivision (i) of Section 53398.66.

(b) (1) If the first or second public hearing on the plan occurs at the location, date, and time listed in the mailed notice described in subdivision (a), then the public financing authority shall be deemed to comply with the 10-day mailed notice requirement pursuant to subdivision (b) of Section 53398.66.

(2) If the first or second public hearing is rescheduled for a later date than listed in the mailed notice described in subdivision (a), due to unanticipated circumstances, the official designated pursuant to Section 53398.62 shall do all of the following:

(A) Publish notice of the rescheduled date and time of the first or second public hearing, at least 10 days before the meeting, in a newspaper in accordance with subdivision (i) of Section 53398.66.

(B) Post, at least 10 days before the rescheduled meeting, notice of the rescheduled date and time of the first or second public hearing on the internet website described in paragraph (2) of subdivision (a).

(C) Email, at least 10 days before the rescheduled meeting, notification of the rescheduled date and time of the first or second public hearing to the email contact list assembled and maintained in accordance with subdivision (c).

(c) The designated contact person described in paragraph (3) of subdivision (a) shall assemble and maintain an email contact list of all landowners, residents, and other interested parties who have expressed interest in receiving information and materials.

(Added by Stats. 2024, Ch. 599, Sec. 8. (SB 1140) Effective January 1, 2025.)

53398.73. Except for the notices described in subdivision (i) of Section 53398.66, a notice required by this chapter shall be provided in English and in all other languages spoken jointly by 20 percent or more of the population in the jurisdiction of the county of the proposed district that speaks English less than “very well” and jointly speaks a language other than English according to data from the most recent American Community Survey or data from an equally reliable source.

(Added by Stats. 2024, Ch. 599, Sec. 9. (SB 1140) Effective January 1, 2025.)

53398.74. This section implements and fulfills the intent of this chapter and of Article XIII B of the California Constitution. The allocation and payment to a district of the portion of taxes specified in Section 53398.75 for the purpose of paying principal of, or interest on, loans, advances, or indebtedness incurred by the district pursuant to this chapter, shall not be deemed the receipt by a district of proceeds of taxes levied by or on behalf of the district within the meaning or for the purposes of Article XIII B of the California Constitution, nor shall that portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B of the California Constitution or any statutory provision enacted in implementation of Article XIII B of the California Constitution.

(Repealed and added by Stats. 2015, Ch. 320, Sec. 14. (AB 313) Effective January 1, 2016.)