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AB-313 Enhanced infrastructure financing districts. (2015-2016)

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Assembly Bill No. 313

CHAPTER 320

An act to amend Sections 53398.51, 53398.51.1, 53398.52, 53398.56, 53398.57, 53398.62, 53398.63, 53398.64, 53398.66, 53398.67, 53398.68, 53398.69, and 53398.75 of, and to repeal and add Section 53398.74 of, the Government Code, relating to enhanced infrastructure financing districts.

[Approved by Governor September 22, 2015. Filed with Secretary of State September 22, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 313, Atkins. Enhanced infrastructure financing districts.

Existing law authorizes the legislative body of a city or a county, defined to include a city and county, to establish an enhanced infrastructure financing district to finance public capital facilities or other specified projects of communitywide significance, including, but not limited to, the acquisition, construction, or rehabilitation of housing for persons of low and moderate income for rent or purchase. Existing law requires proceedings for the establishment of a district to be instituted by the adoption of a resolution of intention to establish the proposed district, and imposes specified duties on the legislative body with respect to the preparation, proposal, and adoption of an infrastructure financing plan after that resolution of intent is adopted.

Existing law also requires the legislative body to establish a public financing authority, defined as the governing board of the enhanced infrastructure financing district, prior to the adoption of a resolution to form an enhanced infrastructure district and adopt an infrastructure financing plan.

This bill would require, after the adoption of a resolution of intention to establish the proposed district, the legislative body to send a copy of the resolution to the public financing authority. This bill would revise the duties of the public financing authority after the resolution of intention to establish the proposed district has been adopted, so that the public financing authority, instead of the legislative body, will perform the specified duties related to the preparation, proposal, and adoption of the infrastructure financing plan and the adoption of the formation of the district. The bill would also require the legislative body to establish the public financing authority at the same time that it adopts a resolution of intention.

This bill would provide that if a resolution is adopted to abandon proceedings to adopt the infrastructure financing plan, then the public financing authority ceases to exist and the legislative body is prohibited from enacting a resolution of intent to establish a district that includes the same geographic area within one year of the date of the resolution abandoning the proceedings.

This bill would authorize the enhanced infrastructure financing district to finance the acquisition, construction, or rehabilitation of housing for persons of very low income for rent or purchase, as provided.

Existing law authorizes an enhanced infrastructure financing district to utilize any powers under the Polanco Redevelopment Act, which authorizes a redevelopment agency to take action to remedy or remove a release of hazardous substances on, under, or

from property, subject to specified conditions. Existing law also authorizes a local agency to take any action similar to that authorized under the Polanco Redevelopment Act.

This bill would instead authorize an enhanced infrastructure financing district to utilize any powers under either law.

Existing law requires the infrastructure financing plan to provide for specific actions 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 district, including, but not limited to, causing or requiring the construction or rehabilitation, for rent 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 territory of the district and providing relocation assistance to persons displaced by any public or private development occurring within the territory of the district.

This bill would revise and recast those provisions, and would require the infrastructure financing plan to contain those provisions if any dwelling units are proposed to be removed or destroyed either in the course of public works construction or private development within the area of the district subject to a written agreement with the district or financed in whole or in part by the district.

Article XIII B of the California Constitution (Article XIII B) prohibits the annual appropriations subject to limitation of a local government, defined to include a special district, from exceeding its annual appropriations limit, but allows for that appropriations limit to be established or changed by the electors of that entity in conformity with existing constitutional and statutory laws. Article XIII B defines "appropriations subject to limitation" as any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity. Existing law allows the public financing authority to submit a proposition to establish or change the appropriations limit of an enhanced infrastructure financing district to the qualified electors of a proposed or established district, which is effective if approved by the qualified electors.

Existing law also authorizes an enhanced infrastructure financing district to fund infrastructure projects through tax increment financing, pursuant to the infrastructure financing plan and the agreement of affected taxing entities. Existing law defines "affected taxing entity" as 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.

This bill would repeal those provisions allowing the public financing authority to submit a proposition to establish or change the appropriations limit of the district, and instead provide that the allocation and payment to an enhanced infrastructure district of tax increment for the purpose of paying specified amounts incurred by the district is not 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, and is not the 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.

This bill would also expand the definition of "affected taxing entity" to include a special district, as defined, if the special district is providing any portion of the funding included in the infrastructure financing plan.

This bill would incorporate additional changes in Sections 53398.52, 53398.62, and 53398.69 of the Government Code proposed by SB 63 that would become operative only if SB 63 and this bill are both chaptered and become effective on or before January 1, 2016, and this bill is chaptered last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 53398.51 of the Government Code is amended to read:

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.

SEC. 2. Section 53398.51.1 of the Government Code is amended to read:

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 appointment of the public members shall be subject to the provisions of Section 54974.

(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. The appointment of the public members shall be subject to the provisions of Section 54974.

(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 (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

SEC. 3. Section 53398.52 of the Government Code is amended to read:

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.

(2) The facilities need not be physically located within the boundaries of the district. However, any facilities financed outside of a district must 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 may not finance routine maintenance, repair work, or 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) Child care 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) 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.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 2 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.

(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 households 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 child care, 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.

SEC. 3.5. Section 53398.52 of the Government Code is amended to read:

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.

(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 routine maintenance, repair work, or 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) Child care 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) 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.

(15) 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.

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

(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 households 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 child care, 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 6.1 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

SEC. 4. Section 53398.56 of the Government Code is amended to read:

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.

SEC. 5. Section 53398.57 of the Government Code is amended to read:

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.

SEC. 6. Section 53398.62 of the Government Code is amended to read:

53398.62. 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.

SEC. 6.5. Section 53398.62 of the Government Code is amended to read:

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.

SEC. 7. Section 53398.63 of the Government Code is amended to read:

53398.63. After receipt of a copy of the resolution of intention to establish a district, the official designated pursuant to Section 53395.62 shall prepare a proposed infrastructure financing plan. The infrastructure financing plan shall be consistent with the general plan 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) A date on which the district will cease to exist, by which time all tax allocation to the district will end. The date shall not be more than 45 years from the date on which the issuance of bonds is approved pursuant to subdivision (a) of Section 53398.81, or the issuance of a loan is approved by the governing board of a local agency pursuant to Section 53398.87.

(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.

SEC. 8. Section 53398.64 of the Government Code is amended to read:

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.

SEC. 9. Section 53398.66 of the Government Code is amended to read:

53398.66. The public financing authority shall conduct a public hearing prior to adopting the proposed infrastructure financing plan. The public hearing shall be called no sooner than 60 days after the plan has been sent to each affected taxing entity. In addition to the notice given to landowners and affected taxing entities pursuant to Sections 53398.60 and 53398.61, notice of the public hearing shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the city or county in which the proposed district is located. 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.

SEC. 10. Section 53398.67 of the Government Code is amended to read:

53398.67. At the hour set in the required notices, the public financing authority shall proceed to hear and pass upon all written and oral objections. The hearing may be continued from time to time. The public financing authority shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the adoption of the plan. The public financing authority may modify the plan by eliminating or reducing the size and cost of proposed facilities or development, by reducing the amount of proposed debt, or by reducing the portion, amount, or duration of incremental tax revenues to be committed to the district.

SEC. 11. Section 53398.68 of the Government Code is amended to read:

53398.68. (a) The public financing authority shall not enact 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 which 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 prior to 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.

SEC. 12. Section 53398.69 of the Government Code is amended to read:

53398.69. (a) At the conclusion of the hearing, 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.

(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 may not issue bonds or levy assessments or fees that may be included in the infrastructure financing plan prior to one or more of the following:

- (1) An affirmative vote, pursuant to subdivision (a) of Section 53398.81, 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.

SEC. 12.5. Section 53398.69 of the Government Code is amended to read:

53398.69. (a) At the conclusion of the hearing, 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.

(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) An affirmative vote, pursuant to subdivision (a) of Section 53398.81 and, if applicable, subdivision (c) of Section 53398.80.5, 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.

SEC. 13. Section 53398.74 of the Government Code is repealed.

SEC. 14. Section 53398.74 is added to the Government Code, to read:

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.

SEC. 15. Section 53398.75 of the Government Code is amended to read:

53398.75. (a) Any infrastructure financing plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the enhanced infrastructure financing district each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the ordinance adopted pursuant to Section 53398.69 to create the district, shall be divided as follows:

(1) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the district as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the ordinance adopted pursuant to Section 53398.69 to create the district, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid.

(2) That portion of the levied taxes each year specified in the adopted infrastructure financing plan for the city or county and each affected taxing entity that has agreed to participate pursuant to Section 53398.68 in excess of the amount specified in paragraph (1) shall be allocated to, and when collected shall be paid into a special fund of, the district for all lawful purposes of the district. Unless and until the total assessed valuation of the taxable property in a district exceeds the total assessed value of the taxable property in the district as shown by the last equalized assessment roll referred to in paragraph (1), all of the taxes levied and collected upon the taxable property in the district shall be paid to the respective affected taxing entities. When the

district ceases to exist pursuant to the adopted infrastructure financing plan, all moneys thereafter received from taxes upon the taxable property in the district shall be paid to the respective affected taxing entities as taxes on all other property are paid.

(b) Notwithstanding subdivision (a), where any district boundaries overlap with the boundaries of any former redevelopment project area, any debt or obligation of a district shall be subordinate to any and all enforceable obligations of the former redevelopment agency, as approved by the Oversight Board and the Department of Finance. For the purposes of this chapter, the division of taxes allocated to the district pursuant to subdivision (a) of this section or of subdivision (b) of Section 53396 shall not include any taxes required to be deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund created pursuant to subdivision (b) of Section 34170.5 of the Health and Safety Code.

(c) The legislative body of the city or county forming the district may choose to dedicate any portion of its net available revenue to the district through the financing plan described in Section 53398.63.

(d) For the purposes of this section, "net available revenue" means periodic distributions to the city or county from the Redevelopment Property Tax Trust Fund, created pursuant to Section 34170.5 of the Health and Safety Code, that are available to the city or county after all preexisting legal commitments and statutory obligations funded from that revenue are made pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. "Net available revenue" shall not include any funds deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund or funds remaining in the Redevelopment Property Tax Trust Fund prior to distribution. Net available revenues shall not include any moneys payable to a school district that maintains kindergarten and grades 1 to 12, inclusive, community college districts, county office of education, or to the Educational Revenue Augmentation Fund, pursuant to paragraph (4) of subdivision (a) of Section 34183 of the Health and Safety Code.

(e) (1) That portion of any ad valorem property tax revenue annually allocated to a city or county pursuant to Section 97.70 of the Revenue and Taxation Code that is specified in the adopted infrastructure financing plan for the city or county that has agreed to participate pursuant to Section 53398.68, and that corresponds to the increase in the assessed valuation of taxable property shall be allocated to, and, when collected, shall be apportioned to, a special fund of the district for all lawful purposes of the district.

(2) When the district ceases to exist pursuant to the adopted infrastructure financing plan, the revenues described in this subdivision shall be allocated to, and, when collected, shall be apportioned to, the respective city or county.

(f) This section shall not be construed to prevent a district from utilizing revenues from any of the following sources to support its activities provided that the applicable voter approval has been obtained, and the infrastructure financing plan has been approved pursuant to Section 53398.69:

(1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(2) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(3) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(4) The Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code).

(5) The Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18 of the Streets and Highways Code).

(6) The Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18 of the Streets and Highways Code).

(7) The Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of this code).

(8) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of this title).

(9) The Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of Part 1 of Division 2 of this title).

(10) The so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.

SEC. 16. (a) Section 3.5 of this bill incorporates amendments to Section 53398.52 of the Government Code proposed by both this bill and Senate Bill 63. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 53398.52 of the Government Code, and (3) this bill is enacted after Senate Bill 63, in which case Section 3 of this bill shall not become operative.

(b) Section 6.5 of this bill incorporates amendments to Section 53398.62 of the Government Code proposed by both this bill and Senate Bill 63. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 53398.62 of the Government Code, and (3) this bill is enacted after Senate Bill 63, in which case Section 6 of this bill shall not become operative.

(c) Section 12.5 of this bill incorporates amendments to Section 53398.69 of the Government Code proposed by both this bill and Senate Bill 63. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 53398.69 of the Government Code, and (3) this bill is enacted after Senate Bill 63, in which case Section 12 of this bill shall not become operative.