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AB-1297 California Infrastructure and Economic Development Bank: public and economic development facilities: housing. (2021-2022)

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Assembly Bill No. 1297

CHAPTER 356

An act to amend Sections 63010, 63045, and 63047 of, and to add Article 5.5 (commencing with Section 63047.1) to Chapter 2 of Division 1 of Title 6.7 of, the Government Code, relating to economic development, and making an appropriation therefor.

[Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1297, Holden. California Infrastructure and Economic Development Bank: public and economic development facilities: housing.

The Bergeson-Peace Infrastructure and Economic Development Bank Act authorizes the California Infrastructure and Economic Development Bank, governed by a board of directors, to, among other things, make loans, issue bonds, and provide other financial assistance for various types of projects that qualify as public development or economic development facilities. The act defines "public development facilities" for these purposes to mean real and personal property, structures, conveyances, equipment, thoroughfares, buildings, and supporting components thereof, excluding any housing, that are directly related to providing, among other things, housing-related infrastructure, as specified. The act defines "economic development facilities" for these purposes to mean real and personal property, structures, buildings, equipment, and supporting components thereof that are used to provide industrial, recreational, research, commercial, utility, goods movement, or service enterprise facilities, community, educational, cultural, or social welfare facilities and any parts or combinations thereof, and all necessary facilities or infrastructure, excluding any housing.

Existing law establishes the California Infrastructure and Economic Development Bank Fund and continuously appropriates the money in the fund to the bank for purposes of the act.

This bill would authorize economic development facilities and public development facilities to include housing if the housing meets certain financing requirements and limits, as specified.

Existing law authorizes the bank, in order to provide or arrange for the financing of economic development facilities to, among other actions, issue tax-exempt revenue bonds, in accordance with certain conditions.

This bill would prohibit the proceeds of private activity bonds issued by the bank under any state allocation from being used to finance any housing.

Existing law requires the bank, with respect to financing economic development facilities, to utilize existing local economic development networks to identify projects and to prepare a plan, in consultation with local economic development networks and organizations and representatives, as specified.

This bill would require housing financed pursuant to these provisions to meet specified conditions. The bill, among other conditions, would provide that any housing financed as part of an economic development facility be required for the operation of the facility, would prohibit funds from the Infrastructure State Revolving Loan Program from being used to finance any housing component of an economic development facility, and would limit housing finance costs from representing more than a certain percentage of the overall project costs financed by the bank. The bill, with respect to public development facilities, would also require any housing financed to meet specified conditions, including prohibiting tax-exempt revenue bonds issued by the bank from financing any housing component of a public development facility, and prohibiting funds from the Infrastructure State Revolving Loan Program from being used to finance any housing component of a public development facility.

By authorizing an additional type of expenditure from the California Infrastructure and Economic Development Bank Fund, the bill would make an appropriation.

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

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

SECTION 1. Section 63010 of the Government Code is amended to read:

63010. For purposes of this division, the following words and terms shall have the following meanings unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the Bergeson-Peace Infrastructure and Economic Development Bank Act.

(b) "Bank" means the California Infrastructure and Economic Development Bank.

(c) "Board" or "bank board" means the Board of Directors of the California Infrastructure and Economic Development Bank.

(d) "Bond purchase agreement" means a contractual agreement executed between the bank and a sponsor, or a special purpose trust authorized by the bank or a sponsor, or both, whereby the bank or special purpose trust authorized by the bank agrees to purchase bonds of the sponsor for retention or sale.

(e) "Bonds" means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond, revenue, tax, or grant anticipation notes; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for federal income taxation purposes.

(f) "Cost," as applied to a project or portion thereof financed under this division, means all or any part of the cost of construction, renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery, equipment, and financing charges; interest prior to, during, and for a period after completion of construction, renovation, or acquisition, as determined by the bank; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; and the cost of architectural, engineering, financial and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of any project or incidental to the construction, acquisition, or financing of any project, and transition costs in the case of an electrical corporation.

(g) "Economic development facilities" means real and personal property, structures, buildings, equipment, and supporting components thereof that are used to provide industrial, recreational, research, commercial, utility, goods movement, or service enterprise facilities, community, educational, cultural, or social welfare facilities and any parts or combinations thereof, and all facilities or infrastructure necessary or desirable in connection therewith, including provision for working capital, but shall not include any housing, unless the housing meets the requirements of Article 5 (commencing with Section 63043).

(h) "Electrical corporation" has the meaning set forth in Section 218 of the Public Utilities Code.

(i) "Executive director" means the Executive Director of the California Infrastructure and Economic Development Bank appointed pursuant to Section 63021.

(j) "Financial assistance" in connection with a project, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the bank or special purpose trust, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board or the sponsor, or both; the purchase or retention of bank bonds, the bonds of a sponsor for their retention or for sale by the bank, or the issuance of bank bonds or the bonds of a special purpose trust used to fund the cost of a project for which a sponsor is

directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or in part pursuant to the powers granted by Section 63025.1; bonds for which the bank has provided a guarantee or enhancement, including, but not limited to, the purchase of the subordinated bonds of the sponsor, the subordinated bonds of a special purpose trust, or the retention of the subordinated bonds of the bank pursuant to Chapter 4 (commencing with Section 63060); or any other type of assistance deemed appropriate by the bank or the sponsor, except that no direct loans shall be made to nonpublic entities other than in connection with the issuance of rate reduction bonds pursuant to a financing order or in connection with a financing for an economic development facility.

For purposes of this subdivision, "grant" does not include grants made by the bank except when acting as an agent or intermediary for the distribution or packaging of financing available from federal, private, or other public sources.

(k) "Financing order" has the meaning set forth in Section 840 of the Public Utilities Code.

(l) "Guarantee trust fund" means the California Infrastructure Guarantee Trust Fund.

(m) "Infrastructure bank fund" means the California Infrastructure and Economic Development Bank Fund.

(n) "Loan agreement" means a contractual agreement executed between the bank or a special purpose trust and a sponsor that provides that the bank or special purpose trust will loan funds to the sponsor and that the sponsor will repay the principal and pay the interest and redemption premium, if any, on the loan.

(o) "Participating party" means any person, company, corporation, association, state, or municipal governmental entity, partnership, firm, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financing from the bank in conjunction with a sponsor for the purpose of implementing a project. However, in the case of a project relating to the financing of transition costs or the acquisition of transition property, or both, on the request of an electrical corporation, or in connection with financing for an economic development facility, or for the financing of insurance claims, the participating party shall be deemed to be the same entity as the sponsor for the financing.

(p) "Project" means designing, acquiring, planning, permitting, entitling, constructing, improving, extending, restoring, financing, and generally developing public development facilities or economic development facilities within the state or financing transition costs or the acquisition of transition property, or both, upon approval of a financing order by the Public Utilities Commission, as provided in Article 5.5 (commencing with Section 840) of Chapter 4 of Part 1 of Division 1 of the Public Utilities Code.

(q) "Public development facilities" means real and personal property, structures, conveyances, equipment, thoroughfares, buildings, and supporting components thereof, excluding any housing, unless the housing meets the requirements of Article 5.5 (commencing with Section 63047.1), that are directly related to providing the following:

(1) "City streets" including any street, avenue, boulevard, road, parkway, drive, or other way that is any of the following:

(A) An existing municipal roadway.

(B) Is shown upon a plat approved pursuant to law and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, bridges, shoulders, gutters, curbs, guardrails, sidewalks, parking areas, benches, fountains, plantings, lighting systems, and other areas within the street lines, as well as equipment and facilities used in the cleaning, grading, clearance, maintenance, and upkeep thereof.

(2) "County highways" including any county highway as defined in Section 25 of the Streets and Highways Code, that includes the land between the highway lines, whether improved or unimproved, and may comprise pavement, bridges, shoulders, gutters, curbs, guardrails, sidewalks, parking areas, benches, fountains, plantings, lighting systems, and other areas within the street lines, as well as equipment and facilities used in the cleaning, grading, clearance, maintenance, and upkeep thereof.

(3) "Drainage, water supply, and flood control" including, but not limited to, ditches, canals, levees, pumps, dams, conduits, pipes, storm sewers, and dikes necessary to keep or direct water away from people, equipment, buildings, and other protected areas as may be established by lawful authority, as well as the acquisition, improvement, maintenance, and management of flood plain areas and all equipment used in the maintenance and operation of the foregoing.

(4) "Educational facilities" including libraries, childcare facilities, including, but not limited to, daycare facilities, and employment training facilities.

(5) "Environmental mitigation measures" including required construction or modification of public infrastructure and purchase and installation of pollution control and noise abatement equipment.

(6) "Parks and recreational facilities" including local parks, recreational property and equipment, parkways, and property.

(7) "Port facilities" including airports, inland ports, landports, waterports, railports, docks, harbors, ports of entry, piers, ships, small boat harbors and marinas, and any other facilities, additions, or improvements in connection therewith, that transport goods or persons.

(8) "Power and communications" including facilities for the transmission or distribution of electrical energy, natural gas, and telephone and telecommunications service.

(9) "Public transit" including air and rail transport, airports, guideways, vehicles, rights-of-way, passenger stations, maintenance and storage yards, and related structures, including public parking facilities, and equipment used to provide or enhance transportation by bus, rail, ferry, or other conveyance, either publicly or privately owned, that provides to the public general or special service on a regular and continuing basis.

(10) "Sewage collection and treatment" including pipes, pumps, and conduits that collect wastewater from residential, manufacturing, and commercial establishments, the equipment, structures, and facilities used in treating wastewater to reduce or eliminate impurities or contaminants, and the facilities used in disposing of, or transporting, remaining sludge, as well as all equipment used in the maintenance and operation of the foregoing.

(11) "Solid waste collection and disposal" including vehicles, vehicle-compatible waste receptacles, transfer stations, recycling centers, sanitary landfills, and waste conversion facilities necessary to remove solid waste, except that which is hazardous as defined by law, from its point of origin.

(12) "Water treatment and distribution" including facilities in which water is purified and otherwise treated to meet residential, manufacturing, or commercial purposes and the conduits, pipes, and pumps that transport it to places of use.

(13) "Defense conversion" including, but not limited to, facilities necessary for successfully converting military bases consistent with an adopted base reuse plan.

(14) "Public safety facilities" including, but not limited to, police stations, fire stations, court buildings, jails, juvenile halls, and juvenile detention facilities.

(15) "State highways" including any state highway as described in Chapter 2 (commencing with Section 230) of Division 1 of the Streets and Highways Code, and the related components necessary for safe operation of the highway.

(16) (A) "Military infrastructure," including, but not limited to, facilities on or near a military installation, that enhance the military operations and mission of one or more military installations in this state. To be eligible for funding, the project shall be endorsed by the Office of Planning and Research.

(B) For purposes of this subdivision, "military installation" means any facility under the jurisdiction of the Department of Defense, as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(17) "Goods movement-related infrastructure" including port facilities, roads, rail, and other facilities and projects that move goods, energy, and information.

(18) "Housing-related infrastructure" including city streets; drainage, water supply, and flood control; environmental mitigation measures; power and communications; public transit improvement that directly supports transit-oriented housing; sewage collection and treatment; and water treatment and distribution.

(r) "Rate reduction bonds" has the meaning set forth in Section 840 of the Public Utilities Code.

(s) "Revenues" means all receipts, purchase payments, loan repayments, lease payments, and all other income or receipts derived by the bank or a sponsor from the sale, lease, or other financing arrangement undertaken by the bank, a sponsor, or a participating party, including, but not limited to, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the bank or a sponsor and any receipts derived from transition property. Revenues shall not include moneys in the General Fund of the state.

(t) "Special purpose trust" means a trust, partnership, limited partnership, association, corporation, nonprofit corporation, or other entity authorized under the laws of the state to serve as an instrumentality of the state to accomplish public purposes and authorized by the bank to acquire, by purchase or otherwise, for retention or sale, the bonds of a sponsor or of the bank made or entered into pursuant to this division and to issue special purpose trust bonds or other obligations secured by these bonds or other sources of public or private revenues. Special purpose trust also means any entity authorized by the bank to acquire transition property or to issue rate reduction bonds, or both, subject to the approvals by the bank and powers of the bank as are provided by the bank in its resolution authorizing the entity to issue rate reduction bonds.

(u) "Sponsor" means any subdivision of the state or local government including departments, agencies, commissions, cities, counties, nonprofit corporations formed on behalf of a sponsor, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions that makes an application to the bank for financial assistance in connection with a project in a manner prescribed by the bank. This definition shall not be construed to require that an applicant have an ownership interest in the project. In addition, an electrical corporation shall be deemed to be the sponsor as well as the participating party for any project relating to the financing of transition costs and the acquisition of transition property on the request of the electrical corporation and any person, company, corporation, partnership, firm, or other entity or group engaged in business or operation within the state that applies for financing of any economic development facility, shall be deemed to be the sponsor as well as the participating party for the project relating to the financing of that economic development facility.

(v) "State" means the State of California.

(w) "Transition costs" has the meaning set forth in Section 840 of the Public Utilities Code.

(x) "Transition property" has the meaning set forth in Section 840 of the Public Utilities Code.

SEC. 2. Section 63045 of the Government Code is amended to read:

63045. In order to provide or arrange for the financing of economic development facilities, the bank may:

(a) Issue taxable revenue bonds pursuant to Chapter 5 (commencing with Section 63070) to provide financing for economic development projects compatible with the public interest as specified in Section 63046.

(b) Issue taxable revenue bonds pursuant to Chapter 5 (commencing with Section 63070) to provide financing for the revolving loan funds and economic development projects of small business development corporations, local economic development corporations, community development corporations, and nonprofit organizations, which revolving loan funds and economic development projects shall be compatible with the public interest.

(c) Issue tax-exempt revenue bonds pursuant to Chapter 5 (commencing with Section 63070) to provide financing for economic development facilities as permitted by federal law and in accordance with applicable California law relating to the distribution of state allocations for private activity bonds. The proceeds of private activity bonds issued by the bank under any state allocation shall not be used to finance any housing. Projects so financed shall be compatible with the public interest as specified in Section 63046.

(d) Issue tax-exempt revenue bonds pursuant to Chapter 5 (commencing with Section 63070) for economic development facilities of public sector and nonprofit organizations qualifying for exemption under federal law.

SEC. 3. Section 63047 of the Government Code is amended to read:

63047. (a) Any loan entered into pursuant to this article may contain provisions for payment of a penalty if any recipient of funds under this article leaves this state prior to the completion of the full term of the loan.

(b) Projects that the board determines will produce long-term employment creation or retention shall receive first priority for financing.

(c) Any recipient of funds under this article that utilizes the funds for construction purposes, shall certify that the contractors are properly licensed by the Contractors' State License Board.

(d) The bank shall require that the proposed economic development facilities be consistent with any existing local or regional comprehensive plan.

(e) The bank shall develop a policy regarding financing companies that move within this state so as to minimize any displacement of jobs.

(f) In addition to any other methods the bank may use to identify economic development projects, the bank shall utilize existing local economic development networks to identify these projects and prepare a plan, in consultation with local economic development networks and their organizations and representatives, to implement this policy.

(g) Any housing financed pursuant to this article shall meet all of the following conditions:

(1) Any housing financed as part of an economic development facility shall be required for the operation of the facility.

(2) No funds from the Infrastructure State Revolving Loan Program shall be used to finance any housing component of an economic development facility.

(3) The proceeds of private activity bonds issued by the bank under any state allocation shall not be used to finance any housing. Projects so financed shall be compatible with the public interest as specified in Section 63046.

(4) Any housing financed as part of an economic development project shall be incidental to the overall project and the cost of the housing component shall not represent more than 20 percent of the overall project costs financed by the bank.

SEC. 4. Article 5.5 (commencing with Section 63047.1) is added to Chapter 2 of Division 1 of Title 6.7 of the Government Code, to read:

Article 5.5. Financing Public Development Facilities

63047.1. Any housing financed pursuant to this chapter shall meet all of the following conditions:

(a) Any tax-exempt revenue bonds issued by the bank under a state allocation of private activity bond volume cap pursuant to Section 63045 shall not finance any housing component of a public development facility.

(b) No funds from the Infrastructure State Revolving Fund Program shall be used to finance any housing component of a public development facility.

(c) Any housing financed is required for the operation of the facilities.

(d) Any housing financed shall be incidental to the overall project and the cost of the housing component shall not represent more than 20 percent of the overall project costs financed by the bank.