

Date of Hearing: July 12, 2021

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
David Chiu, Chair
SB 780 (Cortese) – As Amended June 21, 2021

SENATE VOTE: 34-0

SUBJECT: Local finance: public investment authorities

SUMMARY: Makes various changes to the formation and practices of enhanced infrastructure financing districts (EIFDS) and community revitalization investment authorities (CRIAS). Specifically, **this bill:**

Changes EIFD law in the following ways:

- 1) Establishes procedures for appointing alternative members to the public financing authority as follows:
 - a) Clarifies that “legislative body” may include a directly elected mayor of a charter city who is not a member of the city’s legislative body under the city’s adopted charter.
 - b) Authorizes the legislative body of a participating affected taxing entity to appoint an alternate member of the legislative body who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the EIFD.
 - c) Specifies that, in cases where more than three taxing entities make up an EIFD, legislative bodies of those entities are authorized to appoint only one member of their respective legislative bodies and one alternate member to the public financing authority, in addition to at least two members of the public chosen by the legislative bodies of the participating entities.
- 2) Authorizes the legislative body to divide a map delineating the boundaries of the EIFD into multiple project areas, with requirements as follows:
 - a) Requires the legislative body of a participating entity to disclose any proposed project area in its EIFD plan.
 - b) Requires the EIFD plan to include either of the following:
 - i. A date on which the EIFD will cease to exist, which cannot be more than 45 years after the issuance of bonds or the issuance of a loan that was approved by the governing board of a local agency; and
 - ii. If the district is divided into project areas, a date for each project area on which the plan will cease to be in effect and all tax allocations to the district will end, and a date for each project area on which the district’s authority to repay indebtedness with incremental tax revenues will end. This date cannot 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.

- 3) Streamlines notice requirements and adoption procedures for an EIFD plan as follows:
 - a) Establishes an alternative timeline by which to mail documents related to the EIFD plan as well as relevant California Environmental Quality Act (CEQA) reports, and provides criteria for this alternative process.
 - b) Requires the public finance authority to publish a draft of its EIFD plan on a designated internet website.
 - c) Authorizes the adoption of an EIFD by resolution rather than by ordinance if less than 25 percent of landowners and residents over age 18 file a protest.
- 4) Authorizes amendments to an approved EIFD plan, as follows:
 - a) Approval of amendments requires 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) Requires amendments related to any of the following issues 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 EIFD plan:
 - i. Addition of a new territory or district;
 - ii. Increase of the limit of the total number of dollars in local taxes allocated to the plan; and
 - iii. Approval of a public facility or development that was not proposed to be financed or assisted by the district in the approved plan.
- 5) Specifies that, if a taxing entity approves an EIFD plan after the district formation, the division of taxes used to finance the district will be based on last equalized assessment roll that is used for the district.
- 6) Makes other technical and conforming changes to EIFD law.

Changes CRIA law in the following ways:

- 7) Establishes procedures for appointing alternative members to a CRIA governing body as follows:
 - a) Clarifies that “legislative body” may include a directly elected mayor of a charter city who is not a member of the city’s legislative body under the city’s adopted charter.
 - b) Authorizes the legislative body of a participating affected taxing entity to appoint an alternate member of the legislative body to a CRIA’s governing body who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the authority.
 - c) Specifies that, in cases where more than three taxing entities make up a CRIA, legislative bodies of those entities are authorized to appoint only one member of their respective

legislative bodies and one alternate member to the CRIA governing body in addition to at least two members of the public chosen by the legislative bodies of the participating entities.

- 8) Establishes the following guidelines for CRIAs and CRIA plans:
 - a) Requires no less than 70 percent of the CRIA plan land area to meet specified criteria.
 - b) Authorizes a CRIA to provide direct assistance to businesses within the plan area that are redeveloping or converting underutilized office or retail structures or parcels into housing with certain exceptions.
 - c) Adds sites identified in a local government's housing element that are suitable for residential development, including parcels that allow transit priority projects, to the list of alternative locations where local agencies can establish CRIAs if they comply with either a sustainable communities strategy or an alternative planning strategy.
 - d) Requires a CRIA to prepare an annual, independent financial audit paid for from CRIA revenues.
- 9) Allows a CRIA plan to include project areas, and requires the plan to include time limits that may not exceed either of the following:
 - a) 45 years from the date upon which the issuance of debt is approved for a plan, or approved for a project area designated by the authority within a plan as specified
 - b) If the CRIA plan is divided into project areas, 45 years from the date the authority or the applicable project area has received one hundred thousand dollars (\$100,000) in annual incremental tax revenues.
- 10) Establishes requirements for making amendments to a CRIA plan, as follows:
 - a) Requires that amendments related to any of the following issues be adopted in accordance with all notices and hearing requirements for the affected landowners and residents within the proposed additional territory applicable to an initially proposed CRIA plan:
 - i. Addition of a new territory or 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.
 - b) Requires a CRIA, every 15 years, to consider whether property owners and residents within the plan area wish to prepare amendments to the plan in a public hearing, and conduct a protest proceeding against the authority undertaking new projects, as provided.
- 11) Makes various technical and conforming changes to CRIA law.

EXISTING LAW:

- 1) Authorizes local governments to create EIFDs and to use tax increment financing to finance public capital facilities or other specified projects.
- 2) Requires EIFD membership to consist of one of the following:
 - a) If an EIFD has only one participating taxing entity, 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.
 - b) If an EIFD has two or more participating affected taxing entities, 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.
- 3) Establishes procedures for the adoption of an EIFD plan, as follows:
 - a) Requires a legislative body to adopt a resolution of intention to establish a proposed district prior to establishing an EIFD. This resolution must include, among other things, a statement that an EIFD is proposed to be established, and a description of the district's boundaries, which may reference a map.
 - b) Authorizes the EIFD to purchase, construct, or improve of real property or maintain public facilities, as specified, among other powers.
 - c) Requires a designated official to prepare a proposed EIFD plan, which shall contain, among other things, a financing section, as specified.
 - d) Requires the EIFD plan and any required CEQA reports to be sent to each property owner within the proposed EIFD and to each taxing entity, as specified.
 - e) Requires the public financing authority to review the EIFD plan at least annually and authorizes the authority to make amendments as needed.
- 4) Authorizes a local government to establish a CRIA to use property tax increment revenues to finance a community revitalization plan within a community revitalization area.
- 5) Requires a governing board to be appointed by the local government that created the CRIA and include three members of the legislative body of the local government and two public members.
- 6) Authorizes a CRIA to carry out a plan within a community revitalization area with either of the following criteria:
 - a) Not less than 80% of the land shall be characterized by both of the following conditions:
 - i. An annual median income that is less than 80% of the statewide, countywide, or citywide annual median income.

- ii. Three of the following conditions: specified high unemployment rates, specified high crime rates, deteriorated or inadequate infrastructure, or deteriorated commercial or residential structures.
 - b) The area is established within a former military base that is as specified, or the census tracts or census block groups are situated within a disadvantaged community.
- 7) Establishes the following guidelines related to the purview and operations of CRIAs:
- a) Authorizes a CRIA to, among other things, provide funding to rehabilitate, repair, upgrade, or construct infrastructure, provide for low- and moderate-income housing, acquire and transfer real property, issue bonds, borrow money, receive grants or accept financial or other gifts, and provide direct assistance to businesses within the plan area in connection with new or existing facilities for industrial or manufacturing uses.
 - b) Requires that the repayments of the CRIA's debts and obligations shall not exceed 45 years. The plan shall specify that a CRIA shall dissolve as a legal entity in no more than 45 years.
 - c) Requires the CRIA to review the plan at least annually and make amendments necessary and appropriate, as specified.
- 8) Requires cities and counties to do the following with respect to land use and residential development:
- a) Prepare and adopt a general plan, including a housing element, to guide the future growth of a community, as specified. Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.
 - b) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.
- 9) Defines a transit priority project as a project that shall contain at least 50% residential use, provide a minimum net density of at least 20 dwelling units per acre, and be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan.

FISCAL EFFECT: Unknown

COMMENTS:

Author's Statement: According to the author, "After the elimination of redevelopment agencies, the state has tried to find effective solutions to spur economic development and build affordable housing in local communities. Enhanced Infrastructure Finance Districts (EIFD's) and Community Revitalization Investment Authorities (CRIA's) have shown promise, yet have

proven to be overly cumbersome to establish and operate. SB 780 will successfully revitalize these tools, empowering local agencies to leverage their tax increment to spur the development of affordable housing and public infrastructure in their communities.”

Redevelopment Agencies (RDAs): Following the passage of Proposition 13, RDAs became a common source of funding for a variety of local infrastructure activities. As they grew in scale, RDAs were required to set-aside 20 percent of funding generated in a project area to increase the supply of low and moderate income housing in those project areas. In 2011, facing a severe budget shortfall, the Governor signed a measure eliminating RDAs in order to distribute more property taxes to other local agencies. At the time of their dissolution, the Controller estimated that statewide, RDAs generated \$1 billion in set-aside funding obligated for affordable housing.

While they were active, RDAs enjoyed broad powers and often played a role in encouraging infill projects and transit-oriented housing development, in addition to being an important local source of funding for affordable housing. While financial pressures contributed to the dissolution of RDAs in 2012, the decision was in part driven by concerns over how tax increment financing (TIF) revenues were being used (i.e. failing to meet their obligations to fund affordable housing).

Tax Increment Financing for Public Projects: A local government may choose to form a tax increment financing district to fund a public infrastructure project. Revenue for the project is generated by issuing bonds, and use the proceeds from the sales of those bonds to pay project costs. To repay the bonds, the district that issues the bonds captures increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area. The increase in property tax revenues is calculated by comparing the amount of property tax revenues received by a participating local government prior to the project area formation to the project area's assessed valuation in future years. The so-called property tax “increment” revenues flow to the tax increment financing district instead of other local governments. The district is dissolved once the bonds have been fully repaid using these incremental property tax revenues.

TIF tools: Since the state dissolved RDAs, the Legislature has created a number of TIF-related tools to grant local governments the authority to raise revenues to finance local infrastructure projects. Some of these TIF tools include: Enhanced Infrastructure Financing Districts (EIFDs), SB 628 (Beall, Chapter 785, 2014); Community Revitalization and Infrastructure Authorities (CRIAs) AB 2 (Alejo, Chapter 319, 2015); and Neighborhood Infill Finance and Transit Districts (NIFTIs and NIFTI-2s) SB 961 (Allen, Chapter 559, 2018). However, most of these tools have barely been used; five EIFDs have been created statewide, while no CRIAs have been established.

Enhanced Infrastructure Financing Districts: City or county officials may create an EIFD to finance public facilities that house government services, or other projects that benefit the neighboring community. Once approved by the initiating city or county, an EIFD receives funding from three revenue streams to fund its infrastructure financing plan: (1) a portion of the property tax increment, (2) revenue generated by the infrastructure project itself (user fees, loans, private partnerships, etc.), and (3) local share of sales and use taxes and transactions and use taxes. The EIFD may issue bonds backed by these revenues to fund projects. This bill makes several changes to facilitate the formation and practices of an EIFD.

Community Revitalization and Investment Authorities. Unlike EIFDs, which can form anywhere, local officials may only establish a CRIA in an area where at least 80 percent of the area has an annual median household income that is less than 80 percent of the city, county, or statewide annual median income, among other conditions. This requirement puts increased focus on providing affordable housing in areas that need it most. This bill streamlines the CRIA formation and implementation process to increase the use of this public financing tool.

OPR and TIF Effectiveness:

SB 961 (Allen, Chapter 559, Statutes of 2018) required OPR to, on or before January 1, 2021, complete a study and make recommendations on (1) the effectiveness of TIFs, (2) the relative advantages and disadvantages of different types of TIF tools, and (3) the impacts of extending Second Neighborhood Infill Finance and Transit Districts (NIFTI-2s) to areas around bus stops. OPR's initial report identified several limitations among current TIF districts:

- a) Limited revenue potential, undermining the cost of district formation
- b) Reliance on volunteers, leading to lower participation than the mandatory RDAs
- c) Limited powers compared to RDAs; and
- d) Technical challenges that interfere with their development.

Of the five EIFDs that were created, OPR found that only the Placentia and La Verne EIFDs include county participation. Three additional TIF districts are under consideration in the cities of Fresno, Ontario, and Redondo Beach. The five EIFDs will likely generate 38,000 units housing units.

While the funds will not go towards affordable housing, some will indirectly facilitate the procurement of affordable housing, either by providing supportive infrastructure or through the use of an inclusionary housing requirement. OPR recommended the following to encourage the use of TIF districts:

- a) Make online resources and technical assistance available to practitioners to better understand their application;
- b) Explore ways to encourage participation of multiple taxing entities and leverage state resources to increase TIF district revenue potential;
- c) Explore changes to TIF districts to encourage their adoption in alignment with state affordable housing and location efficiency goals; and
- d) Make various technical changes to resolve potential confusion with TIF statutes.

This bill begins to address OPR's recommendations through establishing clear requirements as to how multiple taxing entities may participate in an EIFD or CRIA, lowering the threshold for a CRIA area to regions where at least 70 percent of the area has a lower annual median income, and updating how CRIA and EIFD plans are shared with the community.

Housing provisions: The California Association for Local Economic Development, the sponsors of SB 780, highlight three components of the bill that could make CRIAs and EIFDs more useful for local governments and therefore more likely to result in housing construction:

- a) *Expand eligible areas within CRIAs.* CRIAs model RDAs in their focus on traditionally disadvantaged areas. SB 780 would dramatically expand eligible areas for CRIAs by including sites suitable for residential development that are included in a local government's housing element, as well as include parcels zoned to include transit priority projects. The location limitations in CRIAs are narrower than other TIFs.
- b) *Expediting project approvals.* SB 780 would also allow for the EIFD or CRIA board to amend its plan for the EIFD or CRIA district. This bill would allow the plan amendments to be processed more quickly by eliminating a 120-day hearing schedule and protest option that is required for initial formation of amendments.
- c) *Use of funds for underutilized commercial properties.* Lastly, SB 780 would authorize CRIAs to provide direct assistance to businesses within the plan area to redevelop or convert underutilized office or retail structures or parcels into housing.

Additional Considerations: RDAs were widely adopted for two reasons. First, they allowed cities and counties to take increment from the school share of the property tax, which the state often backfilled from the General Fund. This generated billions of dollars in additional funds that cities and counties could only access through redevelopment. Second, they allowed cities and counties to skirt voter approval requirements on debt issuance. While both EIFDs and CRIAs do not require voter approval to issue bonds, this bill does not grant them any funds beyond what would be otherwise available, making them significantly less attractive than an RDA's capacity to draw from the school share of the property tax.

SB 780 seeks to promote EIFD and CRIA formation in several ways, including allowing for alternate board members, creating an efficient amendment process, and allowing districts to create project areas. While certain changes like consolidating boards with more than three tax entities seem to align with OPR's recommendation to encourage participation of other taxing entities, SB 780 does not address other OPR recommendations such as leveraging state funding, or finding a way for TIF districts to be successful in areas that do not receive a significant share of property tax revenue.

Double Referral: This bill passed out of the Assembly Local Government Committee with unanimous support (8-0) on June 9, 2021.

Related Legislation:

SB 628 (Beall, Chapter 785, Statutes of 2014): Authorized cities and counties to create EIFDs.

AB 116 (Ting, Chapter 656, Statutes of 2019): Added a protest process from CRIA law to EIFD formation, save for the 10-year revisiting provision.

AB 2 (Alejo, Chapter 319, Statutes of 2015): Authorized local agencies to create CRIAs, with broad powers based on former redevelopment, including eminent domain for land assembly and

the ability to repair and upgrade infrastructure, with 25% of all taxes dedicated to developing low- and moderate-income housing. Also allows the protest to be revisited at 10 year intervals.

SB 563 (Allen, 2021): Makes several changes to the Second Neighborhood Infill Finance and Transit Improvements Act (NIFTI-2). *Held in Senate Appropriations Committee.*

REGISTERED SUPPORT / OPPOSITION:**Support**

California Association for Local Economic Development (Sponsor)
California Forward Action Fund
City of Cupertino
City of Huntington Park
City of Pico Rivera
County of Monterey
Edison International and Affiliates, Including Southern California Edison

Opposition

No opposition on file.

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