

SENATE THIRD READING
SB 780 (Cortese)
As Amended August 23, 2021
Majority vote

SUMMARY

Makes numerous changes to enhanced infrastructure financing districts (EIFDs) and community revitalization infrastructure authorities (CRIAs).

Major Provisions

- 1) Allow local agencies forming an EIFD or CRIA to appoint an alternate member of their legislative body, form "project areas" within a proposed CRIA or EIFD rather than create separate districts, and allows an EIFD or CRIA to adopt certain plan amendments through an alternate process.
- 2) Require the EIFD to make the EIFD plan available to the public on its website, clarifies that when a taxing entity joins an EIFD, its tax increment calculation is based on the last equalized assessment roll, and provides for an alternative schedule to mailing the EIFD plan and any CEQA documents.
- 3) Add 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.
- 4) Require a CRIA, every 15 years, to consider whether the property owners and residents within the plan area wish to propose amendments to the plan.

COMMENTS

Redevelopment. California Constitution Article XVI, Section 16, authorizes the Legislature to provide for the formation of redevelopment agencies (RDAs) to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Generally, property tax increment financing involves a local government forming a tax increment financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area. To calculate the increased property tax revenues captured by the district, the amount of property tax revenues received by any local government participating in the district is "frozen" at the amount it received from property within a project area prior to the project area's formation. In future years, as the project area's assessed valuation grows above the frozen base, the resulting additional property tax revenues – the so-called property tax "increment" revenues – flow to the tax increment financing district instead of other local governments. After the bonds have been fully repaid using the incremental property tax revenues, the district is dissolved, ending the diversion of tax increment revenues from participating local governments.

Prior to Proposition 13 of 1978 very few RDAs existed; however, after its passage, RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set-aside 20% of funding generated in a project area to increase the supply of low and moderate income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend \$1 billion on affordable housing. At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over \$5.6 billion yearly.

In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved and the Governor signed two measures, AB 26 X1 (Blumenfield), Chapter 5, and AB 27 X1 (Blumenfield), Chapter 6, both Statutes of 2011-12 First Extraordinary Session, that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to AB 26 X1. However, the Court did grant CRA's petition with respect to AB 27 X1. As a result, all RDAs were required to dissolve as of February 1, 2012.

Previous Attempts to Replace RDAs. After the Supreme Court's 2011 *Matosantos* decision dissolved all RDAs, legislators enacted several measures creating new tax increment financing tools to pay for local economic development. The Legislature authorized the creation of EIFDs [SB 628 (Beall), Chapter 785, Statutes of 2014] quickly followed by CRIAs [AB 2 (Alejo), Chapter 319, Statutes of 2015]. Similar to EIFDs, CRIAs use tax increment financing to fund infrastructure projects. CRIAs may currently only be formed in economically depressed areas. The Legislature has also authorized the formation of affordable housing authorities (AHAs), which may use tax increment financing exclusively for rehabilitating and constructing affordable housing and also do not require voter approval to issue bonds [AB 1598 (Mullin), Chapter 764, Statutes of 2017]. SB 961 (Allen), Chapter 559, Statutes of 2018, removed the vote requirement for a subset of EIFDs to issue bonds and required these EIFDs to instead solicit public input, and AB 116 (Ting), Chapter 656, Statutes of 2019, removed the voter requirement for any EIFD to issues bonds in favor of a formal protest process. While these entities share fundamental similarities with RDAs in terms of using various forms of tax-increment financing, they differ in one significant aspect, which is not having access to the school's share of property tax revenue.

Similar to EIFDs, a CRIA considers the adoption of its plan over three public hearings. It requires the public financing authority terminate the EIFD infrastructure plan if there is a majority protest. A majority protest exists if protests have been filed representing over 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age. Finally, it requires an election if between 25 percent and 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age file a protest. Unlike EIFDs, CRIAs must repeat this protest process every ten years.

Governor's Office of Planning and Research (OPR) Report. 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 tax increment financing tools, (2) the relative advantages and disadvantages of different types of tax increment financing tools, and (3) the impacts of extending NIFTI-2s to areas around bus stops, including segregated bus lanes. The first report identified several key limitations current tax increment financing districts share:

- 1) They have limited revenue potential to make district formation worthwhile.
- 2) Unlike redevelopment where taxing entity participation was mandatory, current tax increment financing districts rely on volunteer participation.
- 3) They have limited powers compared to RDAs.
- 4) Some technical challenges interfere with their development.

The reports found that despite the multitude of tax increment financing tools available for local agencies to choose from, only five EIFDs had been created by the end of 2020: Otay Mesa (San Diego County), Placentia (Orange County), La Verne (Los Angeles County), West Sacramento (Yolo County), and Sacramento (Sacramento County). Of these five, only the Placentia and La Verne EIFDs will include County participation. Three additional tax increment financing districts are under consideration in the cities of Fresno, Ontario, and Redondo Beach. Within the EIFDs created, the total housing anticipated is around 38,000 units. The report notes that while the funds will not fund affordable housing, some will indirectly help to enable affordable housing, either by providing supportive infrastructure or through the use of an inclusionary housing requirement. To overcome these challenges and encourage the creation of more tax increment financing districts, OPR recommended the following:

- 1) Make online resources and technical assistance available to practitioners to better understand their application.
- 2) Explore ways to encourage participation of multiple taxing entities and leverage state resources to increase tax increment financing district revenue potential.
- 3) Explore changes to tax increment financing districts to encourage their adoption in alignment with state affordable housing and location efficiency goals.
- 4) Make various technical changes to resolve potential confusion with tax increment financing statutes.

According to the Author

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."

Arguments in Support

The City of San Diego argues, "Following the dissolution of redevelopment agencies, the Legislature created several tax increment financing tools to support infrastructure, economic development and affordable housing in local communities. Enhanced Infrastructure Finance Districts (EIFDs) have emerged as the most flexible tool for local agencies considering infrastructure development. Community Revitalization Investment Authorities (CRIAs) have broader redevelopment powers and a focus on affordable housing but are currently viewed as too cumbersome to establish and operate.

"In 2017, the City of San Diego established an EIFD at the Otay Mesa community. The goal of the Otay Mesa EIFD is to fund and implement the priorities and projects outlined in the Otay Mesa Community Plan and the Otay Mesa Public Facilities Financing Plan. Using tax increment collected above the base 2017 year, the Otay Mesa EIFD will fund economic development, infrastructure development, and public facility improvements including housing development, economic development near the airport, public facility improvements (transportation, park, water & sewer) and industrial infrastructure development. The Otay Mesa EIFD is projected to bring in \$970 million over the course of its life.

"The reforms included in SB 780 are commonsense and will streamline the administrative functions of the City of San Diego EIFD at Otay Mesa. SB 780 will help ensure that limited tax increment dollars are allocated to important projects rather than for duplicative or unnecessary administrative purposes."

Arguments in Opposition

None on file.

FISCAL COMMENTS

None.

VOTES

SENATE FLOOR: 34-0-6

YES: Allen, Archuleta, Atkins, Becker, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Bates, Borgeas, Caballero, Dahle, Limón, Stern

ASM LOCAL GOVERNMENT: 8-0-0

YES: Aguiar-Curry, Lackey, Bloom, Boerner Horvath, Ramos, Luz Rivas, Robert Rivas, Voepel

ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0

YES: Chiu, Seyarto, Gabriel, Kalra, Kiley, Maienschein, Quirk-Silva, Wicks

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