

19 MAY 23 PM 4: 04



Memorandum

CITY OF OAKLAND

CITY HALL, 1 FRANK OGAWA PLAZA, 2ND FLOOR, OAKLAND, CALIFORNIA 94612

DATE: May 23, 2019
TO: City Council and Members of the Public
FROM: Councilmembers Loren Taylor and Nikki Fortunato Bas
CC: City Administrator Landreth and City Attorney Parker
SUBJECT: Report Regarding Assembly Bill (“AB”) 1191 and Senate Bill (“SB”) 293 and Resolutions Supporting, Opposing or Supporting with Amendments AB 1191 and SB 293

Councilmembers Loren Taylor and Nikki Fortunato Bas recommend that the City Council receive and take action after discussing the provisions and providing the status and impacts to the City of the following bills:

- Assembly bill 1191 (Bonta), entitled, “State Lands Commission: Exchange of Trust Lands: City of Oakland: Howard Terminal Property: Oakland Waterfront Ballpark Act” (AB 1191) and
- Senate Bill 293 (Skinner), entitled: “Infrastructure Financing Districts: Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District” (SB 293).

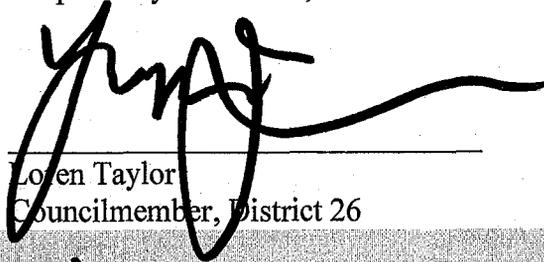
We request that Niccolo De Luca of Townsend Public Affairs, the City’s State Legislative Lobbyist, and the City Administrator advise the Council of the provisions and status and impacts of AB 1191 and SB 293; and that the City Attorney provide confidential or public legal advice/analysis as appropriate.

The fiscal impact of these bills to the City is undefined and unknown but potentially hundreds of millions of dollars to pay for infrastructure costs related to the development of the ballpark and mixed use project at Howard Terminal, including without limitation streets, utilities, public safety, and fire services in, on, to and around the Howard Terminal.

Attached are the bill analyses, latest text of each bill, and history on each bill to provide background on history and status.

Also attached are draft resolutions supporting, opposing or supporting with amendments AB 1191 and SB 293 for the Council's consideration.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Loren Taylor", written over a horizontal line.

Loren Taylor
Councilmember, District 26

A handwritten signature in black ink, appearing to read "Nikki Fortunato Bas", written on a grey textured background.

Nikki Fortunato Bas
Councilmember, District 2



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AB-1191 State Lands Commission: exchange of trust lands: City of Oakland: Howard Terminal property: Oakland Waterfront Ballpark Act. (2019-2020)

Senate:

Assembly: 1st Cmt 2nd 3rd

Bill Status	
Measure:	AB-1191
Lead Authors:	Bonta (A)
Principal Coauthors:	-
Coauthors:	-
Topic:	State Lands Commission: exchange of trust lands: City of Oakland: Howard Terminal property: Oakland Waterfront Ballpark Act.
31st Day in Print:	03/24/19
Title:	An act relating to the grant of public trust lands to the City of Oakland.
House Location:	Assembly
Last Amended Date:	04/11/19

Type of Measure
Active Bill - Passed
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
05/20/19	Read second time. Ordered to thlrd reading.
05/16/19	From committee: Do pass. (Ayes 18. Noes 0.) (May 16).
05/08/19	In committee: Set, first hearing. Referred to APPR. suspense file.
04/25/19	From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (April 24). Re-referred to Com. on APPR.
04/23/19	From committee: Do pass and re-refer to Com. on L. GOV. (Ayes 7. Noes 0.) (April 22). Re-referred to Com. on L. GOV.

Daily File Status		
File	File Date	Item
Asm 3rd Reading File Assembly Bills	05-22-2019	244

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

SECTION 1. This act shall be known, and may be cited, as the Oakland Waterfront Ballpark Act.

SEC. 2. (a) For purposes of this section, the following definitions apply unless the context requires otherwise:

- (1) "1852 grant" means Chapter 107 of the Statutes of 1852.
 - (2) "1923 grant" means Chapter 174 of the Statutes of 1923, as amended.
 - (3) "Ballpark project" means a proposed baseball park that will become the new home of the Oakland Athletics, which will include visitor-serving or water-oriented recreation, cultural, and entertainment uses, public access, and other public amenities to be developed at the Howard Terminal property in the City of Oakland, consistent with public trust purposes.
 - (4) "Charter" means the Charter of the City of Oakland, as amended.
 - (5) "City" means the City of Oakland or the Town of Oakland, as applicable.
 - (6) "Commission" means the State Lands Commission.
 - (7) "Howard Terminal property" or "property" means lands located in the city, within the ~~Port~~ port area commonly known as the Howard Terminal, consisting of properties identified by the assessor parcel numbers: 018-0405-000; 018-0405-002; 018-0405-003-01; 018-0405-003-02; 018-0405-004; 018-0410-004; 018-0410-005; 018-0410-006-01; 018-0410-001-04; and 018-0410-001-05.
 - (8) "Legislative grants" means those grants of tidelands or submerged lands made by the Legislature to the city for public trust purposes, including the 1852 grant and the 1923 grant, which include lands in the Howard Terminal property that are under the jurisdiction of, and controlled by, the port.
 - (9) "Port" means the Port of Oakland acting under the direction of the Board of Port Commissioners for the Port of Oakland pursuant to the charter as the trustee for granted public trust lands and any improvements or related assets and any other lands owned by the city that are located in the port area, including the Rancho uplands acquired by the city, and any improvements or related assets.
 - (10) "Port area" means any lands that are under the jurisdiction of the Board of Port Commissioners for the Port of Oakland.
 - (11) "Public trust" or "trust" means the common law doctrine applicable to the state's authority over the navigable waters of the state, including tidelands and submerged lands, for purposes relating to maritime or water-dependent commerce, navigation, and fisheries for the benefit of the people of the state.
 - (12) "Rancho uplands" means lands within the Howard Terminal property that were never owned by the state, are not tidelands or submerged lands, and are located landward of the ordinary high water mark of 1850.
 - (13) "State" means the State of California.
- (b) (1) The commission may, pursuant to its authority under Section 6307 of the Public Resources Code, enter into an exchange with the city, of filled or reclaimed tidelands and submerged lands or beds of navigable waterways, or interests in these lands, located in the Howard Terminal property, that are subject to the public trust for commerce, navigation, and fisheries, for other lands or interests in lands under the jurisdiction and control of the city, if the commission finds all of the following conditions exist:
- (A) The exchange meets the requirements of Section 6307 of the Public Resources Code.
 - (B) The exchange ensures that the use of any lands or interests in lands exchanged is consistent with and furthers public trust purposes relating to maritime or water-dependent commerce, navigation, and fisheries.
 - (C) The exchange is in the best interests of the state.
- (2) The commission may also impose additional conditions on the exchange of lands under paragraph (1), if the commission determines that the conditions are necessary to protect the public trust.
- (c) The commission may establish the ordinary high water mark or the ordinary low water mark of any tidelands or submerged lands within the boundaries of the Howard Terminal property that are exchanged pursuant to an agreement with the city authorized under this section.

SEC. 3. (a) *This act does not limit the authority of the San Francisco Bay Conservation and Development Commission to consider seaport plan and bay plan amendments and retain or remove seaport plan and bay plan port priority use designations from the Howard Terminal property and adjacent areas currently designated for port priority use.*

(b) This act does not limit the authority of the San Francisco Bay Conservation and Development Commission to approve or deny permits for those aspects of the Oakland Sports and Mixed-Use Project described in this act that are within the commission's jurisdiction in a manner consistent with the McAteer-Petris Act (Title 7.2 (commencing with Section 66600) of the Government Code) and the bay plan, including the authority and discretion of the commission to impose terms and conditions on the permits for the project.

(c) This act does not limit the authority or discretion of the commission to enforce any of its permits issued for the project.

SEC. 3. SEC. 4. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances regarding the development of the Howard Terminal property in the City of Oakland.



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AB-1191 State Lands Commission: exchange of trust lands: City of Oakland: Howard Terminal property: Oakland Waterfront Ballpark Act. (2019-2020)

Bill Analysis

[05/21/19- Assembly Floor Analysis](#)

[05/08/19- Assembly Appropriations](#)

[04/23/19- Assembly Local Government](#)

[04/19/19- Assembly Natural Resources](#)

ASSEMBLY THIRD READING

AB 1191 (Bonta)

As Amended April 11, 2019

Majority vote

SUMMARY

Authorizes the State Lands Commission (SLC) to enter into a land exchange and establish the ordinary high water mark or the ordinary low water mark for the Howard Terminal Property in the City of Oakland (City). Declares this bill does not limit the authority of the San Francisco Bay Conservation and Development Commission (BCDC) to review any project at the Howard Terminal Property.

Major Provisions

- 1) Defines various terms including "Ballpark project" to mean a proposed baseball park that will become the new home of the Oakland Athletics, which will include visitor-serving or water-oriented recreation, cultural, and entertainment uses, public access, and other public amenities to be developed at the Howard Terminal property in the City, consistent with public trust purposes.
- 2) Authorizes the SLC to enter into an exchange with the City of filled or reclaimed tidelands and submerged lands or beds of navigable waterways located at Howard Terminal, if the SLC finds all of the specified conditions exist.
- 3) Authorizes the SLC to require additional conditions on the exchange necessary to protect the public trust.
- 4) Authorizes the SLC to establish the ordinary high water mark or the ordinary low water mark of any tidelands or submerged lands within the boundaries of the Howard Terminal property that are exchanges pursuant to an agreement with the City.
- 5) Declares that this bill does not limit the authority of BCDC to consider seaport plan and bay plan amendments and retain or remove seaport plan and bay plan port priority use designations from the Howard Terminal property.
- 6) Declares this bill does not limit the authority of BCDC to approve or deny permits for those aspects of the Oakland Spots and Mixed-Use Project. Declares the bill does not limit the authority or discretion of the SLC to enforce any of its permits issued for the project.

COMMENTS

Beginning in 1852 and through a series of legislative grants from the state, the City was granted, in trust, sovereign tide and submerged lands located within its boundaries. Through the City's Charter, portions of these public trust lands are within the Port of Oakland (Port) and are managed by the City acting by and through its Board of Port Commissioners. The state granted portions of Howard Terminal property to the City to hold and manage for public trust uses. The Howard Terminal Property is approximately 50 acres and includes two deep-water berths adjacent to the Inner Harbor Channel. It is between Schnitzer Steel and Jack London Square. Marine terminal operations at the Howard Terminal property ended in 2014. The Howard Terminal Property retains its capacity to function as a Marine terminal and is currently identified

Arguments in Support:

The Oakland Athletics, in support of the bill, emphasized they have publicly committed to transforming an industrial site through environmental clean-up with private dollars that will allow access to the waterfront and increased public usage. The proposed bill does not reduce or remove SLC oversight. Rather, it would require the Commission to approve the trust-consistency of the project and to approve any exchange or boundary settlement agreements that it finds to be in the best interests of the State and the public generally. The Oakland A's privately financed ballpark district at Howard Terminal is a once-in-a-generation opportunity.

Arguments in Opposition:

The Northern California District Council of the ILWU, in opposition to the bill, states this bill is intended to allow the Oakland A's to build 4,000 units of housing and a 2+ million square foot commercial office complex, in addition to a baseball stadium, directly on the working waterfront of the Port of Oakland. AB 1191 poses a significant threat to thousands of good jobs, will impact the ability of our businesses to provide international trade services to our customers, and may become a vehicle for efforts to avoid the basic state regulatory protections for seaport operations afforded by BCDC and the SLC.

FISCAL COMMENTS:

According to the Assembly Appropriations Committee:

- 1) Unknown, likely significant SLC costs for staff time to make boundary determinations and negotiate a land exchange, depending on the complexity of negotiations.
- 2) According to SLC there is a reimbursement agreement with the Oakland A's for staff costs.

VOICES:

ASM NATURAL RESOURCES: 7-0-4

YES: Friedman, Flora, Chau, Eggman, Mathis, Muratsuchi, Mark Stone
ABS, ABST OR NV: Cristina Garcia, Limón, McCarty, Melendez

ASM LOCAL GOVERNMENT: 7-0-1

YES: Aguiar-Curry, Lackey, Bloom, Boerner Horvath, Ramos, Luz Rivas, Robert Rivas
ABS, ABST OR NV: Voepel

ASM APPROPRIATIONS: 18-0-0

YES: Gonzalez, Bigelow, Bloom, Bonta, Brough, Calderon, Carrillo, Chau, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Maienschein, Obernolte, Petrie-Norris, Quirk, Robert Rivas

UPDATED:

VERSION: April 11, 2019

CONSULTANT: Michael Jarred / NAT. RES. / (916) 319-2092

FN: 0000563



Bill Texts: CA SB293 | 2019-2020 | Regular Session California Senate Bill 293

Bill Title: Infrastructure financing districts: Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District.

Spectrum: Partisan Bill (Democrat 1-0)

Status: (Engrossed) 2019-05-16 - Referred to Com. on L. GOV. [SB293 Detail]

Bill Drafts

Revision	Date	Format	Source	View
Amended	2019-04-29	HTML/Text	Link	View
Amended	2019-03-27	HTML/Text	Link	View
Introduced	2019-02-14	HTML/Text	Link	View

Amendments

Amendment	Date	Disposition	Format	Source	View
No bill amendments currently on file for California SB293					

Supplemental Documents

Title	Description	Date	Format	Source	View
No supplemental documents for California SB293 currently on file.					

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CA SB293 | 2019-2020 | Regular Session California Senate Bill 293

Status

Spectrum: Partisan Bill (Democrat 1-0)
 Status: Engrossed on May 6 2019 - 50% progression
 Action: 2019-05-16 - Referred to Com. on L. GOV.
 Pending: Assembly Local Government Committee
 Text: Latest bill text (Amended) [HTML]

Summary

An act to add Section 53395.82 to the Government Code, relating to infrastructure financing districts.

Title

Infrastructure financing districts: Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District.

Sponsors

Sen. Nancy Skinner [D]

Roll Calls

2019-05-06 - *Senate* - Senate 3rd Reading SB293 Skinner (Y: 36 N: 0 NV: 2 Abs: 0) [PASS]
 2019-04-24 - *Senate* - Do pass as amended (Y: 6 N: 0 NV: 1 Abs: 0) [PASS]

History

Date	Chamber	Action
2019-05-16	Assembly	Referred to Com. on L. GOV.
2019-05-07	Assembly	In Assembly, Read first time. Held at Desk.
2019-05-06	Senate	Read third time. Passed. (Ayes 36. Noes 0. Page 957.) Ordered to the Assembly.
2019-04-29	Senate	Read second time and amended. Ordered to third reading.
2019-04-25	Senate	From committee: Do pass as amended. (Ayes 6. Noes 0. Page 846.) (April 24).
2019-04-04	Senate	Set for hearing April 24.
2019-04-03	Senate	Re-referred to Com. on GOV. & F.
2019-03-27	Senate	From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
2019-02-28	Senate	Referred to Com. on RLS.
2019-02-15	Senate	From printer. May be acted upon on or after March 17.
2019-02-14	Senate	Introduced. Read first time. To Com. on RLS. for assignment. To print.

Code Citations

Chapter	Section	Citation Type	Statute Text
Government Code	53395.82	New Code	See Bill Text
Government Code	53398.5	Amended Code	Citation Text

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SB-293 Infrastructure financing districts: Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District. (2019-2020)

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Date Published: 04/29/2019 02:00 PM

AMENDED IN SENATE APRIL 29, 2019

AMENDED IN SENATE MARCH 27, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

No. 293

Introduced by Senator Skinner

February 14, 2019

An act to add Section 53395.82 to the Government Code, relating to infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 293, as amended, Skinner. Infrastructure financing districts: Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District.

Existing law authorizes a legislative body of a city or county to designate one or more infrastructure financing districts, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, to finance specified public capital facilities of communitywide significance. Existing law specifies procedures for the preparation and adoption of an infrastructure financing plan and the issuance of bonds by a district, including requiring that the issuance of bonds be approved by 2/3 of the voters residing within the boundaries of the district voting on the proposition. Existing law authorizes the inclusion of a provision for the division of taxes in an infrastructure financing plan. Existing law establishes certain alternative procedures for the formation and financing activities of a waterfront district, as defined, in the City and County of San Francisco.

This bill would establish alternative procedures for the formation of an Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District under these provisions. The bill would require the City Council of the City of Oakland to initiate proceedings for the formation of the district by adoption of a resolution of intention to establish the district that, among other things, *provides for a district board, composed of specified members, to serve as the district's governing body and directs the preparation of an infrastructure financing plan.* The bill would require the infrastructure financing plan to include a provision for the division of taxes, but would prohibit the division of taxes with respect to nonconsenting affected taxing agencies and specified local educational agencies. The bill would require the ~~city council~~ *district board* to hold ~~a 3 noticed public hearing~~ *hearings* on the infrastructure financing plan and ~~authorize it to establish the district by adopting an ordinance to conduct a protest proceeding, as provided.~~ *The bill would authorize the establishment of the district if fewer than 25% of the combined number of landowners and residents in the area file a protest to the infrastructure financing plan, or if between 25% and 50% of those landowners file such a protest and the infrastructure financing plan is*

submitted to the voters and approved. The bill would require the district board to provide an annual report to each landowner, resident, and affected taxing entity that participates in the plan, as provided. The bill would also authorize the ~~city council~~ district board to approve and issue bonds for the district by adopting a resolution that contains specified information.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Oakland.

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

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

SECTION 1. The Legislature finds and declares the following:

(a) The City of Oakland (hereafter referred to as the city) desires to retain the Oakland Athletics professional baseball franchise in the city while maximizing the economic benefit of the sports team and its facilities to the city.

(b) The city has identified a viable site for the development of a state of the art sports facility for the Oakland Athletics: Howard Terminal, which is controlled by the Port of Oakland (hereafter referred to as the port).

(c) Howard Terminal was previously used as a shipping container terminal. However, the ~~port's prior container shipping tenant terminal operator~~ vacated the site in 2014 and the ~~facilities are~~ property is currently used for *ancillary services, including* truck parking and chassis storage. ~~A public report prepared by the port's economic consultant concluded that Howard Terminal is likely to be obsolete as a container terminal due to its relatively small size, limited expansion potential, and limited berth length and water depth.~~

(d) Howard Terminal is located adjacent to West Oakland, a neighborhood bounded by freeways and ~~located in close proximity to the eighth largest container port in the United States. Due to these adjacencies, West Oakland has been highly impacted by poor air quality and quality, elevated asthma rates. West Oakland has also suffered from a lack of recreational and commercial resources rates, and higher than average unemployment. Its waterfront-adjacent location also makes it West Oakland particularly susceptible to flooding due to climate change and sea level rise.~~

(e) ~~Given the limited potential for future maritime terminal use at Howard Terminal, redevelopment~~ Redevelopment of the *Howard Terminal* property as a site for the Oakland Athletics' privately financed ballpark, together with complementary commercial and residential uses, new public access to world-class waterfront parks and open spaces, remediation of existing soil and groundwater contaminants, and implementation of a community benefits package that provides jobs and economic development opportunities to the surrounding residents and neighborhoods, including West Oakland, would provide significant public benefits for the city, adjacent communities, and the region. Further, the incremental tax revenues generated by the proposed redevelopment of Howard Terminal will provide an additional source of funds for much needed infrastructure investment in the community, which would not be available but for the implementation of the proposed project.

(f) The city wishes to establish an infrastructure financing district to finance certain public facilities required for the successful redevelopment of the Howard Terminal waterfront and the revitalization of its West Oakland environs. It is therefore the intent of the Legislature to provide the city with additional latitude, within the framework of the laws governing infrastructure financing districts, to create and operate an infrastructure financing district in a manner that optimizes its financing options to facilitate the construction of much needed public facilities meeting the stated goals of statewide significance. In order to adapt the provisions of Chapter 2.8 (commencing with Section 53395) of Part 1 of Division 2 of Title 5 of the Government Code, relating to infrastructure financing districts, to these unique circumstances, a special act is necessary.

SEC. 2. Section 53395.82 is added to the Government Code, to read:

53395.82. (a) This section applies only to the City of Oakland and the proposed Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District described in this section.

(b) In addition to the findings and declarations in Section 53395, the Legislature further finds and declares that consolidating in a single agency the ability to capture property tax increment revenues to finance qualified public facilities in the City of Oakland will further the enjoyment of the waterfront by the people of this state.

(c) For purposes of this section:

(1) "Affected taxing entity" means any governmental taxing agency, except Oakland and its local educational agencies, that levied or had levied on its behalf a property tax on all or a portion of the land located in the proposed district in the fiscal year prior to the designation of the district, all or a portion of which the district proposes to collect in the future under its infrastructure financing plan.

(2) "Base year" means the fiscal year in which the assessed value of taxable property in the district was last equalized prior to the effective date of the ordinance adopted to create the district, or a subsequent fiscal year specified in the infrastructure financing plan for the district.

(3) "City council" means the City Council of the City of Oakland, ~~which shall be the legislative body for any district formed under this section.~~ *Oakland.*

(4) "County auditor-controller" means the auditor-controller for the County of Alameda.

(5) "Debt" means loans, advances, or other forms of indebtedness and financial obligations, including, but not limited to, commercial paper, variable rate demand notes, all moneys payable in relation to the debt, and all debt service coverage requirements in any debt instrument, in addition to the obligations specified in the definition of "debt" in Section 53395.1.

(6) "District" or "Oakland revitalization district" means the Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District created pursuant to this section, including any project area within the district.

(7) "*District board*" means the governing body for the district created pursuant to this section.

~~(7)~~

(8) "Local educational agencies" means, collectively, the Oakland Unified School District, the Peralta Community College District, and the Alameda County Office of Education.

~~(8)~~

(9) "Oakland" means the City of Oakland.

~~(9)~~

(10) "Project" means the construction at Howard Terminal of a privately financed ballpark that will be home to the Oakland Athletics baseball franchise, together with complementary commercial, residential, and public open-space development and amenities, new public access to the waterfront, and onsite and offsite infrastructure improvements.

~~(10)~~

(11) "Project area" means a defined area designated for development within a waterfront district formed under this chapter in accordance with subdivision (e).

~~(11)~~

(12) "Public facilities" means facilities authorized to be financed in whole or in part by a district formed under this chapter in accordance with subdivision (e). Public facilities may be publicly owned or privately owned if they are available to or serve the general public, but shall not include the stadium for the Oakland Athletics baseball franchise.

(d) (1) The Oakland revitalization district may finance 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, as described in ~~Sections 53395.5 and 53396.5,~~ *this chapter.* The facilities need not be physically located within the boundaries of the district. Subdivision (b) of Section 53395.3 shall not apply to the district, but the district shall only finance public facilities of communitywide significance.

(2) The district shall not finance routine maintenance, repair work, or the costs of ongoing operation or providing services of any kind.

(e) Notwithstanding Sections 53395.10 to 53395.25, inclusive, the ~~city council~~ *district board* may adopt or amend one or more infrastructure financing plans for the Oakland revitalization district according to the procedures in this section. The district may be divided into project areas, each of which may be subject to distinct limitations established under this section. The ~~city council~~ *district board* may, at any time, add territory to the district or

amend the infrastructure financing plan for the district in accordance with the same procedures for the formation of the district and adoption of the infrastructure financing plan pursuant to this section.

(1) The city council shall initiate proceedings for the establishment of a district by adopting a resolution of intention to establish the proposed district that does all of the following:

(A) States an infrastructure financing district is proposed to be established and describes the boundaries of the proposed district. The boundaries may be described by reference to a map on file in the office of the clerk of the city council.

(B) States the type of public facilities proposed to be financed by the district.

(C) States that incremental property tax revenue from Oakland and some or all affected taxing entities within the district, but none of the local educational agencies, may be used to finance these public facilities.

(D) Provides for a district board consisting of each member of the city council. Upon approval of the infrastructure financing plan by an affected entity agency pursuant to paragraph (5), the district board shall include a representative of that affected taxing entity.

~~(D)~~

(E) Directs the preparation of district board to prepare a proposed infrastructure financing plan.

(2) The city council shall direct the city clerk to mail a copy of the resolution of intention to any affected taxing entities.

(3) The proposed infrastructure financing plan shall be consistent with the general plan of Oakland, as amended from time to time, 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 board in its resolution of intention.

(B) A description of the public facilities required to serve the development proposed in 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 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 projected costs of the public facilities. The description may consist of a reference to the capital plan for the territory in the district that is approved by the ~~city council~~, district board, as amended from time to time.

(C) A financing section that shall contain all of the following:

(i) A provision that specifies the maximum portion of the incremental tax revenue of Oakland and of any affected taxing entity proposed to be committed to the district, and affirms that the plan will not allocate any portion of the incremental tax revenue of the local educational agencies to the district.

(ii) Limitations on the use of levied taxes allocated to and collected by the district that provide that incremental tax revenues allocated to a district must be used within the district for purposes authorized under this section.

(iii) A projection of the amount of incremental tax revenues expected to be received by the district, assuming a district receives incremental tax revenues for a period no later than 45 years after Oakland projects that the district will have received one hundred thousand dollars (\$100,000) in incremental tax revenues under this chapter. In the event that the ~~city council~~ district board divides the district into multiple project areas, the projection of the amount of incremental tax revenues expected to be received by the district shall be calculated separately for each project area.

(iv) Projected sources of financing for the public facilities to be assisted by the district, including debt to be repaid with incremental tax revenues, projected revenues from future leases, sales, or other transfers of any interest in land within the district, and any other legally available sources of funds. The projection of sources of financing may refer to the capital plan for the territory in the district that is approved by the ~~city council~~, district board, as amended.

(v) A limitation on the aggregate number of dollars of levied taxes that may be divided and allocated to the district. Taxes shall not be divided or be allocated to the district beyond this limitation, except by amendment of the infrastructure financing plan pursuant to the procedures in this subdivision. If the ~~city council~~ district board divides the district into multiple project areas, the project areas may share this limit and the limit may be divided among the project areas or a separate limit may be established for a project area.

(vi) A date on which the Infrastructure financing plan will cease to be in effect and all tax allocations to the district will end and a date on which the district's authority to repay indebtedness with incremental tax revenues received under this chapter will end, not to exceed 45 years from the date the district has actually received one hundred thousand dollars (\$100,000) in incremental tax revenues under this chapter. After the time limits established under this subparagraph, a district shall not receive incremental tax revenues under this chapter. If the ~~city council~~ *district board* divides the district into multiple project areas, the ~~city council~~ *district board* may establish a separate time limit applicable to each project area that is shorter than the time limit on the Infrastructure financing plan pursuant to this clause.

(vii) An analysis of the costs to Oakland for providing facilities and services to the district while the district is being developed and after the district is developed, and of the taxes, fees, charges, and other revenues expected to be received by Oakland as a result of expected development in the district.

(viii) An analysis of the projected fiscal impact of the district and the associated development upon any affected taxing entity. If no affected taxing entities exist within the district because the plan does not provide for collection by the district of any portion of property tax revenues allocated to any taxing entity other than Oakland, the district has no obligation to any other taxing entity under this subdivision.

(ix) A statement that the district will maintain accounting procedures in accordance, and otherwise comply, with Section 6306 of the Public Resources Code for the term of the plan.

(D) A provision that meets the requirements of Section 53396 providing for the division of taxes, if any, levied upon taxable property within the district and the allocation of a portion of the incremental tax revenue of Oakland and other designated affected taxing entities to the district.

(4) The proposed infrastructure financing plan shall be mailed to each affected taxing entity for review, together with, to the extent available, 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 and any proposed development project for which the public facilities are needed, and shall be made available for public inspection. The report also shall be sent to the Oakland Planning Department and the city council.

(5) The city council shall not enact a resolution proposing formation of a district and providing for the division of taxes of any affected taxing entities for use in the district as set forth in the proposed infrastructure financing plan unless the governing body of each affected taxing entity adopts a resolution approving the plan, and that resolution has been filed with the city council at or before the time of the hearing. A resolution approving the plan adopted by the governing body of an affected taxing entity shall be deemed the affected taxing entity's agreement to participate in the plan for the purposes of this section.

(6) If the governing body of an affected taxing entity has not approved the infrastructure financing plan before the city council considers the plan, the city council may amend the infrastructure financing plan to remove the allocation of the tax revenues of the nonconsenting affected taxing entity.

~~(7) The city council shall hold a public hearing regarding the infrastructure financing plan that shall be scheduled on a date no earlier than 60 days after the plan has been sent to each affected taxing entity, or in the absence of any affected taxing entities, no earlier than 30 days after the plan has been lodged with the clerk of the city council. The city council shall publish notice of the public hearing not less than once a week for four successive weeks in a newspaper designated by the city council for the publication of official notices in Oakland, or if the city council no longer designates a newspaper for the publication of official notices, a newspaper of general circulation serving primarily Oakland residents. The notice shall state all of the following:~~

~~(A) That the district will be established to finance public facilities;~~

~~(B) Briefly describe the public facilities and the proposed financial arrangements, including the proposed commitment of incremental tax revenue;~~

~~(C) Describe the boundaries of the proposed district;~~

~~(D) 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 previous proceedings, may appear before the board and object to the adoption of the proposed infrastructure financing plan by the board;~~

~~(E) At the hour set in the required notices, the city council shall proceed to hear and pass upon all written and oral objections. The hearing may be continued from time to time. The city council shall consider any recommendations of affected taxing entities, and all evidence and testimony for and against the adoption of the infrastructure financing plan.~~

~~(9) No election will be required to form the district, and at the conclusion of the hearing, the city council may adopt an ordinance adopting the infrastructure financing plan, as drafted or as modified by the city council, or it may abandon the proceedings.~~

~~(10) Any public or private owner of land that is not within the district may petition the city council for inclusion of the land in the district, and the city council may grant that petition without an election.~~

(7) (A) The district board shall consider adoption of the infrastructure financing plan at three public hearings that shall take place at least 30 days apart. Notice of each public hearing shall be given in accordance with paragraph (15).

(B) At the first public hearing, the district board shall hear all written and oral comments, but take no action.

(C) At the second public hearing, the district board shall consider any additional written and oral comments and take action to modify or reject the infrastructure financing plan. If the infrastructure financing plan is not rejected at the second public hearing, then the district board shall conduct a protest proceeding at the third public hearing to consider whether the landowners and residents within the infrastructure financing plan area wish to present oral or written protests against the adoption of the infrastructure financing plan.

(8) The draft infrastructure financing plan shall be made available to the public and to each landowner within the area at a meeting held at least 30 days prior to the notice given for the first public hearing. The purposes of the meeting shall be to allow the staff of the district board to present the draft infrastructure financing plan, answer questions about the infrastructure financing plan, and consider comments about the infrastructure financing plan.

(9) (A) Notice of the meeting required by paragraph (8) and the public hearings required by paragraph (7) shall be given in accordance with paragraph (15). The notice shall do the following, as applicable:

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

(ii) Describe the purpose of the infrastructure financing plan.

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

(iv) Notice of the second public hearing shall include a summary of the changes made to the infrastructure financing plan as a result of the oral and written testimony received at or before the public hearing and shall identify a location accessible to the public where the infrastructure financing plan proposed to be presented at the second public hearing can be reviewed.

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

(B) At the third public hearing, the district board shall consider all written and oral protests received prior to the close of the public hearing along with the recommendations, if any, of affected taxing entities, and shall terminate the proceedings or adopt the infrastructure financing plan subject to confirmation by the voters at an election called for that purpose. The district board shall terminate the proceedings if there is a majority protest. A majority protest exists if protests have been filed representing over 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age. An election shall be called if between 25 percent and 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age file a protest.

(10) An election required pursuant to subparagraph (B) of paragraph (9) shall be held within 90 days of the public hearing and may be held by mail-in ballot. The district board shall adopt, at a duly noticed public hearing, procedures for this election.

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

(12) At the hour set in the notices required by paragraph (7), the district board shall consider all written and oral comments.

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

(14) The district board shall consider and adopt an amendment or amendments to an infrastructure financing plan in accordance with the provisions of this section.

(15) The district board shall post notice of each meeting or public hearing required by this section in an easily identifiable and accessible location on the district's internet website and shall mail a written notice of the meeting or public hearing to each resident and each taxing entity at least 10 days prior to the meeting or public hearing.

(A) Notice of the first public hearing shall also be published not less than once a week for four successive weeks prior to the first public hearing in a newspaper of general circulation published in the County of Alameda. 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 district board and object to the adoption of the proposed plan by the district board.

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

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

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

(B) The district board shall adopt an annual report on or before June 30 of each year after holding a public hearing. Written copies of the draft report shall be made available to the public 30 days prior to the public hearing. The district board shall cause the draft report to be posted in an easily identifiable and accessible location on the district's internet website and shall mail a written notice of the availability of the draft report on the internet website to each landowner and each resident within the area covered by the infrastructure financing plan and to each affected taxing entity that has adopted a resolution pursuant to paragraph (5). The notice shall be mailed by first-class mail, but may be addressed to "occupant."

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

(i) A description of the projects undertaken in the fiscal year, including any rehabilitation of structures, and a comparison of the progress expected to be made on those projects compared to the actual progress.

(ii) A chart comparing the actual revenues and expenses, including administrative costs, of the district board to the budgeted revenues and expenses.

(iii) The amount of tax increment revenues received.

(iv) An assessment of the status regarding completion of the district's projects.

(D) The amount of revenues expended to assist private businesses.

(E) If the district board fails to provide the annual report required by subparagraph (B), the district board shall not spend any funds received pursuant to a resolution adopted pursuant to this section until the district board has provided the report.

(11)

(17) The ordinance creating a district and adopting or amending an infrastructure financing plan shall establish the base year for the district. ~~The city council~~ *district board* may amend an infrastructure financing plan by ordinance for any purpose, including, but not limited to, the following:

(A) Dividing an established district into one or more project areas.

(B) Reducing the district area.

(C) Expanding the district ~~to include the petitioning landowner's land in the district in accordance with the city council's established procedures.~~ *area*.

(12)

(18) Oakland may enter into an agreement for the construction of discrete portions or phases of public facilities within the district. The agreement may include any provisions that Oakland determines are necessary or convenient, but shall do all of the following:

(A) Identify the specific public facilities or discrete portions or phases of public facilities to be constructed and purchased. Oakland may agree to purchase discrete portions or phases of public facilities if the portions or phases are capable of serviceable use as determined by Oakland.

(B) Identify procedures to ensure that the public facilities are constructed pursuant to plans, standards, specifications, and other requirements as determined by Oakland.

(C) Specify a price or a method to determine a price for each public facility or discrete portion or phase of a public facility.

(D) Specify procedures for final inspection and approval of public facilities or discrete portions or phases of public facilities, for approval of payment and for acceptance and conveyance.

(f) Notwithstanding Sections 53397.1 to 53397.11, inclusive, ~~the city council~~ *district board* may approve and issue bonds for the Oakland revitalization district according to the procedures in this section.

(1) ~~The city council~~ *district board* may, by resolution adopted at the time of the formation of the district, authorize the issuance of bonds in one or more series by determining the aggregate principal amount of bonds that may be issued in the district. ~~The city council~~ *district board* may undertake the proceedings and actions described in this subdivision with respect to the district as a whole, or separately with respect to one or more project areas. If ~~the city council~~ *district board* undertakes the proceedings for the district as a whole, it may thereafter, by resolution, allocate the principal amount of the authorized bond issuance to one or more project areas within the district. ~~The city council~~ *district board* may increase the principal amount of bonds that may be issued for the district or a project area within the district by undertaking the proceedings in this subdivision with respect to that increased amount. The bonds may be sold at a negotiated sale subject to the notice requirements of paragraph (5).

(2) At any time after formation of the district, the legislative body may, by a majority vote of its members, issue tax-exempt or taxable bonds in one or more series. Bonds shall be issued following adoption of a resolution containing all of the following information:

(A) A description of the facilities to be financed with the proceeds of the proposed bond issue.

(B) The estimated cost of the facilities, the estimated cost of preparing and issuing the bonds, and the principal amount of the proposed bond issuance.

(C) The maximum interest rate and discount on the proposed bond issuance.

(D) A determination of the amount of tax revenue available or estimated to be available, for the payment of the principal of, and interest on, the bonds.

(E) A finding that the amount necessary to pay the principal of, and interest on, the proposed bond issuance will be less than, or equal to, the amount determined pursuant to subparagraph (D).

(F) The issuance of the bonds in one or more series.

(G) The date the bonds will bear.

(H) The date of maturity of the bonds.

(I) The denomination of the bonds.

(J) The form of the bonds.

(K) The manner of execution of the bonds.

(L) The medium of payment in which the bonds are payable.

(M) The place or manner of payment and any requirements for registration of the bonds.

(N) The terms of call or redemption, with or without premium.

(3) ~~The city council~~ *district board* may, by ~~majority vote,~~ *vote of the members of the district board*, provide for refunding of bonds issued pursuant to this subdivision. However, refunding bonds shall not be issued if the total net interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds exceeds the total net interest cost to maturity on the bonds to be refunded. ~~The city council~~ *district board* shall not extend the time to maturity of the bonds being refunded.

(4) ~~The city council~~ *district board* or any person executing the bonds shall not be personally liable on the bonds by reason of their issuance. The bonds and other obligations of a district issued pursuant to this chapter are not a debt of the city or of any of its political subdivisions, other than the district, and none of those entities, other than the district, shall be liable on the bonds and the bonds or obligations shall be payable exclusively from funds or properties of the district. The bonds shall contain a statement to this effect on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.

(5) Bonds may be sold at a negotiated sale. At least five days before the sale, ~~the city council~~ *district board* shall publish notice of the sale, pursuant to Section 6061, in a newspaper of general circulation and in a financial newspaper published in the City of Oakland and in the City of Los Angeles. The bonds may be sold at not less than par to the federal government at private sale without any public advertisement.

(6) If any member of ~~the city council~~ *district board* whose signature appears on bonds ceases to be a member of ~~the city council~~ *district board* before delivery of the bonds, that member's signature is as effective with respect to those bonds as if the member had remained in office at the time of delivery of those bonds.

(7) Bonds issued pursuant to this subdivision are fully negotiable.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances, described in Section 1 of this act, in the City of Oakland.



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SB-293 Infrastructure financing districts: Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District. (2019-2020)

Bill Analysis
05/06/19- Senate Floor Analyses
04/22/19- Senate Governance And Finance

THIRD READING

Bill No: SB 293
Author: Skinner (D)
Amended: 4/29/19
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 6-0, 4/24/19
AYES: McGuire, Beall, Hertzberg, Hurtado, Nielsen, Wiener
NO VOTE RECORDED: Moorlach

SUBJECT: Infrastructure financing districts: Oakland Waterfront Revitalization
and Environmental Justice Infrastructure Financing District

SOURCE: City of Oakland

DIGEST: This bill establishes a procedure to form an Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District, based on existing infrastructure financing district law.

ANALYSIS:

Existing law:

- 1) Allows cities and counties to create Infrastructure Financing Districts (IFDs) and issue bonds to pay for community scale public works. To repay the bonds, IFDs divert property tax increment revenues from other local agencies for 30 years.
- 2) Prevents IFDs from diverting property tax increment revenues from schools (SB 308, Seymour, 1990).
- 3) Requires, to form an IFD, development of an infrastructure plan, copies sent to every landowner, consultation with other local agencies, and holding a public hearing. Other local agencies are not required to participate in an IFD, and any local agency that will contribute its property tax increment revenue to the IFD must approve the plan.

- 4) Requires voter approval for any of the following actions:
 - a) Forming the IFD (requires 2/3 voter approval);
 - b) Issuing bonds (requires 2/3 voter approval);
 - c) Setting the IFD's appropriations limit (majority voter approval).
- 5) Allows, once an IFD is formed:
 - a) Financing 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;
 - b) Paying for the planning and design work directly related to the purchase, construction, expansion, or rehabilitation of that property;
 - c) Purchasing facilities for which construction has been completed.
- 6) Prohibits IFDs from paying for routine maintenance, repair work, ongoing operations, or providing services of any kind.
- 7) Allows IFDs to only finance public capital facilities of communitywide significance, including projects to improve transportation; sewage and water infrastructure; childcare facilities; libraries; parks and recreation facilities; waste facilities; and broadband internet infrastructure.
- 8) Requires IFDs that construct dwelling units to set aside not less than 20 percent of those units to increase and improve the community's supply of low- and moderate-income housing available at an affordable housing cost.
- 9) Requires, if residential units are proposed to be removed or destroyed as part of a district project, to take various actions to make sure the district replaces those units and provides relocation assistance to displaced residents.

This bill:

- 1) Creates the Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District (Oakland IFD) and states the intent of the bill is to adapt existing IFD law to fit the specific circumstances surrounding the Oakland ballpark project.
- 2) Requires the Oakland City Council to mail the plan to affected taxing entities, the Oakland Planning Department and the City Council.

- 3) Provides for a district board consisting of each member of the city council. Upon approval of the infrastructure financing plan by an affected entity agency, the district board is required to also include a representative of that affected taxing entity.
- 4) Requires the district board to hold three noticed public hearings on the infrastructure financing plan and to conduct a protest proceeding. This bill authorizes the establishment of the district if fewer than 25% of the combined number of landowners and residents in the area file a protest to the infrastructure financing plan, or if between 25% and 50% of those landowners file such a protest and the infrastructure financing plan is submitted to the voters and approved.
- 5) Allows Oakland IFD formation by a majority vote of the district board provided that no protest is successful.
- 6) Allows the district board to amend district boundaries.
- 7) Requires the district board to provide an annual report to each landowner, resident, and affected taxing entity that participates in the plan, as provided.
- 8) Allows the Oakland IFD to finance, in part or in whole, any "public facility," which the bill defines as any publicly or privately owned facility that is available to serve the general public, except for the proposed stadium.
- 9) Allows the district to create project areas within the district. Each project area has up to 45 years to operate once the specific project area generates \$100,000 in property tax increment revenue. It allows for bond issuances to occur across the entire district, regardless of whether or not the district creates individual project areas. This bill allows for each project area to count towards the district's revenue limit, or allows for each project area to have its own individual revenue limit.
- 10) Allows the district to issue bonds with only a majority vote of the district board.
- 11) Allows the Oakland IFD to finance, or purchase, phases or discrete portions of projects that meet its definition of public facilities provided that it identifies the specific facilities and portions of projects it plans to finance and establishes an inspection and approval process for these specific phases or sections of a project.

Background

Redevelopment agencies. From the early 1950s until the state dissolved them in 2011, California redevelopment agencies (RDAs) used property tax increment financing to pay for economic development projects in blighted areas. Generally, property tax increment financing involves a city or county 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. RDAs' dissolution in 2012 deprived many local agencies of the primary tool they used to eliminate physical and economic blight, finance new construction, improve public infrastructure, rehabilitate existing buildings, and increase the supply of affordable housing. Since RDAs' dissolution, various tools have sprung up to restore local agencies' ability to finance infrastructure, including IFDs.

Oakland Athletics stadium plan. For many years, the Oakland Athletics have explored plans to build a new baseball stadium for the team. While the City of Oakland and the team discussed various plans and locations, the city and the team settled on developing a new stadium at Howard Terminal, which is located at the eastern edge of the Port of Oakland, near Jack London Square, and currently provides truck parking and ancillary services. This project would consist of the baseball park and adjacent residential, retail, commercial, cultural, entertainment, or recreational uses located at the site. The city and the team would repurpose the existing Oakland-Alameda Coliseum, owned and operated by the city and Alameda County, for other community purposes. AB 734 (Bonta, Chapter 959, Statutes of 2018) established special procedures for California Environmental Quality Act (CEQA) review of the new stadium, additional conditions for certification, and expedited (270 day) judicial review for the project. The team intends to privately finance the stadium unlike other sports venue projects, which have relied on public funds. While the city and the team have agreed on a specific site to pursue, many steps for the project remain, including completing the CEQA review process.

Comments

- 1) *Purpose of the bill.* According to the author, "SB 293 will permit the City of Oakland to form an IFD, which is an essential tool and funding source for redevelopment. With the formation of an IFD, the City of Oakland will be able to fully invest in its community, remediate toxic contamination, and mitigate other environmental justice issues."
- 2) *Sure, but will it work?* Unlike existing IFD law, SB 293 allows the Oakland IFD to issue debt without voter approval. Some observers suggest that there is concern over whether making payments to an IFD counts as a debt obligation

for participating cities or counties, which would require two-thirds voter approval. Others contend that because this is existing revenue, not a new tax or other revenue source, no voter approval is required. In addition, not everyone is on board with the initial proposal for the stadium and surrounding infrastructure at Howard Terminal. While the Oakland IFD cannot finance the stadium, it can finance infrastructure surrounding the stadium. Shipping companies currently use the area around the proposed stadium to turn around ships or park shipping containers. Projects at Howard Terminal may impact these port operations. These factors could potentially impact the effectiveness of the Oakland IFD.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 5/6/19)

City of Oakland (source)
Oakland Athletics
Peerless Coffee and Tea

OPPOSITION: (Verified 5/6/19)

Kingdom Builders Christian Fellowship
Northern California District Council - International Longshore and Warehouse
Union
Pacific Merchant Shipping Association

Prepared by: Jonathan Peterson / GOV. & F. / (916) 651-4119
5/6/19 14:05:49

**** END ****

SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair

2019 - 2020 Regular

Bill No: SB 293
Author: Skinner
Version: 3/27/19
Consultant: Peterson

Hearing Date: 4/24/19
Tax Levy: No
Fiscal: No

INFRASTRUCTURE FINANCING DISTRICTS: OAKLAND WATERFRONT REVITALIZATION AND ENVIRONMENTAL JUSTICE INFRASTRUCTURE FINANCING DISTRICT

Establishes a procedure to form an Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District, based on existing infrastructure financing district law.

Background

Redevelopment agencies. From the early 1950s until the state dissolved them in 2011, California redevelopment agencies (RDAs) used property tax increment financing to pay for economic development projects in blighted areas. Generally, property tax increment financing involves a city or county 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 agency that receives a share of property tax revenues from property within a project area is “frozen” at the amount it received from that property 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 increment—flows to the tax increment financing district instead of other local agencies. After the bonds have been fully repaid, the district is dissolved, ending the diversion of tax increment revenues from participating local agencies. Property tax revenues then flow back to each local agency that receives a share of the property tax.

Citing a significant State General Fund deficit, Governor Brown’s 2011-12 budget proposed eliminating RDAs and returning billions of dollars of property tax revenues to schools, cities, and counties to fund core services. Among the statutory changes that the Legislature adopted to implement the 2011-12 budget, AB X1 26 (Blumenfield, 2011) dissolved all RDAs. The California Supreme Court’s 2011 ruling in *California Redevelopment Association v. Matosantos* upheld AB X1 26, but invalidated AB X1 27 (Blumenfield, 2011), which would have allowed most RDAs to avoid dissolution. In response, the California Redevelopment Association (CRA) challenged the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to AB X1 26, but granted it with respect to ABX1 27. As a result, all RDAs dissolved as of February 1, 2012. At the time of dissolution, over 400 RDAs statewide were diverting 12 percent of property taxes, over \$5.6 billion yearly.

RDAs' dissolution deprived many local agencies of the primary tool they used to eliminate physical and economic blight, finance new construction, improve public infrastructure, rehabilitate existing buildings, and increase the supply of affordable housing.

Infrastructure Financing Districts. Since RDAs' dissolution, various tools have sprung up to restore local agencies' ability to finance infrastructure. Cities and counties can create Infrastructure Financing Districts (IFDs) and issue bonds to pay for community scale public works: highways, transit, water systems, sewer projects, flood control, childcare facilities, libraries, parks, and solid waste facilities. To repay the bonds, IFDs divert property tax increment revenues from other local governments for 30 years. However, IFDs can't divert property tax increment revenues from schools (SB 308, Seymour, 1990).

Forming an IFD is cumbersome. The city or county must develop an infrastructure plan, send copies to every landowner, consult with other local agencies, and hold a public hearing. Other local agencies are not required to participate in an IFD, and any local agency that will contribute its property tax increment revenue to the IFD must approve the plan. The plan must include (1) how much property tax revenue the city or county, and each affected taxing entity will contribute; (2) information on the specific projects and how they will be financed; (3) a limit on the total amount of property tax revenue that can be allocated to the district; (4) a date on which the district will cease to exist, not more than 30 years after formation; and (5) a cost analysis, projected fiscal impact of the district, and plans to finance costs the district incurs.

Once the other local officials approve, the city or county must still get the voters' approval to:

- Form the IFD (requires 2/3 voter approval);
- Issue bonds (requires 2/3 voter approval); and
- Set the IFD's appropriations limit (majority voter approval).

Once formed, the IFD can:

- Finance 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.
- Pay for the planning and design work directly related to the purchase, construction, expansion, or rehabilitation of that property.
- Purchase facilities for which construction has been completed. These facilities can, as determined by the legislative body that formed the IFD, be physically located within the boundaries of the district.

IFDs cannot pay for routine maintenance, repair work, ongoing operations, or providing services of any kind, and can only finance public capital facilities of communitywide significance, including:

- Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.
- Sewage treatment and water reclamation plants and interceptor pipes.
- Facilities for the collection and treatment of water for urban uses.
- Flood control levees and dams, retention basins, and drainage channels.
- Childcare facilities.

- Libraries.
- Parks, recreational facilities, and open space.
- Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.
- Projects that include broadband internet infrastructure.

IFDs that construct dwelling units must set aside not less than 20 percent of those units to increase and improve the community's supply of low- and moderate-income housing available at an affordable housing cost. IFDs are also required, if residential units are proposed to be removed or destroyed as part of a district project, to (1) make an equal number of affordable units available as were removed or destroyed within four years if they were inhabited by low or moderate income households, (2) make 20 percent of replacement units available to low or moderate income households if such households did not occupy the destroyed units, (3) provide relocation assistance to displaced residents, and (4) ensure that low and moderate income households are not displaced until suitable replacement dwellings are available.

Alternatives to IFDs. In part due to the cumbersome IFD formation process, legislators have developed alternatives to IFDs, and in some cases, IFDs specific to a particular area:

- In 2005, the Legislature passed special provisions that apply just to an IFD along the San Francisco waterfront on land that is under the jurisdiction of the Port of San Francisco (SB 1085, Migden, 2005). In 2010, the Legislature repealed that law, instead enacting a new special statute governing the formation and activities of infrastructure financing districts along San Francisco's waterfront, called "waterfront districts" (AB 1199, Ammiano). AB 1199 applied only to land under the jurisdiction of the Port of San Francisco, and contained special provisions for a San Francisco waterfront IFD in the 65-acre Pier 70 area. The district also has access to the school share of property tax revenue.
- Enhanced Infrastructure Finance Districts (EIFDs), which the Legislature created after it dissolved RDAs in 2011 as a more flexible way to use tax increment financing to raise the capital to fund public works projects (SB 628, Beall, 2014).
- SB 63 (Hall, 2015) allows city and county officials to establish Seaport Infrastructure Financing District (SIFDs). The bill defines a SIFD as an EIFD that finances port or harbor infrastructure pursuant to specified statutes, and declares that the statutes governing EIFDs also apply to SIFDs, except that statutes enacted by the bill with respect to SIFDs prevail if they conflict with any provision of the EIFD statutes.

Oakland Athletics stadium plan. For many years, the Oakland Athletics have explored plans to build a new baseball stadium for the team. While the City of Oakland and the team discussed various plans and locations, the city and the team settled on developing a new stadium at Howard Terminal, which is located at the eastern edge of the Port of Oakland, near Jack London Square, and currently provides truck parking and ancillary services. This project would consist of the baseball park and adjacent residential, retail, commercial, cultural, entertainment, or recreational uses located at the site. The city and the team would repurpose the existing Oakland-Alameda Coliseum, owned and operated by the city and Alameda County, for other community purposes. AB 734 (Bonta, 2018) established special procedures for California Environmental Quality Act (CEQA) review of the new stadium, additional conditions for certification, and expedited (270 day) judicial review for the project. The team intends to privately finance the stadium unlike other sports venue projects, which have relied on public funds. While the city and the team have

agreed on a specific site to pursue, many steps for the project remain, including completing the CEQA review process.

The city wants to create an Oakland-specific IFD to help finance the residential, retail, commercial, cultural, entertaining, and recreational space associated with the stadium project.

Proposed Law

Senate Bill 293 creates the Oakland Waterfront Revitalization and Environmental Justice Infrastructure Financing District (Oakland IFD) and states the intent of the bill is to adapt existing IFD law to fit the specific circumstances surrounding the Oakland ballpark project. Existing IFD law applies to the Oakland IFD, except for specific provisions outlined in the bill.

Formation process. Current law requires the legislative body proposing the creation of the IFD to mail a copy of the proposed district to each landowner and affected taxing entity, and requires two-thirds of landowners within the district to approve IFD formation. **SB 293** only requires the Oakland City Council to mail the plan to affected taxing entities, the Oakland Planning Department and the City Council—not each landowner—and the Oakland IFD can approve the district's formation by a majority vote of the city council. The bill also allows private landowners to request annexation into the IFD without an election and states that no election is required to form the district.

District powers. Current law enumerates the types of projects an IFD can finance. **SB 293** allows the Oakland IFD to finance, in part or in whole, any "public facility," which the bill defines as any publicly or privately owned facility that is available to serve the general public, except for the proposed stadium.

Current law does not require an IFD to have contiguous district boundaries, and allows the IFD to operate for 30 years after the city or county forms the district, pursuant to any limit on the amount of revenue that local agencies can allocate to the IFD. **SB 293** allows the district to create project areas within the district. Each project area has up to 45 years to operate once the specific project area generates \$100,000 in property tax increment revenue. It allows for bond issuances to occur across the entire district, regardless of whether or not the district creates individual project areas. The bill allows for each project area to count towards the district's revenue limit, or allows for each project area to have its own individual revenue limit.

Current law requires two-thirds of voters within the district to approve each bond issuance. **SB 293** allows the district to issue bonds with only a majority vote of the city council.

Current law allows an IFD to finance 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. **SB 293** allows the Oakland IFD to finance, or purchase, phases or discrete portions of projects that meet its definition of public facilities provided that it (1) identifies the specific facilities and portions of projects it plans to finance; (2) identifies procedures to ensure discrete sections or phases of a project are built according to city specifications; (3) specifies the price if it purchases a discrete portion of a project; and (4) establishes an inspection and approval process for these specific phases or sections of a project.

The measure defines its terms and includes various findings and declarations supporting its purposes.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, "SB 293 will permit the City of Oakland to form an IFD, which is an essential tool and funding source for redevelopment. With the formation of an IFD, the City of Oakland will be able to fully invest in its community, remediate toxic contamination, and mitigate other environmental justice issues."
2. Sure, but will it work? Unlike existing IFD law, SB 293 allows the Oakland IFD to issue debt without voter approval. Some observers suggest that there is concern over whether making payments to an IFD counts as a debt obligation for participating cities or counties, which would require two-thirds voter approval. In this case, the City of Oakland's entire City Council would vote to approve the debt. Others contend that because this is existing revenue, not a new tax or other revenue source, no voter approval is required. Regardless of whether voter approval is legally required for the IFD to issue debt, unlike RDAs, the Oakland IFD would not have access to the school's share of property tax revenue. ~~Unless other local agencies opt in, it would only have access to the city's share of property tax revenue.~~ In this case, other local agencies can opt in to the IFD, but they do not get a place on the IFD board. Whether other local agencies would be comfortable contributing property tax revenue, without also having a seat at the table, is unclear. If they do not opt in, the IFD may not have access to sufficient property tax revenue to complete all of the projects included in the plan it develops. Not having access to a sufficient proportion of property tax revenue has been an issue for other similar infrastructure financing programs, like EIFDs. It is unclear whether removing the vote threshold without addressing some of the other challenges, like the share of property tax revenue, will help the tool work effectively. In order to increase the number of affected taxing entities that participate, the Committee may wish to consider amending the bill to provide local agencies a seat on the board if they contribute their property tax revenue to the district.
3. Power to the people. SB 293 empowers the Oakland City Council to make all decisions regarding the IFD. This means the City Council alone will decide which projects the IFD will finance, as well as when and how much debt the IFD will incur to finance those projects. While the public elects its City Council and state law requires IFD meetings to be open to the public, the public does not have an opportunity to directly weigh in on the decision to form the IFD, or whether that district should issue bonds. Some other infrastructure financing tools require a public protest process if voters do not have an election to weigh in on whether the district should form or issue debt. For example, SB 961 (Allen, 2017) removed the vote requirement for a subset of EIFDs to issue bonds and required these EIFDs to go through a protest process every ten years. SB 128 (Beall, 2019) would replace a 55 percent voter threshold for EIFDs to issue debt with a protest process, which only occurs when the district is formed. SB 293 also does not require the City of Oakland to make the IFD plan publicly available. The Committee may wish to consider whether the bill provides adequate public input into how the IFD should operate.

The Committee may consider amending the bill to include a more robust public input process, including the addition of a protest process at district formation that also requires the plan be made available to the public.

4. No such thing as a free lunch. Tax increment financing is an attractive tool because it allows a local agency to finance infrastructure projects that may generate future sources of revenue. That future revenue can then be used to pay off interest on the debt incurred to finance projects. On the one hand, these districts can provide the city with additional infrastructure and revenue. On the other hand, property tax revenue that could otherwise go to fund core government services is instead diverted to the IFD, which can make it more difficult for the city to fund the ongoing services needed to support that new infrastructure. While SB 293 allows the city to cap the amount of property tax revenue that goes to the IFD, it is unclear whether this would allow enough property tax revenue to finance the services needed to go along with the new infrastructure. To justify diverting property tax revenue to the IFD, the city would have to dedicate funds to projects that generate sufficient public benefits. The bill allows the IFD to finance any “public facility,” which it defines as publicly or privately owned facilities that are available to or serve the public, but cannot include the stadium itself. The Committee may wish to consider whether the current definition of public facility provides enough assurance that the projects the district finances will maximize public benefits.

5. Alphabet soup. After the Supreme Court’s 2011 Matosantos decision dissolved all RDAs, legislators enacted a slew of measures creating new tax increment financing tools to pay for local economic development. In 2014, the Legislature authorized the creation of EIFDs, quickly followed by Community Revitalization and Investment Authorities (CRIAs) in 2015 (AB 2, Alejo). Similar to EIFDs, CRIAs use tax increment financing to fund infrastructure projects, with two big differences: CRIAs may only be formed in economically depressed areas, but lack the voter approval requirement. Two years ago, the Legislature 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). Last year, SB 961 (Allen) removed the vote requirement for a subset of EIFDs to issue bonds and required these EIFDs to go through a robust process for soliciting public input. SB 961 also required the Governor’s Office of Planning and Research to evaluate the effectiveness of the various tax increment financing tools that have sprung up in the wake of RDAs dissolution. Local agencies have had only a year or two to determine whether the most recently enacted frameworks will work for their purposes. In light of the recent creation of numerous other similar agencies—including some that do not require voter approval for debt—it may be premature to create yet another tool to finance local economic development. According to the city and the team, these other tools fall short for their specific purposes. The bill’s supporters provided at least three examples of where other tools fall short. These other tools: (1) do not require raising \$100,000 in property tax increment revenue before starting the clock on how long the district can operate, (2) do not allow for the creation of project areas within the district, and (3) do not allow for additional property to be annexed into the district after it is formed. The Committee may wish to consider whether these perceived shortcomings justify creating a specific tool for infrastructure associated with the ballpark.

6. Impact on port operations. Not everyone is on board with the initial proposal for the stadium and surrounding infrastructure at Howard Terminal. For example, ships currently use the area around the proposed stadium to turn around. The Pacific Merchant Shipping Association has raised concerns regarding how ship pilots would execute such a maneuver when the stadium lights are on, or in the event there is more boat traffic surrounding the stadium. The proposed stadium and surrounding infrastructure could also limit the space available for parking shipping containers and movement in and out of the port. The Committee may wish to consider how the stadium and associated infrastructure might impact port operations.

7. Related legislation. AB 1191 (Bonta) allows for the transfer of State Lands Commission (SLC) to the City of Oakland for the stadium project and surrounding infrastructure. If both bills are enacted, the City of Oakland could potentially use SB 293 to finance infrastructure on these lands, which raises concerns about whether projects financed by the district will have to go through SLC and the San Francisco Bay Conservation and Development Commission (BCDC) oversight processes to ensure environmental impacts are mitigated. BCDC is a California state planning and regulatory agency with regional authority over the San Francisco Bay, the Bay's shoreline band, and the Suisun Marsh. The Committee may wish to consider whether it is sufficiently clear whether SLC and BCDC would oversee certain Oakland IFD projects.

8. Let's be clear. The bill includes findings and declarations describing the existing property, its limited use for the maritime industry, and its potential use for a ballpark. The Committee may wish to consider amending the bill to clarify its potential use as a ballpark, rather than evaluate its current and former uses in the maritime industry.

9. Let's get technical. Committee staff recommend the following technical amendments:

- On Page 5, Line 23, replace "Sections 53395.5 and 53396.5" with "this chapter."
- On Page 10, Line 13, replace "to include the petitioning landowner's land in the district in accordance with the city council's established procedures" with "area."

Support and Opposition (4/19/19)

Support: Oakland Athletics.

Opposition: Pacific Merchant Shipping Association.

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