



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

**STAFF REPORT**  
**June 17, 2008**

Honorable Members of the  
Law and Legislation Committee

**Subject:** Legislative Position: Support AB 1836 (Feuer) – Infrastructure Financing  
Districts

**Location/Council District:** Citywide

**Recommendation:**

Staff recommends that the Law and Legislation Committee adopt a support position on AB 1836 (Feuer/Levine) relating to infrastructure financing districts.

**Contact:** Beth Tincher, 808-7730; Mark Griffin, Fiscal Manager

**Presenters:** Beth Tincher, Senior Project Manager

**Department:** Economic Development  
Public Improvement Financing, Planning

**Division:** Downtown Development Group

**Organization No:** 4451

**Issue:**

California communities continue to experience increasing pressure to improve public infrastructure with limited infrastructure financing mechanisms. One of the mechanisms available to local government is to establish an Infrastructure Financing District (IFD) which is similar to how redevelopment agencies finance projects. Property tax growth is allocated for public infrastructure improvements within the IFD for a specified period of time.

Under current code, an IFD is established through a two-thirds vote of property owners or residents and through the concurrence of the participating jurisdictions. The proposed legislation removes the vote requirement on the basis that no taxes are being increased. Only future growth in existing taxes is affected with the establishment of an IFD.

While local governments can use this mechanism to create funds to reinvest in their communities, the proposed legislation would provide a more useable process to establish an IFD and extends the term of the IFD by 10 years.

**Committee/Commission Action:** None.

**Financial Considerations:** AB1836 has a positive financial effect by allowing local communities to establish infrastructure facilities districts that could finance additional infrastructure.

**Environmental Considerations:** None

**Policy Considerations:** This bill is consistent with City's Strategic Plan to achieve sustainability and enhance livability. The bill is also consistent with the Smart Growth principle to support land use, transportation management, infrastructure and environmental planning programs that reduce vehicle emissions and improve air quality.

**Rationale for Recommendation:**

Under California Government Cod section 53395, local governments are allowed to create Infrastructure Financing Districts (IFD) and to issue bonds to pay for community facilities including transit, water systems, sewer projects, flood control projects, parks, solid waste facilities among other facilities. Unlike, redevelopment districts, IFD's are require a two-thirds vote to establish. The provisions of AB 1836 lift additional requirements making it easier for Cities to identify alternative funding for infrastructure. AB 1836 (Feuer/Levine) brings Infrastructure Financing Districts (IFDs) more in line with redevelopment districts by removing the voter approval currently needed for cities and counties to create IFDs. IFDs are similar to redevelopment districts in that they allow reallocation of existing tax revenues to improve a designated area.

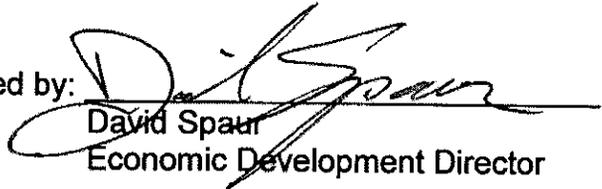
Local agencies that will contribute their property tax increment revenue to the IFD must still approve the plan.

**Major provisions of AB 1836 (Feuer/Levine)**

- Authorizes a legislative body to create an infrastructure financing district without voter approval
- Authorizes the local agency City Council to establish the district through a resolution.
- Removes legislative intent that the area of an IFD be substantially undeveloped.
- Allows a legislative body to issue bonds for an IFD without receiving voter approval
- Extends the time limitation and or life of a IFD can collect from 30 years to 40 years.

Staff anticipates a continuing and increasing funding need for public infrastructure capital, operations and maintenance. Staff recommends support of AB 1836 to assist with one additional funding option and ensure more balanced options for funding Sacramento's infrastructure needs.

Respectfully Submitted by:   
Beth Tincher  
Senior Project Manager

Approved by:   
David Sparr  
Economic Development Director

Approved by:   
Carol Shearly  
Director of Planning

Recommendation Approved:

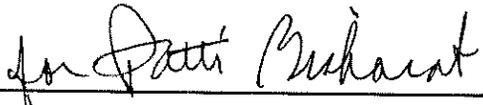
  
**RAY KERRIDGE**  
City Manager

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June 27, 2008

The Honorable Mike Feuer  
Member, California State Assembly  
State Capitol, PO Box 942849  
Sacramento, CA 95814  
ATTN: Legislative Director

Subject: Support AB 1836 (Feuer) – Before and After School Programs

Dear Senator McClintock:

On behalf of the City of Sacramento, and as chair of the Law and Legislation Committee, I am writing to inform you that we support AB 1836. AB 1836 streamlines existing law related to the formation of Infrastructure Financing Districts by removing an unnecessary voter approval requirement. In the past, this law has been little used due to cumbersome requirements. This measure is an attempt to improve its usefulness.

There is nothing in this tool that increases taxes; the law simply allows local governments to voluntarily designate a portion of their property tax increment to fund needed infrastructure projects. By making this law more useable, this measure will provide a helpful option for building local infrastructure that can spur local business and housing development and create jobs.

Thank you for introducing this important legislation.

Sincerely,

SANDY SHEEDY, Chair  
Law and Legislation Committee

Cc: Senator Darrell Steinberg  
Senator Gloria Negrete-McLeod  
Assembly Member Dave Jones  
Assembly Member Mike Feuer  
Assembly Member Levine  
Mayor Fargo and Members of City Council  
David Jones, Emanuels, Jones and Associates

BILL NUMBER: AB 1836 AMENDED  
BILL TEXT

AMENDED IN ASSEMBLY APRIL 16, 2008

INTRODUCED BY Assembly ~~Member~~ ~~Feuer~~  
Members Feuer and Levine

JANUARY 24, 2008

An act to amend Sections 53395.5, 53395.6, 53395.7, 53395.8, 53395.14, 53395.19, 53395.20, 53396, 53397.1 and 53397.2 of, and repeal Sections 53395.21, 53395.22, 53395.23, 53395.24, 53395.25, 53397.4, 53397.5, 53397.6, and 53397.7 of, the Government Code, relating to infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1836, as amended, Feuer. Infrastructure Financing Districts: voter approval: repeal.

Existing law allows a legislative body, as defined, to create an infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, to finance specified public facilities, upon voter approval.

This bill would eliminate the requirement of voter approval and allow the legislative body to create the district, adopt the plan, and issue the bonds by resolutions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

SECTION 1. Section 53395.5 of the Government Code is amended to read:

53395.5. It is the intent of the Legislature that the establishment of a district should not ordinarily lead to the removal of existing dwelling units. If, however, any dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, the legislative body shall do all of the following:

(a) Within four years of the removal or destruction, cause or require the construction or rehabilitation, for rental or sale to persons or families of low or moderate income, of an equal number of replacement dwelling units at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, within the territory of the district if the dwelling units removed were inhabited by persons or families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(b) Within four years of the removal or destruction, cause or require the construction or rehabilitation, for rental or sale to persons of low or moderate income, a number of dwelling units which is at least one unit but not less than 20 percent of the total dwelling units removed at affordable housing cost, as defined in

Section 50052.5 of the Health and Safety Code, within the territory of the district if the dwelling units removed or destroyed were not inhabited by persons of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(c) Provide relocation assistance and make all the payments required by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1, to persons displaced by any public or private development occurring within the territory of the district. This displacement shall be deemed to be the result of public action.

(d) Ensure that removal or destruction of any dwelling units occupied by persons or families of low or moderate income not take place unless and until there are suitable housing units, at comparable cost to the units from which the persons or families were displaced, available and ready for occupancy by the residents of the units at the time of their displacement. The housing units shall be suitable to the needs of these displaced persons or families and shall be decent, safe, sanitary, and otherwise standard dwellings.

SEC. 2. Section 53395.6 of the Government Code is amended to read:

53395.6. Any action or proceeding to attack, review, set aside, void, or annul the creation of a district, adoption of an infrastructure financing plan, including a division of taxes thereunder, shall be commenced within 30 days after the date the legislative body adopted the resolution adopting the infrastructure finance plan pursuant to Section 53395.20. Consistent with the time limitations of this section, such an action or proceeding with respect to a division of taxes under this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, except that Section 869 of the Code of Civil Procedure shall not apply.

SEC. 3. Section 53395.7 of the Government Code is amended to read:

53395.7. An action to determine the validity of the issuance of bonds pursuant to this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. However, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, the action shall be commenced within 30 days after the date the legislative body adopted the resolution authorizing the issuance of the bonds pursuant to Section 53397.1, if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

SEC. 4. Section 53395.8 of the Government Code is amended to read:

53395.8. (a) This section applies only to the City and County of San Francisco. For the purposes of this chapter, the City and County of San Francisco is a city.

(b) In addition to the findings and declarations in Section 53395, the Legislature further finds and declares that consolidating in a single public agency the responsibility to administer waterfront lands in the City and County of San Francisco that are subject to the public trust and the ability to capture property tax increment revenues to finance needed public infrastructure improvements in those areas will further the objectives of the public trust and enjoyment of those trust lands by the people of the state.

(c) Notwithstanding subdivision (c) of Section 53395.1, for the

purposes of this section, "debt" includes commercial paper and variable rate demand notes.

(d) In addition to the purposes provided in subdivision (a) of Section 53395.3, a district subject to this section may finance the environmental remediation of any real or tangible property that the district may finance pursuant to Section 53395.3. The district may also finance planning and design work that is directly related to the improvement, seismic retrofit, or environmental mediation of that property. The district may not finance routine nonstructural repair work.

(e) In addition to the public capital facilities of communitywide significance that a district may finance pursuant to subdivision (b) of Section 53395.3, a district subject to this section may finance all of the following:

(1) Seismic and life-safety improvements to existing buildings and other structures.

(2) Rehabilitation, restoration, and preservation of structures, buildings, or other facilities having special historical, architectural, or aesthetic interest or value and that are either eligible for listing on the National Register of Historic Places, both individually or because of their location within an eligible registered historic district, or are locally designated landmarks.

(3) Structural repairs and improvements to piers, seawalls, and wharves.

(4) Remediation of hazardous materials.

(5) Storm water management facilities, other utility infrastructure, or public access improvements.

(f) Notwithstanding Section 53395.4, a district subject to this section may include tidelands and submerged lands, including filled lands, subject to the public trust for commerce, navigation, and fisheries, and the applicable statutory trust grant or grants. Where a district includes tidelands and submerged lands, whether filled or unfilled, and finances facilities located on these tidelands and submerged lands, these facilities shall serve and promote uses and purposes consistent with the public trust and applicable statutory trust grants. These facilities shall be public trust assets subject to the administration and control of the legislative trust grantee of the public trust lands on which they are constructed. However, if these facilities are among the public capital facilities listed in paragraphs (1) to (4), inclusive, of subdivision (b) of Section 53395.3 or paragraph (5) of subdivision (e) of this section and are not owned by the public agency administering the public trust lands, but are owned and operated by another entity pursuant to a license from or an agreement with the public agency administering the public trust lands, then these facilities are not required to become public trust assets. The district shall maintain accounting procedures in accordance, and otherwise comply, with Section 6306 of the Public Resources Code.

(g) Notwithstanding Section 53395.5, nothing in this chapter shall prohibit the formation of a district on urban waterfront property, nor the financing of needed public infrastructure projects located on public trust lands, pursuant to this section.

(h) Notwithstanding subdivision (c) of Section 53395.14, infrastructure improvements that increase public access to, or use or enjoyment of, public trust lands pursuant to this section shall be deemed to satisfy the requirements of that subdivision.

(i) The legislative body may, by ordinance, adopt the

infrastructure financing plan and create the district, upon recommendation of the public agency with jurisdiction over the land.

(j) (1) Notwithstanding any other provision of this chapter, the legislative body may amend an infrastructure financing plan subject to this section to extend the time limitations for receipt of property tax increment beyond the ~~30-year~~ 40-year period from adoption of the ordinance for the district for a period not to exceed 10 years to pay bonded indebtedness, if the district does all of the following:

(A) Includes an amendment, if necessary, to increase the total number of dollars to be allocated to the district.

(B) Prepares an analysis of the projected fiscal impact on each affected taxing entity.

(C) Sets a time and date for a public hearing on the matter.

(2) The amendment to the infrastructure financing plan shall be mailed by the clerk to each affected taxing entity for its review. Each affected taxing entity shall review and consent to or disapprove the amended infrastructure financing plan within 60 days of the receipt thereof.

(k) (1) The legislative body shall hold a public hearing regarding the amendment to the infrastructure financing plan within 60 days after each affected taxing entity has approved the extension.

(2) The public hearing, and notice thereof, shall be conducted in accordance with Sections 53395.17 and 53395.18. At the conclusion of the hearing, the legislative body may adopt an ordinance adopting the infrastructure financing plan, as modified, or it may abandon the proceedings.

SEC. 5. Section 53395.14 of the Government Code is amended to read:

53395.14. After receipt of a copy of the resolution of intention to establish a district, the official designated pursuant to Section 53395.13 shall prepare a proposed infrastructure financing plan. The infrastructure financing plan shall be consistent with the general plan of the city within which the district is located and shall include all of the following:

(a) A map and legal description of the proposed district, which may include all or a portion of the district designated by the legislative body in its resolution of intention.

(b) A description of the public facilities required to serve the development proposed in the area of the district including those to be provided by the private sector, those to be provided by governmental entities without assistance under this chapter, those public improvements and facilities to be financed with assistance from the proposed district, and those to be provided jointly. The description shall include the proposed location, timing, and costs of the public improvements and facilities.

(c) A finding that the public facilities are of communitywide significance and provide significant benefits to an area larger than the area of the district.

(d) A financing section, which shall contain all of the following information:

(1) A specification of the maximum portion of the incremental tax revenue of the city and of each affected taxing entity proposed to be committed to the district for each year during which the district will receive incremental tax revenue. The portion need not be the same for all affected taxing entities. The portion may change over time.

(2) A projection of the amount of tax revenues expected to be received by the district in each year during which the district will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year.

(3) A plan for financing the public facilities to be assisted by the district, including a detailed description of any intention to incur debt.

(4) A limit on the total number of dollars of taxes which may be allocated to the district pursuant to the plan.

(5) A date on which the district will cease to exist, by which time all tax allocation to the district will end. The date shall not be more than ~~30~~ 40 years from the date the legislative body adopted the resolution adopting the infrastructure finance plan pursuant to Section 53395.20.

(6) An analysis of the costs to the city of providing facilities and services to the area of the district while the area is being developed and after the area is developed. The plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city as a result of expected development in the area of the district.

(7) An analysis of the projected fiscal impact of the district and the associated development upon each affected taxing entity.

(e) If any dwelling units occupied by persons or families of low or moderate income are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, a plan providing for replacement of those units and relocation of those persons or families consistent with the requirements of Section 53395.5.

SEC. 6. Section 53395.19 of the Government Code is amended to read:

53395.19. (a) The legislative body shall not enact a resolution forming a district and providing for the division of taxes of any affected taxing entity pursuant to Article 3 (commencing with Section 53396) unless a resolution approving the plan has been adopted by the governing body of each affected taxing entity which is proposed to be subject to division of taxes pursuant to Article 3 (commencing with Section 53396) has been filed with the legislative body at or prior to the time of the hearing.

(b) Nothing in this section shall be construed to prevent the legislative body from amending its infrastructure financing plan and adopting a resolution forming the infrastructure financing district without allocation of the tax revenues of any affected taxing entity that has not approved the infrastructure financing plan by resolution of the governing body of the affected taxing entity.

SEC. 7. Section 53395.20 of the Government Code is amended to read:

53395.20. At the conclusion of the hearing required by Section 53395.17, the legislative body may adopt a resolution adopting the infrastructure financing plan, as modified, and approving the formation of the infrastructure financing district in a manner consistent with Section 53395.19, or it may abandon the proceedings.

SEC. 8. Section 53395.21 of the Government Code is repealed.

SEC. 9. Section 53395.22 of the Government Code is repealed.

SEC. 10. Section 53395.23 of the Government Code is repealed.

SEC. 11. Section 53395.24 of the Government Code is repealed.

SEC. 12. Section 53395.25 of the Government Code is repealed.

SEC. 13. Section 53396 of the Government Code is amended to read:

53396. Any infrastructure financing plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the infrastructure financing district each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the resolution adopted pursuant to Section 53395.20 to create the district, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the district as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the resolution adopted pursuant to Section 53395.20 to create the district, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid.

(b) That portion of the levied taxes each year specified in the adopted infrastructure financing plan for the city and each affected taxing entity which has agreed to participate pursuant to Section 53395.19 in excess of the amount specified in subdivision (a) shall be allocated to, and when collected shall be paid into a special fund of, the district for all lawful purposes of the district. Unless and until the total assessed valuation of the taxable property in a district exceeds the total assessed value of the taxable property in the district as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the district shall be paid to the respective affected taxing entities. When the district ceases to exist pursuant to the adopted infrastructure financing plan, all moneys thereafter received from taxes upon the taxable property in the district shall be paid to the respective affected taxing entities as taxes on all other property are paid.

SEC. 14. Section 53397.1 of the Government Code is amended to read:

53397.1. The legislative body may, by majority vote, authorize the issuance of bonds pursuant to this chapter by adopting a resolution.

SEC. 15. Section 53397.2 of the Government Code is amended to read:

53397.2. The resolution adopted pursuant to Section 53397.1 shall contain all of the following information:

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

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

(c) The maximum interest rate and discount on the 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 bond issuance will be less than, or equal to, the amount determined pursuant to subdivision (d).

(f) ~~The issuance of the bonds~~ A determination of whether the issuance of the bonds will be in one or more series.

- (g) The date the bonds will bear.
  - (h) The denomination of the bonds.
  - (i) The form of the bonds.
  - (j) The manner and execution of the bonds.
  - (k) The medium of payment in which the bonds are payable.
  - (l) The place or manner of payment and any requirements for registration of the bonds.
  - (m) The terms or call of redemption, with or without premium.
- SEC. 16. Section 53397.4 of the Government Code is repealed.
- SEC. 17. Section 53397.5 of the Government Code is repealed.
- SEC. 18. Section 53397.6 of the Government Code is repealed.
- SEC. 19. Section 53397.7 of the Government Code is repealed.

ASSEMBLY THIRD READING  
AB 1836 (Feuer)  
As Amended April 16, 2008  
Majority vote

LOCAL GOVERNMENT 5-0

Ayes:	Caballero, De La Torre,		
	Lieber, Saldana,		
	DeSaulnier		

SUMMARY : Removes the voter approval requirement for the formation of an infrastructure financing district (IFD). Specifically, this bill :

- 1) Authorizes a legislative body to create an IFD without voter approval.
- 2) Removes legislative intent that the area of an IFD be substantially undeveloped.
- 3) Allows a legislative body to issue bonds for an IFD without receiving voter approval.
- 4) Extends the time limitation that an IFD can collect tax increment from 30 to 40 years.
- 5) Extends the life of an IFD from 30 to 40 years.

EXISTING LAW :

- 1) Authorizes cities and counties to create IFDs and issue bonds to pay for community scale public works: highways; transit; water systems; sewer projects; flood control; child care facilities; libraries; parks; and, solid waste facilities.
- 2) Requires a two-thirds voter approval of the formation of the IFD and the issuance of bonds.
- 3) Requires majority voter approval for setting the IFD's appropriations limits.

- 4) Specifies that public agencies that own land in a proposed IFD may not vote on issues regarding the district.
- 5) Authorizes IFDs to issue a variety of debt instruments, including: bonds; certificates of participation; leases; and, loans.
- 6) Requires that in order to form an IFD, a city or county must develop an infrastructure plan, send copies to every landowner, consult with other local governments, and hold a public hearing.
- 7) Authorizes an IFD to pay for the construction, expansion, improvement, seismic retrofit, or rehabilitation of public capital facilities of community-wide significance.
- 8) Authorizes an IFD to pay for the facilities' planning and design work.
- 9) Prohibits an IFD from paying for routine maintenance, repair work, or ongoing operation and service costs.
- 10) Allows an IFD to divert property tax increment revenues from other local governments, excluding school districts, for up to 30 years, in order to pay back bonds issued by the IFD.
- 11) Requires that when forming an IFD, local officials must find that its public facilities are of community-wide significance and provide significant benefits to an area larger than the IFD.
- 12) Requires that every local agency who will contribute its property tax increment revenue to the IFD approve the plan.

FISCAL EFFECT : None

COMMENTS : Current law authorizes local governments to establish IFDs to construct public works such as highways, sewer projects, and child care facilities. Projects are financed by the issuance of bonds secured by the growth in property tax revenues within the district over a 30-year period (in much the same manner that redevelopment agencies finance projects). The growth in schools' share of the property tax may not be used to finance an IFD. The diversion of the property tax increment of

other local agencies to an IFD requires the consent of the local agency.

For several years, local officials were reluctant to form IFDs because they worried about the constitutionality of using tax increment revenue from property that was not within the redevelopment project area. When a 1998 Attorney General's opinion allayed those concerns, the City of Carlsbad formed an IFD in 1999 to fund the public works for a new hotel located adjacent to the Legoland theme park. That small project is the only example of local officials' use of the 1990 IFD law.

Existing law requires a two-thirds voter approval for the formation of an IFD and for the issuance of bonds. This requirement is different than the process for establishing redevelopment areas, where only the approval of the city council or board of supervisors, respectively, is required. The author believes that the requirement for voter approval is a very high bar and has discouraged locals from pursuing the establishment of IFDs. The author feels that in a time when federal and state funding dollars are tight, IFDs could play a critical role in funding much needed infrastructure projects. This bill removes the voter approval requirement for the formation of an infrastructure financing district.

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Analysis Prepared by : Katie Kolitsos / L. GOV. / (916)  
319-3958

FN: 0004318