Assembly Bill 243 (Dickinson) Infrastructure and Revitalization Financing District

Attachment 7

AMENDED IN SENATE AUGUST 19, 2013

AMENDED IN SENATE JUNE 18, 2013

AMENDED IN SENATE JUNE 5, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 243

Introduced by Assembly Member Dickinson
(Principal coauthors: Assembly Members Atkins, Bonta, and John A. Pérez)

February 6, 2013

An act to add Chapter 2.10 (commencing with Section 53399) to Part 1 of Division 2 of Title 5 of the Government Code, and to amend Section 33459 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 243, as amended, Dickinson. Local government: infrastructure and revitalization financing districts.

Existing law authorizes the creation of infrastructure financing districts, as defined, for the sole purpose of financing public facilities, subject to adoption of a resolution by the legislative body and affected taxing entities proposed to be subject to division of taxes and ⅔ voter approval. Existing law authorizes the legislative body to, by majority vote, initiate proceedings to issue bonds for the financing of district projects by adopting a resolution, subject to specified procedures and ⅔ voter approval. Existing law requires an infrastructure financing plan to include the date on which an infrastructure financing district will cease to exist, which may not be more than 30 years from the date on which the ordinance forming the district is adopted. Existing law prohibits a district from including any portion of a redevelopment project

area. Existing law, the Polanco Redevelopment Act, authorizes a redevelopment agency to take any action that the agency determines is necessary and consistent with state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to specified conditions.

This bill would authorize the creation of an infrastructure and revitalization financing district, as defined, and the issuance of debt with 55% voter approval. The bill would authorize the creation of a district for up to 40 years and the issuance of debt with a final maturity date of up to 30 years, as specified. The bill would authorize a district to finance projects in redevelopment project areas and former redevelopment project areas and former military bases. The bill would authorize the legislative body of a city, *as defined,* to dedicate any portion of its funds received from the Redevelopment Property Tax Trust Fund to the district, if specified criteria are met. The bill would authorize a city to form a district to finance a project or projects on a former military base, if specified conditions are met. The bill would provide that the formation of the district and the issuance of debt by ~~such a~~ *the* district on land of a former military base that is publicly owned is not subject to voter approval, as specified.

The bill would authorize a district to fund various projects, including, among others, watershed land used for the collection and treatment of water for urban uses, flood management, levees, bypasses, open space, habitat restoration, brownfields restoration, environmental mitigation, purchase of land and property for development purposes, including commercial property, hazardous cleanup, former military bases, and specified transportation purposes. The bill would authorize a district to implement hazardous cleanup pursuant to the Polanco Redevelopment Act, as specified. The bill would impose a specified reporting requirement on districts.

This bill would incorporate additional changes to Section 33459 of the Health and Safety Code proposed by SB 470 that would become operative if this bill and SB 470 are enacted and this bill is enacted last.

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

The people of the State of California do enact as follows:

SECTION 1. Chapter 2.10 (commencing with Section 53399) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

Chapter 2.10. Infrastructure and Revitalization Financing Districts

Article 1. General Provisions

53399. It is the intent of the Legislature in enacting this chapter to establish a long-term permanent program that provides local governments with tools and resources for specified purposes, including, but not limited to, public infrastructure, affordable housing, economic development and job creation, and environmental protection and remediation, in a manner that encourages local cooperation and includes appropriate protections for state and local taxpayers.

53399.1. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Affected taxing entity" means any governmental taxing agency that levied or had levied on its behalf a property tax on all or a portion of the property located in the proposed district in the fiscal year prior to the designation of the district, but not including any county office of education, school district, or community college district.

(b) "City" means a city, a county, or a city and county.

(c) "Debt" means any binding obligation to repay a sum of moneys, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(d) "Designated official" means the city engineer or other appropriate official designated pursuant to Section 53399.13.

(e) (1) "District" means an infrastructure and revitalization financing district.

(2) An infrastructure and revitalization financing district is a "district" within the meaning of Section 1 of Article XIII A of the California Constitution.

(f) "Infrastructure and revitalization financing district" means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing facilities authorized by this chapter.

(g) "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body shall not have any obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, unless the public agency owns all of the land to be included within the proposed district.

(h) "Legislative body" means the city council or board of supervisors.

(i) "Project area" means a defined area within a district in which the activities of the district share a common purpose or goal and an overall financing plan.

(j) "Public works" means public facilities or any other facilities described in Section 53399.3 that are to be financed in whole or in part by the district.

(k) "Net available revenue" means periodic distributions to the city from the Redevelopment Property Tax Trust Fund, created pursuant to Section 34170.5 of the Health and Safety Code, that are available to the city after all preexisting legal commitments and statutory obligations funded from that revenue are made pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. Net available revenue shall *not* include ~~only revenue remaining after all current distributions, including, but not limited to, payment of enforceable obligations, all distributions to other taxing entities, and applicable administrative fees, have been made~~ *any funds deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund or funds remaining in the Redevelopment Property Tax Trust Fund, prior to distribution. Net available revenues shall not include any moneys payable to a school district that maintains kindergarten and grades 1 to 12, inclusive, or to the Education*

Revenue Augmentation Fund, pursuant to paragraph (4) of subdivision (a) of Section 34183 of the Health and Safety Code.

53399.2. (a) The revenues available pursuant to Article 3 (commencing with Section 53399.30) may be used directly for work allowed pursuant to Section 53399.3, may be accumulated for a period not to exceed five years to provide a fund for that work, may be pledged to pay the principal of, and interest on, bonds issued pursuant to Article 4 (commencing with Section 53399.40), or may be pledged to pay the principal of, and interest on, bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) or the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311)), the proceeds of which have been or will be used entirely for allowable purposes of the district. The revenue of the district may also be advanced for allowable purposes of the district to an Integrated Financing District established pursuant to Chapter 1.5 (commencing with Section 53175), in which case the district may be party to a reimbursement agreement established pursuant to that chapter. The revenues of the district may also be committed to paying for any completed facility acquired pursuant to Section 53399.3 over a period of time, including the payment of a rate of interest not to exceed the bond buyer index rate on the day that the agreement to repay is entered into by the city.

(b) The legislative body may enter into an agreement with any affected taxing entity providing for the construction of, or assistance in, financing facilities.

53399.3. (a) A district may finance (1) 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 which satisfies the requirements of subdivision (b), (2) may finance planning and design work which is directly related to the purchase, construction, expansion, improvement, rehabilitation, or seismic retrofit of that property, and (3) the costs described in Sections 53399.6 and 53399.31. The facilities need not be physically located within the boundaries of the district. A district may not finance routine maintenance, repair work, or the costs of ongoing operation or providing services of any kind.

(b) The district shall finance only facilities or projects of communitywide significance, including, but not limited to, any of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities and watershed lands used for the collection and treatment of water for urban uses.

(4) Flood management, including levees, bypasses, dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, open space, and habitat restoration.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfields restoration and other environmental mitigation.

(10) Purchase of land and property for development purposes and related site improvements.

(11) Acquisition, construction, or repair of housing for rental or purchase, including multipurpose facilities.

(12) Acquisition, construction, or repair of commercial or industrial structures for private use.

(13) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851.

(c) Any district that constructs dwelling units shall 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, as defined by Section 50052.5 of the Health and Safety Code, or at an affordable rent, as defined by Section 50053 of the Health and Safety Code, to persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code.

(d) A district may utilize any powers under the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code), and finance any action necessary to implement that act.

(e) A district may finance any project that implements a sustainable communities strategy prepared pursuant to Section 65080.

53399.4. (a) A city may form a district to finance a project or projects on a former military base pursuant to the requirements set forth in this chapter.

(b) A district formed under this section may finance a project pursuant to this section or Section 53399.3 only if the project is consistent with the authority reuse plan and is approved by the military base reuse authority, if applicable.

(c) Notwithstanding Sections 53399.20, 53399.21, 53399.22, 53399.23, and 53399.44, the following actions shall not be subject to voter approval in the case of a district formed under this section:

(1) The formation of the district, provided that, at the time of approval of the formation of the district, all of the land within the proposed district is owned by one or more public entities, military base reuse authorities, or entities controlled by governmental agencies.

(2) The authorization to issue debt and the issuance of debt by a district formed under this section to finance facilities described in the infrastructure financing plan, provided that, at the time of approval of the formation of the district, all of the land within the proposed district, or a designated project area within the district on which the facilities to be financed with the bonds will be located is owned by one or more public entities, military base reuse authorities, or entities controlled by governmental agencies. The bonds authorized by this paragraph may be issued in one or more series upon the adoption by the district of the resolution described in subdivision (b) of Section 53399.44.

53399.5. (a) A district may finance only the facilities or services authorized in this chapter. The additional facilities or services may not supplant facilities or services already available within that territory when the district was created, except if those facilities or services are essentially nonfunctional, obsolete, hazardous, or in need of upgrading or rehabilitation. The additional facilities or services may supplement those facilities and services as needed to serve new developments.

(b) A district may include areas that are not contiguous. A district may be divided into project areas, each of which may be subject to distinct limitations established under this chapter. The

legislative body may, at any time, add territory to a district or amend the infrastructure financing plan for the district by conducting the same procedures for the formation of a district or approval of bonds, if applicable, as provided pursuant to this chapter.

~~(c) Any district may finance any project or portion of a project that is located in, or overlaps with, any redevelopment project area or former redevelopment project area or former military base.~~

(c) If a district's boundaries overlap with the boundaries of a former redevelopment agency, a participating city may allocate its share of net available revenue, as defined by subdivision (k) of Section 53399.1, from within the boundaries of the former redevelopment agency to the infrastructure financing district.

(d) A district shall not finance any project or portion of a project within the boundaries of a former redevelopment agency until the successor agency to the former redevelopment agency has received a finding of completion, as defined by Section 34179.7 of the Health and Safety Code, and has no pending litigation against the state related to Part 1.8 (commencing with Section 34161) or Part 1.85 (commencing with Section 34170) of the Health and Safety Code.

~~(d)~~

(e) Notwithstanding subdivision (c), any debt or obligation of a district shall be subordinate to an enforceable obligation of a former redevelopment agency, as defined in Section 34171 of the Health and Safety Code.

~~(e)~~

(f) The legislative body of the city forming the district may choose to dedicate any portion of its net available revenue to the district through the financing plan described in Section 53399.14.

53399.6. It is the intent of the Legislature that the establishment of a district should not ordinarily lead to the removal of existing functional, habitable, and safe dwelling units. If, however, any dwelling units are proposed to be removed or destroyed in the course of private development or facilities 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, or affordable

rent, as defined in Section 50053 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, or affordable rent, as defined in Section 50053 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) In the case of dwelling units located on a former military base that are destroyed or removed in connection with a base reuse plan, replacement dwelling units required by subdivision (a) or (b) may be located anywhere within the territory of the former military base consistent with the base reuse plan, local general plan, and infrastructure financing plan, as applicable.

(d) 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.

(e) 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.

53399.7. 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, or an election pursuant to this chapter shall be commenced within 30 days after the enactment of the ordinance creating the district pursuant to Section 53399.23. 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.

53399.8. 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 adoption of the resolution pursuant to Section 53399.44 providing for issuance of the bonds 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.

Article 2. Preparation and Adoption of Infrastructure and Revitalization Financing District Plans

53399.10. A legislative body of a city may designate one or more proposed infrastructure and revitalization financing districts pursuant to this chapter. Proceedings for the establishment of a district shall be instituted by the adoption of a resolution of intention to establish the proposed district and shall do all of the following:

(a) State that an infrastructure and revitalization financing district is proposed to be established under the terms of this chapter and describe the boundaries of the proposed district and any project area proposed within the district, which may be accomplished by reference to a map on file in the office of the clerk of the city.

(b) State the type of facilities proposed to be financed by the district. The district may only finance facilities authorized by Section 53399.3.

(c) State that incremental property tax revenue from the city and some or all affected taxing entities within the district may be used to finance these facilities.

(d) State that net available revenue from the city may be used to finance these facilities and state the maximum portion of the

net available revenue to be committed to the district for each year during which the district will receive these revenues.

(e) Fix a time and place for a public hearing on the proposal.

53399.11. The legislative body shall cause a copy of the resolution of intention to create the district to be mailed to each owner of land within the district.

53399.12. The legislative body shall cause a copy of the resolution to be mailed to each affected taxing entity.

53399.13. After adopting the resolution pursuant to Section 53399.10, the legislative body shall designate and direct the city engineer or other appropriate official to prepare an infrastructure plan pursuant to Section 53399.14.

53399.14. After receipt of a copy of the resolution of intention to establish a district, the official designated pursuant to Section 53399.13 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 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 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 improvements and facilities.

(c) A finding that the facilities are of communitywide significance.

(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 proposed to be committed to the district for each year. If applicable, the plan shall also include a specification of the maximum portion of the net available revenue of the city proposed to be committed to the district for each year during which the district will receive revenue. The portion may vary over time.

(3) A plan for financing the 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 that may be allocated to the district pursuant to the plan.

(5) A date on which the district shall cease to exist, by which time all tax allocation, including any allocation of net available revenue, to the district will end. The date shall not be more than 40 years from the date on which the ordinance forming the district is adopted pursuant to Section 53399.23, or a later date, if specified by the ordinance, on which the allocation of tax increment will begin. The district may issue debt with a final maturity date of up to 30 years from the date of issuance of each debt issue, subject to the time limit on tax allocation to the district.

(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 that is proposed to participate in financing the district.

(8) A plan for financing any potential costs that may be incurred by reimbursing a developer of a project that is both located entirely within the boundaries of that district and qualifies for the Transit Priority Project Program, pursuant to Section 65470, including any permit and affordable housing expenses related to the project.

(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 facilities 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 53399.6.

53399.15. The infrastructure financing plan shall be sent to each owner of land within the proposed district and to each affected taxing entity together with 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 facilities or the proposed development project for which the facilities are needed, and shall be made available for public inspection. The report shall also be sent to the planning commission and the legislative body.

53399.16. The designated official shall consult with each affected taxing entity, and, at the request of any affected taxing entity, shall meet with representatives of an affected taxing entity. Any affected taxing entity may suggest revisions to the plan.

53399.17. The legislative body shall conduct a public hearing prior to adopting the proposed infrastructure financing plan. The public hearing shall be called no sooner than 60 days after the plan has been sent to each affected taxing entity. In addition to the notice given to landowners and affected taxing entities pursuant to Sections 53399.11 and 53399.12, notice of the public hearing shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the city in which the proposed district is located. The notice shall state that the district will be used to finance public works, briefly describe the public works, 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 legislative body and object to the adoption of the proposed plan by the legislative body.

53399.18. At the hour set in the required notices, the legislative body shall proceed to hear and pass upon all written and oral objections. The hearing may be continued from time to time. The legislative body shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the adoption of the plan. The legislative body may modify

the plan by eliminating or reducing the size and cost of proposed public works, by reducing the amount of proposed debt, or by reducing the portion, amount, or duration of incremental tax revenues to be committed to the district.

53399.19. (a) The legislative body shall not enact a resolution proposing formation of a district and providing for the division of taxes of any affected taxing entity pursuant to Article 3 (commencing with Section 53399.30) 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 53399.30) has been filed with the legislative body at or prior to the time of the hearing.

(b) In the case of an affected taxing entity that is a special district that provides fire protection services and where the county board of supervisors is the governing authority or has appointed itself as the governing board of the district, the plan shall be adopted by a separate resolution approved by the district's governing authority or governing board.

(c) This section shall not be construed to prevent the legislative body from amending its infrastructure financing plan and adopting a resolution proposing formation of the infrastructure and revitalization financing district without allocation of the tax revenues of any affected taxing entity which has not approved the infrastructure financing plan by resolution of the governing body of the affected taxing entity.

53399.20. (a) At the conclusion of the hearing, the legislative body may adopt a resolution proposing adoption of the infrastructure financing plan, as modified, and formation of the infrastructure and revitalization financing district in a manner consistent with Section 53399.19, or it may abandon the proceedings. If the legislative body adopts a resolution proposing formation of the district, it shall then submit the proposal to create the district to the qualified electors of the proposed district in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least 90 days, but not more than 180 days, following the adoption of the resolution of formation. The legislative body shall provide the resolution of formation, a certified map of sufficient

scale and clarity to show the boundaries of the district, and a sufficient description to allow the elections official to determine the boundaries of the district to the official conducting the election within three business days after the adoption of the resolution of formation. The assessor's parcel numbers for the land within the district shall be included if it is a landowner election or the district does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than 125 days following the adoption of the resolution of formation, the concurrence of the elections official conducting the election shall be required. However, any time limit specified by this section or requirement pertaining to the conduct of the election may be waived with the unanimous consent of the qualified electors of the proposed district and the concurrence of the elections official conducting the election.

(b) If at least 12 persons have been registered to vote within the territory of the proposed district for each of the 90 days preceding the close of the hearing, the vote shall be by the registered voters of the proposed district, who need not necessarily be the same persons, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed district and each landowner who is the owner of record at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed district. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

(c) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid or by personal service by the elections official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall be exclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the elections official conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

53399.21. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall govern all elections conducted pursuant to this

chapter. Except as provided in subdivision (b), there shall be prepared and included in the ballot material provided to each voter, an impartial analysis pursuant to Section 9160 or 9280 of the Elections Code, arguments and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive, and 9190 of the Elections Code or pursuant to Sections 9281 to 9287, inclusive, and 9295 of the Elections Code.

(b) If the vote is to be by the landowners of the proposed district, analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election.

53399.22. (a) If the election is to be conducted by mail ballot, the elections official conducting the election shall provide ballots and election materials pursuant to subdivision (d) of Section 53326 and Section 53327, together with all supplies and instructions necessary for the use and return of the ballot.

(b) The identification envelope for return of mail ballots used in landowner elections shall contain the following:

(1) The name of the landowner.

(2) The address of the landowner.

(3) A declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope.

(4) The printed name and signature of the voter.

(5) The address of the voter.

(6) The date of signing and place of execution of the declaration pursuant to paragraph (3).

(7) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

53399.23. After the canvass of returns of any election pursuant to Section 53399.20, the legislative body may, by ordinance, adopt the infrastructure financing plan and create the district with full force and effect of law, if 55 percent of the votes upon the question of creating the district are in favor of creating the district.

53399.24. After the canvass of returns of any election conducted pursuant to Section 53399.20, the legislative body shall take no further action with respect to the proposed infrastructure and revitalization financing district for one year from the date of

the election if the question of creating the district fails to receive approval of 55 percent of the votes cast upon the question.

53399.25. The legislative body may submit a proposition to establish or change the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of a district to the qualified electors of a proposed or established district. The proposition establishing or changing the appropriations limit shall become effective if approved by the qualified electors voting on the proposition and shall be adjusted for changes in the cost of living and changes in populations, as defined by subdivisions (b) and (c) of Section 7901, except that the change in population may be estimated by the legislative body in the absence of an estimate by the Department of Finance, and in accordance with Section 1 of Article XIII B of the California Constitution. For purposes of adjusting for changes in population, the population of the district shall be deemed to be at least one person during each calendar year. Any election held pursuant to this section may be combined with any election held pursuant to Section 53395.20 in any convenient manner.

53399.26. No later than June 30 of each year after the adoption of an infrastructure financing plan, the legislative body shall post an annual report in an easily identifiable and accessible location on the legislative body's Internet Web site. The annual report shall contain all of the following:

(a) A summary of the district's expenditures.

(b) A description of the progress made toward the district's adopted goals.

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

Article 3. Division of Taxes

53399.30. Any infrastructure financing plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the infrastructure and revitalization 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 ordinance adopted pursuant to Section 53399.23 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 ordinance adopted pursuant to Section 53399.23 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 53399.19 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.

53399.31. All costs incurred by a county in connection with the division of taxes pursuant to Section 53399.30 for a district shall be paid by that district.

Article 4. Tax Increment Bonds

53399.40. The legislative body may, by majority vote, initiate proceedings to issue bonds pursuant to this chapter by adopting a resolution stating its intent to issue the bonds.

53399.41. The resolution adopted pursuant to Section 53399.40 shall contain 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) The date of the election on the proposed bond issuance and the manner of holding the election.

(e) 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.

(f) 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 subdivision (e).

53399.42. The clerk of the legislative body shall publish the resolution adopted pursuant to Section 53399.40 once a day for at least seven successive days in a newspaper published in the city or county at least six days a week, or at least once a week for two successive weeks in a newspaper published in the city or county less than six days a week.

If there are no newspapers meeting these criteria, the resolution shall be posted in three public places within the territory of the district for two succeeding weeks.

53399.43. The legislative body shall submit the proposal to issue the bonds to the voters who reside within the district. The election shall be conducted in the same manner as the election to create the district pursuant to Section 53399.20 and the two elections may be consolidated.

53399.44. (a) Except as provided in Section 53399.4, bonds may be issued if 55 percent of the voters voting on the proposition vote in favor of authorizing the issuance of the bonds.

(b) If the voters authorize the issuance of the bonds as provided by subdivision (a), the legislative body may subsequently proceed with the issuance of the bonds by adopting a resolution which shall provide for all of the following:

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

(2) The principal amount of the bonds, which shall be consistent with the amount specified in subdivision (b) of Section 53399.41.

(3) The date the bonds will bear.

(4) The date of maturity of the bonds.

(5) The denomination of the bonds.

(6) The form of the bonds.
(7) The manner of execution of the bonds.
(8) The medium of payment in which the bonds are payable.
(9) The place or manner of payment and any requirements for registration of the bonds.
(10) The terms of call or redemption, with or without premium.

53399.45. If any proposition submitted to the voters pursuant to this chapter is defeated by the voters, the legislative body shall not submit, or cause to be submitted, a similar proposition to the voters for at least one year after the first election.

53399.46. The legislative body may, by majority vote, provide for refunding of bonds issued pursuant to this chapter. 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 legislative body may not extend the time to maturity of the bonds.

53399.47. The legislative body 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, county, or state 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.

53399.48. (a) The bonds may be sold at discount not to exceed 5 percent of par at a negotiated or public sale. At least five days prior to a public sale, notice shall be published, pursuant to Section 6061, in a newspaper of general circulation and in a financial newspaper published in the City and County of San Francisco 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.

(b) Any negotiated sale of bonds pursuant to this section shall be limited to bond issuances of an infrastructure and revitalization financing district that do not exceed five million dollars ($5,000,000).

53399.49. If any member of the legislative body whose signature appears on bonds ceases to be a member of the legislative body before delivery of the bonds, his or her signature is as effective as if he or she had remained in office. Bonds issued pursuant to this chapter are fully negotiable.

SEC. 2. Section 33459 of the Health and Safety Code is amended to read:

33459. For purposes of this article, the following terms shall have the following meanings:

(a) "Department" means the Department of Toxic Substances Control.

(b) "Director" means the Director of Toxic Substances Control.

(c) "Hazardous substance" means any hazardous substance as defined in subdivision (h) of Section 25281, and any reference to hazardous substance in the definitions referenced in this section shall be deemed to refer to hazardous substance, as defined in this subdivision.

(d) "Local agency" means a single local agency that is one of the following:

(1) A local agency authorized pursuant to Section 25283 to implement Chapter 6.7 (commencing with Section 25280) of, and Chapter 6.75 (commencing with Section 25299.10) of, Division 20.

(2) A local officer who is authorized pursuant to Section 101087 to supervise a remedial action.

(3) An infrastructure and revitalization financing district created pursuant to Chapter 2.6 (commencing with Section 53369) or Chapter 2.10 (commencing with Section 53399)~~,~~ of Part 1 of Division 2 of Title 5 of the Government Code.

(e) "Qualified independent contractor" means an independent contractor who is any of the following:

(1) An engineering geologist who is certified pursuant to Section 7842 of the Business and Professions Code.

(2) A geologist who is registered pursuant to Section 7850 of the Business and Professions Code.

(3) A civil engineer who is registered pursuant to Section 6762 of the Business and Professions Code.

(f) "Release" means any release, as defined in Section 25320.

(g) "Remedy" or "remove" means any action to assess, evaluate, investigate, monitor, remove, correct, clean up, or abate a release

of a hazardous substance or to develop plans for those actions. "Remedy" includes any action set forth in Section 25322 and "remove" includes any action set forth in Section 25323.

(h) "Responsible party" means any person described in subdivision (a) of Section 25323.5 of this code or subdivision (a) of Section 13304 of the Water Code.

SEC. 2.5. Section 33459 of the Health and Safety Code is amended to read:

33459. For purposes of this article, the following terms shall have the following meanings:

(a) "Agency" includes a former redevelopment agency as defined in Section 33003 and a city, county, or city and county.

~~(a)~~

(b) "Department" means the Department of Toxic Substances Control.

~~(b)~~

(c) "Director" means the Director of Toxic Substances Control.

~~(c)~~

(d) "Hazardous substance" means any hazardous substance as defined in subdivision (h) of Section 25281, and any reference to hazardous substance in the definitions referenced in this section shall be deemed to refer to hazardous substance, as defined in this subdivision.

~~(d)~~

(e) "Local agency" means a single local agency that is one of the following:

(1) A local agency authorized pursuant to Section 25283 to implement Chapter 6.7 (commencing with Section 25280) of, and Chapter 6.75 (commencing with Section 25299.10) of, Division 20.

(2) A local officer who is authorized pursuant to Section 101087 to supervise a remedial action.

(3) An infrastructure and revitalization financing district created pursuant to Chapter 2.6 (commencing with Section 53369) or Chapter 2.10 (commencing with Section 53399) of Part 1 of Division 2 of Title 5 of the Government Code.

~~(e)~~

(f) "Qualified independent contractor" means an independent contractor who is any of the following:

(1) An engineering geologist who is certified pursuant to Section 7842 of the Business and Professions Code.

(2) A geologist who is registered pursuant to Section 7850 of the Business and Professions Code.

(3) A civil engineer who is registered pursuant to Section 6762 of the Business and Professions Code.

~~(f)~~

(g) "Release" means any release, as defined in Section 25320.

~~(g)~~

(h) "Remedy" or "remove" means any action to assess, evaluate, investigate, monitor, remove, correct, clean up, or abate a release of a hazardous substance or to develop plans for those actions. "Remedy" includes any action set forth in Section 25322 and "remove" includes any action set forth in Section 25323.

~~(h)~~

(i) "Responsible party" means any person described in subdivision (a) of Section 25323.5 of this code or subdivision (a) of Section 13304 of the Water Code.

SEC. 3. Section 2.5 of this bill incorporates amendments to Section 33459 of the Health and Safety Code proposed by both this bill and Senate Bill 470. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 33459 of the Health and Safety Code, and (3) this bill is enacted after Senate Bill 470, in which case Section 2 of this bill shall not become operative.

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