

AMENDED IN SENATE APRIL 5, 2021

SENATE BILL

No. 563

Introduced by Senator Allen

February 18, 2021

An act to amend Sections ~~53398.66, 53398.69, 53398.69~~ and 53398.75.7 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 563, as amended, Allen. Second Neighborhood Infill Finance and Transit Improvements Act: ~~housing developments; homelessness prevention programs; enhanced infrastructure financing plan adoption process; developments.~~

Existing law ~~authorizes the legislative body of a city or county to propose the establishment of an enhanced infrastructure financing district, with a governing body referred to as a public financing authority, to finance public capital facilities or other specified projects of communitywide significance. Existing law requires the proceedings for the establishment of the district to be instituted by the adoption of a specified resolution and requires an infrastructure financing plan to be prepared, as specified. Existing law requires a copy of the resolution and the plan to be sent to each landowner within the district. Existing law requires the public financing authority to consider the adoption of the plan at 3 public hearings and, at the 3rd hearing, terminate the proceedings, adopt the plan, or call an election depending on the percentage of the combined number of landowners and residents in the area who are at least 18 years of age who file a protest. If an election is called, existing law makes adoption of the plan dependent on the vote of that population.~~

~~This bill, instead, would make the above-described plan adoption process dependent on the percentage of the combined number of registered voters in the area and landowners who file a protest and on the vote of that population.~~

Existing law, the Second Neighborhood Infill Finance and Transit Improvements Act, or NIFTI-2, authorizes a city or county to adopt a resolution to allocate its tax revenues to an enhanced infrastructure financing district, including revenues derived from local sales and use taxes imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or transactions and use taxes imposed in accordance with the Transactions and Use Tax Law, if certain conditions are or will be met. Among those conditions, existing law includes requirements that the area financed with those funds is within $\frac{1}{2}$ mile of a major transit stop, as specified, and that the boundaries of the enhanced infrastructure financing district are coterminous with the city or county that established the district. Existing law also requires the infrastructure financing plan to require specified minimum percentages of the funds to be used to develop affordable housing, as specified, and to give first priority to income-qualified households displaced from the district, as specified, and secondary priority to households with a member or members employed within 2 miles of the district. Existing law authorizes the remaining funds to be used for certain affordable housing, mixed-use, transit, or greenhouse gas emission reduction related projects or programs.

This bill would revise NIFTI-2 to, among other things, remove the requirements that the area financed be within $\frac{1}{2}$ mile of a major transit stop and that the boundaries of the district be coterminous with the city or county. The bill would require specified minimum percentages of the funds be used for homelessness prevention programs or development of affordable housing that is within $\frac{1}{2}$ mile of a major transit stop, as specified. *The bill would revise the description of tax revenue that may be allocated to a district.* The bill would require first priority for the housing be given to households who were displaced from the district within the past 10 years, and secondary priority for households with a member or members who are employed within 2 miles of the housing or who live within the district and are children, elderly, or disabled. The bill would require first priority for the homelessness prevention programs to be given to households living within the district with a member or members who are employed within the district or who are children, elderly, or disabled, and secondary priority for households

not living within the district with a member or members who are employed within the district or who are children, elderly, or disabled. The bill would authorize the remaining funds to be used for certain transit related projects in specified areas within a ½ mile of a major transit stop. The bill would also authorize the remaining funds to be used for certain homelessness prevention, affordable housing, enhanced transit ridership, or greenhouse gas emission reduction projects or programs throughout the district. *The bill would prohibit a project receiving financing from an enhanced infrastructure financing district unless various requirements regarding the use of a skilled and trained workforce, as defined, on the project are satisfied. The bill would prescribe enforcement procedures and penalties in this regard. By requiring that a developer certify specified information with respect to these requirements, this bill would expand the crime of perjury.*

This bill would prohibit a city or county that allocates tax revenues to a district pursuant to NIFTI-2 from approving a development project within the district that will require the demolition of housing to comply with specified requirements, including the provision of relocation assistance and a right of first refusal in the new housing to displaced occupants, as provided. The bill would provide that these provisions do not supersede any provision of a locally adopted ordinance that places greater restrictions on the demolition of residential dwelling units or the subdivision of residential rental units or that requires greater relocation assistance to displaced households.

This bill would authorize a district to receive funds, real property, or other in-kind resources from private persons, the state, or the federal government. The bill would also authorize a district to receive real property or other in-kind resources from the city or county.

Existing law establishes in state government the Strategic Growth Council and requires the council to, among other duties, manage and award grants and loans to support the planning and development of sustainable communities.

This bill would require the council, upon appropriation, to ~~contribute an unspecified amount of~~ *disburse each year* matching funds to a district formed by a city and county or jointly formed by a city and a county ~~each year~~ based on the funds and other resources contributed by those local governments, as specified. ~~The bill would require the Governor to select an additional voting member to be added to the public financing authority if the district receives the full amount of state matching contribution. If the state subsequently fails to maintain the full amount~~

~~of the matching contribution, the bill would require the voting rights of that member to be suspended until the full amount of the matching contribution is restored. The bill would prescribe requirements for applications for state matching funds and their use and would authorize the council to establish other requirements in this regard. The bill would also prescribe requirements for the council in approving these applications, including that it approve all plans for qualifying homelessness prevention programs and affordable housing requirements. The bill would require districts that receive funds to provide reports to the council and, under certain circumstances, to develop a corrective action plan based on council recommendations. The bill would require the council to issue findings if a district fails to provide or comply with a corrective action plan and to stop providing funds, and prohibit application for additional funds, if the district has not satisfied funding requirements.~~

Existing law exempts the adoption of an enhanced infrastructure financing plan that allocates tax revenues pursuant to NIFTI-2 from certain provisions generally applicable to enhanced infrastructure financing districts, and instead requires the district to follow specific notice, protest, and election proceedings for the adoption, review, and amendment of the enhanced infrastructure financing plan.

This bill would remove that exemption and make conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~ yes.

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

1 ~~SECTION 1. Section 53398.66 of the Government Code is~~
 2 ~~amended to read:~~
 3 ~~53398.66. (a) (1) The public financing authority shall consider~~
 4 ~~adoption of the enhanced infrastructure financing plan at three~~
 5 ~~public hearings that shall take place at least 30 days apart. In~~
 6 ~~addition to the notice given to landowners and affected taxing~~
 7 ~~entities pursuant to Sections 53398.60 and 53398.61, the public~~

1 financing authority shall give notice of each public hearing in
2 accordance with subdivision (i).

3 (2) At the first public hearing, the public financing authority
4 shall hear all written and oral comments, but take no action.

5 (3) At the second public hearing, the public financing authority
6 shall consider any additional written and oral comments and take
7 action to modify or reject the enhanced infrastructure financing
8 plan. If the enhanced infrastructure financing plan is not rejected
9 at the second public hearing, then the public financing authority
10 shall conduct a protest proceeding at the third public hearing to
11 consider whether the landowners and residents within the enhanced
12 infrastructure financing plan area wish to present oral or written
13 protests against the adoption of the enhanced infrastructure
14 financing plan.

15 (b) The draft enhanced infrastructure financing plan shall be
16 made available to the public and to each landowner within the area
17 at a meeting held at least 30 days before the notice given for the
18 first public hearing. The purposes of the meeting shall be to allow
19 the staff of the public financing authority to present the
20 draft enhanced infrastructure financing plan, answer questions
21 about the enhanced infrastructure financing plan, and consider
22 comments about the enhanced infrastructure financing plan.

23 (e) (1) The public financing authority shall give notice of the
24 meeting required by subdivision (b) and the public hearings
25 required by subdivision (a) in accordance with subdivision (i). The
26 notice shall do all of the following, as applicable:

27 (A) Describe specifically the boundaries of the proposed area.

28 (B) Describe the purpose of the enhanced infrastructure
29 financing plan.

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

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

1 ~~(E) Notice of the third public hearing to consider any written~~
2 ~~or oral protests shall contain a copy of the enhanced infrastructure~~
3 ~~financing plan, and shall inform the landowner and resident of~~
4 ~~their right to submit an oral or written protest before the close of~~
5 ~~the public hearing. The protest may state that the landowner or~~
6 ~~resident objects to the public financing authority taking action to~~
7 ~~implement the enhanced infrastructure financing plan.~~

8 ~~(2) At the third public hearing, the public financing authority~~
9 ~~shall consider all written and oral protests received before the close~~
10 ~~of the public hearing along with the recommendations, if any, of~~
11 ~~affected taxing entities, and shall terminate the proceedings or~~
12 ~~adopt the enhanced infrastructure financing plan subject to~~
13 ~~confirmation by the voters at an election called for that purpose.~~
14 ~~The public financing authority shall terminate the proceedings if~~
15 ~~there is a majority protest. A majority protest exists if protests have~~
16 ~~been filed representing over 50 percent of the combined number~~
17 ~~of registered voters in the area and landowners in the area who are~~
18 ~~not registered voters. An election shall be called if between 25~~
19 ~~percent and 50 percent of the combined number of registered voters~~
20 ~~in the area and landowners in the area who are not registered voters~~
21 ~~file a protest.~~

22 ~~(d) An election required pursuant to paragraph (2) of subdivision~~
23 ~~(e) shall be held within 90 days of the public hearing and may be~~
24 ~~held by mail-in ballot. The public financing authority shall adopt,~~
25 ~~at a duly noticed public hearing, procedures for this election.~~

26 ~~(e) If a majority of the combined number of registered voters~~
27 ~~in the area and landowners who are not registered voters in the~~
28 ~~area vote against the enhanced infrastructure financing plan, then~~
29 ~~the public financing authority shall not take any further action to~~
30 ~~implement the proposed enhanced infrastructure financing plan.~~
31 ~~The public financing authority shall not propose a new or revised~~
32 ~~enhanced infrastructure financing plan to the affected landowners~~
33 ~~and residents for at least one year following the date of an election~~
34 ~~in which the enhanced infrastructure financing plan was rejected.~~

35 ~~(f) At the hour set in the notices required by subdivision (a), the~~
36 ~~public financing authority shall consider all written and oral~~
37 ~~comments.~~

38 ~~(g) If less than 25 percent of the combined number of registered~~
39 ~~voters in the area and landowners who are not registered voters in~~
40 ~~the area file a protest, the public financing authority may adopt~~

1 the enhanced infrastructure financing plan at the conclusion of the
2 third public hearing by ordinance. The ordinance adopting the
3 enhanced infrastructure financing plan shall be subject to
4 referendum as prescribed by law.

5 (h) The public financing authority shall consider and adopt an
6 amendment or amendments to an enhanced infrastructure financing
7 plan in accordance with the provisions of this section.

8 (i) The public financing authority shall post notice of each
9 meeting or public hearing required by this section in an easily
10 identifiable and accessible location on the enhanced infrastructure
11 financing district's internet website and shall mail a written notice
12 of the meeting or public hearing to each landowner, each resident,
13 and each taxing entity at least 10 days before the meeting or public
14 hearing.

15 (1) Notice of the first public hearing shall also be published not
16 less than once a week for four successive weeks before the first
17 public hearing in a newspaper of general circulation published in
18 the county in which the area lies. The notice shall state that the
19 district will be used to finance public facilities or development,
20 briefly describe the public facilities or development, briefly
21 describe the proposed financial arrangements, including the
22 proposed commitment of incremental tax revenue, describe the
23 boundaries of the proposed district, and state the day, hour, and
24 place when and where any persons having any objections to the
25 proposed infrastructure financing plan, or the regularity of any of
26 the prior proceedings, may appear before the public financing
27 authority and object to the adoption of the proposed plan by the
28 public financing authority.

29 (2) Notice of the second public hearing shall also be published
30 not less than 10 days before the second public hearing in a
31 newspaper of general circulation in the county in which the area
32 lies. The notice shall state that the district will be used to finance
33 public facilities or development, briefly describe the public
34 facilities or development, briefly describe the proposed financial
35 arrangements, describe the boundaries of the proposed district,
36 and state the day, hour, and place when and where any persons
37 having any objections to the proposed infrastructure financing
38 plan, or the regularity of any of the prior proceedings, may appear
39 before the public financing authority and object to the adoption of
40 the proposed plan by the public financing authority.

1 ~~(3) Notice of the third public hearing shall also be published~~
 2 ~~not less than 10 days prior to the third public hearing in a~~
 3 ~~newspaper of general circulation in the county in which the area~~
 4 ~~lies. The notice shall state that the district will be used to finance~~
 5 ~~public facilities or development, briefly describe the public~~
 6 ~~facilities or development, briefly describe the proposed financial~~
 7 ~~arrangements, describe the boundaries of the proposed district,~~
 8 ~~and state the day, hour, and place when and where any persons~~
 9 ~~having any objections to the proposed infrastructure financing~~
 10 ~~plan, or the regularity of any of the prior proceedings, may appear~~
 11 ~~before the public financing authority and object to the adoption of~~
 12 ~~the proposed plan by the public financing authority.~~

13 ~~(j) (1) The public financing authority shall review the enhanced~~
 14 ~~infrastructure financing plan at least annually and make any~~
 15 ~~amendments that are necessary and appropriate and shall require~~
 16 ~~the preparation of an annual independent financial audit paid for~~
 17 ~~from revenues of the enhanced infrastructure financing district.~~

18 ~~(2) A public financing authority shall adopt an annual report on~~
 19 ~~or before June 30 of each year after holding a public hearing.~~
 20 ~~Written copies of the draft report shall be made available to the~~
 21 ~~public 30 days before the public hearing. The public financing~~
 22 ~~authority shall cause the draft report to be posted in an easily~~
 23 ~~identifiable and accessible location on the enhanced infrastructure~~
 24 ~~financing district’s internet website and shall mail a written notice~~
 25 ~~of the availability of the draft report on the internet website to each~~
 26 ~~owner of land and each resident within the area covered by the~~
 27 ~~enhanced infrastructure financing plan and to each taxing entity~~
 28 ~~that has adopted a resolution pursuant to Section 53398.68. The~~
 29 ~~notice shall be mailed by first-class mail, but may be addressed to~~
 30 ~~“occupant.”~~

31 ~~(3) The annual report shall contain all of the following:~~

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

36 ~~(B) A chart comparing the actual revenues and expenses,~~
 37 ~~including administrative costs, of the public financing authority~~
 38 ~~to the budgeted revenues and expenses.~~

39 ~~(C) The amount of tax increment revenues received.~~

1 ~~(D) An assessment of the status regarding completion of the~~
2 ~~enhanced infrastructure financing district’s projects.~~

3 ~~(E) The amount of revenues expended to assist private~~
4 ~~businesses.~~

5 ~~(4) If the public financing authority fails to provide the annual~~
6 ~~report required by paragraph (3), the public financing authority~~
7 ~~shall not spend any funds received pursuant to a resolution adopted~~
8 ~~pursuant to this chapter until the public financing authority has~~
9 ~~provided the report.~~

10 ~~SEC. 2.~~

11 *SECTION 1.* Section 53398.69 of the Government Code is
12 amended to read:

13 53398.69. (a) At the conclusion of the hearings pursuant to
14 Section 53398.66, the public financing authority may adopt a
15 resolution proposing adoption of the infrastructure financing plan,
16 as modified, and formation of the enhanced infrastructure financing
17 district in a manner consistent with Section 53398.68, or it may
18 adopt a resolution abandoning the proceedings. If the proceedings
19 are abandoned, then the public financing authority shall cease to
20 exist by operation of this section with no further action required
21 of the legislative body and the legislative body may not enact a
22 resolution of intention to establish a district that includes the same
23 geographic area within one year of the date of the resolution
24 abandoning the proceedings.

25 (b) The infrastructure financing plan shall take effect upon the
26 adoption of the resolution. The infrastructure financing plan shall
27 specify if the district shall be funded solely through the district’s
28 share of tax increment, governmental or private loans, grants,
29 bonds, assessments, fees, other resources authorized by law with
30 respect to particular districts, or some combination thereof.
31 However, the public financing authority shall not issue bonds or
32 levy assessments or fees that may be included in the infrastructure
33 financing plan before one or more of the following:

34 (1) The adoption of a resolution meeting the requirements of
35 Section 53398.77, and, if applicable, subdivision (c) of Section
36 53398.78, to issue bonds to finance the infrastructure financing
37 plan.

38 (2) Compliance with the procedures required in subdivision (f)
39 of Section 53398.75, to levy assessments or fees to finance the
40 infrastructure financing plan.

1 (c) In addition, the district may expend up to 10 percent of any
2 accrued tax increment in the first two years of the effective date
3 of the enhanced infrastructure financing district on planning and
4 dissemination of information to the residents within the district’s
5 boundaries about the infrastructure financing plan and planned
6 activities to be funded by the district.

7 ~~SEC. 3.~~

8 SEC. 2. Section 53398.75.7 of the Government Code is
9 amended to read:

10 53398.75.7. (a) This section shall be known and may be cited
11 as the Second Neighborhood Infill Finance and Transit
12 Improvements Act, or NIFTI-2.

13 (b) For purposes of this section, the following definitions shall
14 apply:

15 (1) “Council” means the Strategic Growth Council.

16 ~~(1)~~

17 (2) “District” means a district allocated tax revenue pursuant to
18 this section.

19 ~~(2)~~

20 (3) “Homelessness prevention programs” include, but are not
21 limited to, rent subsidy programs, eviction defense programs, and
22 code enforcement programs for households with incomes below
23 60 percent of area median income.

24 ~~(3)~~

25 (4) “Development of housing” includes predevelopment or land
26 acquisition for, and acquisition, construction, or rehabilitation of
27 housing, including a multifamily affordable housing project or
28 mixed-use projects with only affordable multifamily housing and
29 ground floor commercial, artistic, ~~cultural~~ *cultural*, or community
30 uses that support infill and compact development.

31 ~~(4)~~

32 (5) “Major transit stop” has the same meaning as that term is
33 defined in Section 21064.3 of the Public Resources Code.

34 ~~(5)~~

35 (6) “Predevelopment costs” include, but are not limited to, site
36 control, engineering studies, architectural plans, application fees,
37 legal services, permits, bonding, and site preparation.

38 (c) At any time before or after the adoption of the infrastructure
39 financing plan, a city, county, or city and county may adopt a
40 resolution to allocate tax revenues of that entity to the district,

1 including *taxes or tax increment* pursuant to ~~sections Sections~~
2 ~~53398.63 and 53398.75~~, property tax revenues, revenues derived
3 from local sales and use taxes imposed pursuant to the
4 Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5
5 (commencing with Section 7200) of Division 2 of the Revenue
6 and Taxation Code), or transactions and use taxes imposed in
7 accordance with the Transactions and Use Tax Law (Part 1.6
8 (commencing with Section 7251) of Division 2 of the Revenue
9 and Taxation Code); 53398.7 and any other tax revenues after
10 receipt by the city, county, or city and county, if all of the following
11 apply:

12 (1) (A) Except as provided in subdivision ~~(k)~~, (l), the
13 infrastructure financing plan requires that at least ~~15~~ 20 percent
14 of the total funds received by the district pursuant to this section
15 be used for homelessness prevention programs for, or development
16 of housing that is within one-half mile of a major transit stop and
17 affordable to and occupied by, households with incomes below 60
18 percent and greater than 30 percent of area median income, and
19 that at least ~~15~~ 20 percent of the total funds received by the district
20 pursuant to this section be used for homelessness prevention
21 programs for, or development of housing that is within one-half
22 mile of a major transit stop and affordable to and occupied by,
23 households with incomes below 30 percent of area median income,
24 or permanent supportive housing to help homeless persons get off
25 the street.

26 (B) The infrastructure financing plan shall require that the city,
27 county, or city and county ensure that the requirements of this
28 paragraph are met within every five years.

29 (2) The infrastructure financing plan gives priority for occupancy
30 of housing funded through this plan to income-qualified households
31 as follows:

32 (A) First priority for households who were displaced from the
33 district through no fault of their own within the past 10 years.

34 (B) Secondary priority for households with a member or
35 members who are either of the following:

36 (i) Employed within two miles of the housing.

37 (ii) Live within the district and are children, elderly, or disabled.

38 (3) The infrastructure plan gives priority for homelessness
39 prevention programs to income-qualified households as follows:

- 1 (A) First priority for households living within the district with
2 a member or members who are either of the following:
- 3 (i) Employed within the district.
 - 4 (ii) Are children, elderly, or disabled.
- 5 (B) ~~secondary~~ *Secondary* priority for households not living
6 within the district with a member or members who are either of
7 the following:
- 8 (i) Employed within the district.
 - 9 (ii) Are children, elderly, or disabled.
- 10 (4) The infrastructure financing plan requires that at least 10
11 percent of the total funds received by the district pursuant to this
12 section be used for investments in the capital costs of parks, urban
13 forestry, or permanent greening improvements along boulevards,
14 streets, or other public areas within a district, or active
15 transportation capital projects that qualify under the Active
16 Transportation Program (Chapter 8 (commencing with Section
17 2380) of Division 3 of the Streets and Highways Code), including
18 pedestrian or bicycle facilities or supportive infrastructure,
19 including connectivity to transit stations.
- 20 (5) The use of the revenues derived from the local sales and use
21 taxes imposed under the Bradley-Burns Uniform Local Sales and
22 Use Tax Law (Part 1.5 (commencing with Section 7200) of
23 Division 2 of the Revenue and Taxation Code) or transactions and
24 use taxes imposed in accordance with the Transactions and Use
25 Tax Law (Part 1.6 (commencing with Section 7251) of Division
26 2 of the Revenue and Taxation Code) pursuant to the infrastructure
27 financing plan is consistent with the purposes for which that tax
28 is imposed.
- 29 (6) If the infrastructure financing plan proposes to allocate tax
30 revenues of that entity to the district that are derived from the local
31 sales and use taxes imposed pursuant to the Bradley-Burns Uniform
32 Local Sales and Use Tax Law (Part 1.5 (commencing with Section
33 7200) of Division 2 of the Revenue and Taxation Code), the city,
34 county, or city and county has received the consent of any impacted
35 transportation agency that receives tax revenues derived from ~~that~~
36 any tax adopted pursuant to that law, and has ensured that existing
37 or planned transportation operations and capital projects will not
38 be negatively impacted.
- 39 (d) This section does not authorize a city, county, or city and
40 county to allocate all, or a portion of any sales and use taxes

1 imposed pursuant to the Bradley-Burns Uniform Local Sales and
2 Use Tax Law (Part 1.5 (commencing with Section 7200) of
3 Division 2 of the Revenue and Taxation Code) or transactions and
4 use taxes imposed in accordance with the Transactions and Use
5 Tax Law (Part 1.6 (commencing with Section 7251) of Division
6 2 of the Revenue and Taxation Code), that was approved by the
7 voters for a special purpose not related to the purposes in
8 subdivision (c).

9 (e) The funds received pursuant to this section that are not
10 allocated pursuant to subdivision (c) may be used for any of the
11 following:

12 (1) In parcels that are within one-half mile of a major transit
13 stop, located along boulevards or in downtown areas, and are zoned
14 for commercial or industrial uses, and in the adjacent sidewalks,
15 boulevards, and downtown streets adjacent to those parcels, any
16 of the following:

17 (A) Transit capital projects, including transit stations and
18 waterborne transit.

19 (B) Transit-oriented development projects, including
20 infrastructure at or near transit stations or connecting those
21 developments to transit stations. If the transit-oriented development
22 project includes housing, it must include ground floor commercial,
23 artistic, cultural, or community uses that support infill and compact
24 development and a minimum of 20 percent of the units must be
25 for households with incomes below 60 percent of area median
26 income for rent or purchase.

27 (C) Capital projects that implement local complete streets
28 programs.

29 (D) Parking, including detached and decoupled parking
30 structures that provide parking for residents, businesses, or visitors
31 in lieu of onsite parking for proposed developments. These parking
32 structures should provide no more than one space for each
33 residential unit. The ground floors in these parking structures
34 should provide space for pedestrian-oriented commercial or public
35 uses. Revenues from parking may be used to maintain these parking
36 structures and to implement transportation demand management
37 programs to reduce automobile trips to and from the district.

38 (2) In any location in the district, any of the following:

39 (A) Homelessness prevention programs.

1 (B) Development of housing affordable to and occupied by
2 households with incomes below 60 percent of area median income.

3 (C) Programs that support enhanced transit ridership, including,
4 but not limited to, transit pass programs that provide low-cost
5 transit service for students, seniors, and persons with disabilities.

6 (D) Programs designed to reduce greenhouse gas emissions and
7 other criteria air pollutants by reducing automobile trips and vehicle
8 miles traveled within a community.

9 (f) Notwithstanding Section 53398.52, revenues collected and
10 allocated for the purposes of this section shall not be used for
11 highway or highway interchange improvements.

12 (g) The district shall require, by recorded covenants or
13 restrictions, that affordable housing units financed pursuant to this
14 section remain permanently available at affordable housing costs
15 to, and occupied by, very low income households, persons and
16 families of low income, or persons and families of low or moderate
17 income for the longest feasible time, but for not less than 55 years
18 for rental units and 45 years for owner-occupied units.

19 (h) A legislative body shall not adopt an ordinance terminating
20 an enhanced infrastructure financing district created pursuant to
21 this section if the district has not complied with its affordable
22 housing obligations.

23 (i) Paragraph (1) of subdivision (c) of Section 1720 of the Labor
24 Code shall not apply to projects financed by the enhanced
25 infrastructure financing district.

26 (j) *A project shall not be eligible to receive financing from the
27 enhanced infrastructure financing district unless the developer
28 has certified to the district that a skilled and trained workforce
29 will be used to perform all construction work on the project.*

30 (1) *For purposes of this subdivision, “skilled and trained
31 workforce” has the same meaning as provided in Chapter 2.9
32 (commencing with Section 2600) of Part 1 of Division 2 of the
33 Public Contract Code.*

34 (2) *If the developer has certified that a skilled and trained
35 workforce will be used to construct all work on the project, the
36 following shall apply:*

37 (A) *The developer shall require in all contracts for the
38 performance of work that every contractor and subcontractor at
39 every tier will individually use a skilled and trained workforce to
40 construct the project.*

1 (B) Every contractor and subcontractor shall use a skilled and
2 trained workforce to construct the project.

3 (C) Except as provided in subparagraph (D), the developer
4 shall provide to the district, on a monthly basis while the project
5 is being performed, a report demonstrating compliance with
6 Chapter 2.9 (commencing with Section 2600) of Part 1 of Division
7 2 of the Public Contract Code. A monthly report provided to the
8 district pursuant to this subparagraph shall be a public record
9 under the California Public Records Act (Chapter 3.5 (commencing
10 with Section 6250) of Division 7 of Title 1) and shall be open to
11 public inspection. A developer that fails to provide a monthly report
12 demonstrating compliance with Chapter 2.9 (commencing with
13 Section 2600) of Part 1 of Division 2 of the Public Contract Code
14 shall be subject to a civil penalty of ten thousand dollars (\$10,000)
15 per month for each month for which the report has not been
16 provided. Any contractor or subcontractor that fails to use a skilled
17 and trained workforce shall be subject to a civil penalty of two
18 hundred dollars (\$200) per day for each worker employed in
19 contravention of the skilled and trained workforce requirement.
20 Penalties may be assessed by the Labor Commissioner within 18
21 months of completion of the development using the same
22 procedures for issuance of civil wage and penalty assessments
23 pursuant to Section 1741 of the Labor Code and may be reviewed
24 pursuant to the same procedures in Section 1742 of the Labor
25 Code. Penalties shall be paid to the State Public Works
26 Enforcement Fund.

27 (D) Subparagraph (C) shall not apply if all contractors and
28 subcontractors performing work on the project are subject to a
29 project labor agreement that requires compliance with the skilled
30 and trained workforce requirement and provides for enforcement
31 of that obligation through an arbitration procedure. For purposes
32 of this subparagraph, "project labor agreement" has the meaning
33 set forth in paragraph (1) of subdivision (b) of Section 2500 of the
34 Public Contract Code.

35 (j)

36 (k) (1) Notwithstanding Section 53398.56, a city or county
37 allocating tax revenues to the district pursuant to this section shall
38 not approve a development project within the district that will
39 require the demolition of residential dwelling units unless the

1 project will create at least as many residential dwelling units as
2 will be demolished.

3 (2) Notwithstanding Section 53398.56, a city or county
4 allocating tax revenues to the district pursuant to this section shall
5 not approve a development project within the district that will
6 require the demolition of occupied or vacant protected units, unless
7 all of the following apply:

8 (A) (i) The project will replace all existing or demolished
9 protected units.

10 (ii) Any protected units replaced pursuant to this subparagraph
11 shall be considered in determining whether the housing
12 development project satisfies the requirements of Section 65915
13 or a locally adopted requirement that requires, as a condition of
14 the development of residential rental units, that the project provide
15 a certain percentage of residential rental units affordable to, and
16 occupied by, households with incomes that do not exceed the limits
17 for moderate-income, lower income, very low income, or extremely
18 low income households, as specified in Sections 50079.5, 50093,
19 50105, and 50106 of the Health and Safety Code.

20 (iii) Notwithstanding clause (i), in the case of a protected unit
21 that is or was, within the seven-year period preceding the
22 application, subject to a form of rent or price control through a
23 local government's valid exercise of its police power, and that is
24 or was occupied by persons or families above lower income, the
25 city or county may do either of the following:

26 (I) Require that the replacement units be made available at
27 affordable rent or affordable housing cost to, and occupied by,
28 low-income persons or families. If the replacement units will be
29 rental dwelling units, these units shall be subject to a recorded
30 affordability restriction for as long as possible, but at least 55 years.

31 (II) Require that the units be replaced in compliance with the
32 jurisdiction's rent or price control ordinance, provided that each
33 unit is replaced, with the initial rent for the replacement unit equal
34 to the last rent for the demolished unit plus permitted annual rent
35 increases to the time the replacement unit is occupied. Unless
36 otherwise required by the city or county's rent or price control
37 ordinance, these units shall not be subject to a recorded
38 affordability restriction.

39 (B) The housing development project will include at least as
40 many residential dwelling units as the greatest number of

1 residential dwelling units that existed on the project site within the
2 last seven years.

3 (C) Any existing residents will be allowed to occupy their units
4 until six months before the start of construction activities with
5 proper notice, subject to Chapter 16 (commencing with Section
6 7260) of Division 7 of Title 1.

7 (D) The developer agrees to provide both of the following to
8 the occupants of any protected units:

9 (i) Relocation benefits to the occupants of those affordable
10 residential rental units, subject to Chapter 16 (commencing with
11 Section 7260) of Division 7 of Title 1.

12 (ii) A right of first refusal for a comparable unit available in the
13 new housing development affordable to the household at an
14 affordable rent, as defined in Section 50053 of the Health and
15 Safety Code, or an affordable housing cost, as defined in *Section*
16 50052.5 of this code.

17 (E) For purposes of this paragraph:

18 (i) “Equivalent size” means that the replacement units contain
19 at least the same total number of bedrooms as the units being
20 replaced.

21 (ii) “Protected units” means any of the following:

22 (I) Residential dwelling units that are or were subject to a
23 recorded covenant, ordinance, or law that restricts rents to levels
24 affordable to persons and families of moderate, ~~lower~~ *lower*, or
25 very low income within the past seven years.

26 (II) Residential dwelling units that are or were subject to any
27 form of rent or price control through a public entity’s valid exercise
28 of its police power within the past seven years.

29 (III) Residential dwelling units that are or were occupied by
30 moderate, ~~lower~~ *lower*, or very low income households within the
31 past seven years.

32 (IV) Residential dwelling units that were withdrawn from rent
33 or lease pursuant to Chapter 12.75 (commencing with Section
34 7060) of Division 7 of Title 1 within the past 15 years.

35 (iii) Subject to clauses (iv) and (v), “replace” means either of
36 the following:

37 (I) If a protected unit is occupied on the date of application, the
38 proposed development shall provide at least the same number of
39 units of equivalent size to be made available at affordable rent or
40 affordable housing cost to, and occupied by, persons and families

1 in the same or lower income category as those households in
2 occupancy. If the income category of the household in occupancy
3 is not known, it shall be rebuttably presumed that moderate and
4 lower income renter households occupied these units in the same
5 proportion of moderate and lower income renter households to all
6 renter households within the jurisdiction, as determined by the
7 most recently available data from the United States Department
8 of Housing and Urban Development's Comprehensive Housing
9 Affordability Strategy database. For unoccupied protected dwelling
10 units in a development with occupied units, the proposed housing
11 development shall provide units of equivalent size to be made
12 available at affordable rent or affordable housing cost to, and
13 occupied by, persons and families in the same or lower income
14 category as the last household in occupancy. If the income category
15 of the last household in occupancy is not known, it shall be
16 rebuttably presumed that moderate and lower income renter
17 households occupied these units in the same proportion of moderate
18 and lower income renter households to all renter households within
19 the jurisdiction, as determined by the most recently available data
20 from the United States Department of Housing and Urban
21 Development's Comprehensive Housing Affordability Strategy
22 database. All replacement calculations resulting in fractional units
23 shall be rounded up to the next whole number. If the replacement
24 units will be rental dwelling units, these units shall be subject to
25 a recorded affordability restriction for at least 55 years.

26 (II) If all protected dwelling units have been vacated or
27 demolished within the ~~five-year~~ *seven-year* period preceding the
28 application, the proposed housing development shall provide at
29 least the same number of units of equivalent size as existed at the
30 highpoint of those units in the ~~five-year~~ *seven-year* period
31 preceding the application to be made available at affordable rent
32 or affordable housing cost to, and occupied by, persons and families
33 in the same or lower income category as those persons and families
34 in occupancy at that time, if known. If the incomes of the persons
35 and families in occupancy at the highpoint is not known, it shall
36 be rebuttably presumed that moderate, low-income, and very low
37 income renter households occupied these units in the same
38 proportion of moderate, low-income, and very low income renter
39 households to all renter households within the jurisdiction, as
40 determined by the most recently available data from the United

1 States Department of Housing and Urban Development’s
2 Comprehensive Housing Affordability Strategy database. All
3 replacement calculations resulting in fractional units shall be
4 rounded up to the next whole number. If the replacement units will
5 be rental dwelling units, these units shall be subject to a recorded
6 affordability restriction for at least 55 years.

7 (iv) If the proposed development is for-sale units, the applicant
8 shall agree to, and the city, county, or city and county shall ensure
9 that, the initial occupant of all for-sale units that replace protected
10 units are persons and families of very low, low, or moderate
11 income, as required, and that the units are offered at an affordable
12 housing cost, as that cost is defined in Section 50052.5 of the
13 Health and Safety Code. The local government shall enforce an
14 equity sharing agreement, unless it is in conflict with the
15 requirements of another public funding source or law.
16 Subparagraphs (A), (B), and (C) of paragraph (2) of subdivision
17 (c) of Section 65915 apply to the equity sharing agreement.

18 (v) For a project within the coastal zone as defined and
19 delineated in Division 20 (commencing with Section 30000) of
20 the Public Resources Code, replacement dwelling units shall be
21 located within the same city or county as the dwelling units
22 proposed to be converted or demolished. The replacement dwelling
23 units shall be located on the site of the converted or demolished
24 structure or elsewhere within the coastal zone if feasible, or, if
25 location on the site or elsewhere within the coastal zone is not
26 feasible, they shall be located within three miles of the coastal
27 zone.

28 (3) This subdivision does not supersede *within the district* any
29 objective provision of a locally adopted ordinance that places
30 restrictions on the demolition of residential dwelling units or the
31 subdivision of residential rental units that are or do any of the
32 following:

33 (A) More protective of ~~moderate~~ *moderate-income* or lower
34 income households or more protective of units subject to a form
35 of rent or price control through a local government’s valid exercise
36 of its police power.

37 (B) Requires the provision of a greater number of units
38 affordable to ~~moderate~~ *moderate-income* or lower income
39 households.

1 (C) Requires greater relocation assistance to displaced
2 households.

3 ~~(K)~~

4 (l) In addition to any tax revenues allocated by the city, county,
5 or city and county, a district also may elect to receive the following
6 for use in carrying out the infrastructure plan:

7 (1) Funds, real property, or other in-kind resources from private
8 persons, the state, or the federal government. These funds and
9 resources shall not be considered in the determination of the
10 amount of funds received by the district or the percentage of funds
11 used for purposes of paragraphs (1) and (4) of subdivision (c).

12 (2) Real property or other in-kind resources from the city,
13 county, or city and county forming the district. The fair market
14 value of these resources as determined by an independent appraisal
15 shall be considered when determining either the amount of funds
16 received by the district or the percentage of funds used for purposes
17 of paragraphs (1) and (4) of subdivision (c).

18 ~~(T)~~

19 (m) If a city and county forms a district or a city and a county
20 jointly form a district, the ~~Strategic Growth Council, council~~, upon
21 appropriation, shall ~~contribute~~ *disburse each year state matching*
22 *funds to the district each year, for use only in qualifying*
23 *homelessness prevention programs and affordable housing*
24 *projects*, subject to the following:

25 (1) *Qualifying homelessness prevention programs and affordable*
26 *housing projects are limited to those that are permissible under*
27 *paragraphs (1), (2), and (3) of subdivision (c), and also satisfy*
28 *any additional requirements established by the council. The council*
29 *shall consult with the Homeless Coordinating and Financing*
30 *Council prior to establishing any additional requirements for*
31 *qualifying homelessness prevention programs or for supportive*
32 *housing for formerly homeless persons.*

33 ~~(1) The aggregate state matching contribution to all districts~~
34 ~~pursuant to this subdivision shall not exceed \$_____ annually,~~
35 ~~or such greater amount as hereafter is appropriated for this purpose.~~
36 ~~State~~

37 (2) *State funds to which the city and county or the city and the*
38 *county are entitled or are otherwise awarded without requiring*
39 *formation of a district shall not count toward the state matching*
40 *contribution pursuant to this subdivision. Receipt of state matching*

1 funds pursuant to this subdivision shall not be considered when
2 evaluating any application by the city, county, city and county, or
3 other applicant for a project residing therein for additional funds
4 from any state program.

5 ~~(2)~~

6 (3) The *maximum* state matching contribution to a district *each*
7 *year* shall equal one-half of the total amount of tax revenues, real
8 property, or other in-kind resources contributed by the city and
9 the county or the city and county *to the district since its formation*
10 that meet all of the following requirements:

11 (A) The tax revenues, real property, or other in-kind resources
12 contributed by the city and the county or the city and county shall
13 only *have been used or* be used for homelessness prevention
14 programs or the development of housing affordable to and occupied
15 by, households with incomes below 60 percent of area median
16 income.

17 (B) Unless the local jurisdiction is a city and county, the value
18 of the total amount of tax revenues, real property, or other in-kind
19 resources allocated to the district by the county for these purposes
20 is equal to, or more than, that allocated by the city.

21 (C) Unless the local jurisdiction is a city and county, the tax
22 revenues, real property, or other in-kind resources allocated to the
23 district by the city for these purposes have not been contributed
24 to the city by the county, state, or federal government.

25 (D) The tax revenues, real property, or other in-kind resources
26 allocated to the district by the county or the city and county for
27 these purposes have not been contributed to the county by the state
28 or federal government.

29 (E) The value of the real property or other in-kind resources
30 allocated by the city, county, or city and county for these purposes
31 shall be determined by an independent appraisal for purposes of
32 this paragraph.

33 ~~(3) If a district receives the full amount of state matching~~
34 ~~contribution pursuant to paragraph (2), the Governor shall select~~
35 ~~an additional voting member to be added to the public financing~~
36 ~~authority. If the state subsequently fails to maintain the full amount~~
37 ~~of the matching contribution required by paragraph (2) for a~~
38 ~~district, the voting rights of the member appointed by the Governor~~
39 ~~shall be suspended until the full amount of the matching~~
40 ~~contribution is restored.~~

1 (F) *The state has not provided a matching contribution to the*
2 *tax revenues, real property, or other in-kind resources contributed*
3 *by the city and county or the city and county in a prior year.*

4 (4) (A) *At least 12 percent of the overall amount of state funding*
5 *under this subdivision shall be set aside for counties with*
6 *populations of less than 200,000 and districts formed in these*
7 *counties. Of this amount, 2 percent shall be set aside to provide*
8 *technical assistance for counties with populations of less than*
9 *200,000 or districts formed in these counties, which shall not be*
10 *considered administrative costs for purposes of a plan.*

11 (B) *To the extent that all funds set aside in one year for counties*
12 *with populations of less than 200,000 or districts within these*
13 *counties are not dedicated to plans approved by the council, the*
14 *amount of funds not dedicated shall be available to counties with*
15 *populations of less than 200,000 residents or districts within these*
16 *counties in the following year.*

17 (5) *A district requesting matching state funds shall submit to*
18 *the council one or more plans that include all of the following*
19 *information:*

20 (A) *A description of the proposed program or programs and*
21 *project or projects to be completed by the district pursuant to the*
22 *plan and the funding amount necessary for each year the district*
23 *requests funding pursuant to this subdivision. The applicant may*
24 *request funding for no more than 30 years for each program or*
25 *project included in the plan.*

26 (B) *Information necessary to demonstrate that the district is,*
27 *or will be, entitled to state matching funds in the amounts requested*
28 *at the times requested in the plan.*

29 (C) *Information necessary to demonstrate that each program*
30 *or project proposed by the plan complies with all of the statutory*
31 *requirements of any statutory authorization pursuant to which the*
32 *project is proposed, including the requirements of NIFTI-2.*

33 (D) *Information identifying the source of any additional funds*
34 *necessary to conduct each proposed program or complete each*
35 *proposed project.*

36 (E) *The amount of administrative costs associated with the plan.*
37 *The plan may set aside not more than 5 percent of the total state*
38 *matching funds amount requested in the plan for administrative*
39 *costs.*

1 (F) Certification that any affordable housing projects that
2 receive funding pursuant to this subdivision will comply with
3 paragraph (8) of subdivision (a) of Section 65913.4.

4 (G) A strategy for outreach to, and retention of, women,
5 minority, disadvantaged youth, formerly incarcerated, and other
6 underrepresented subgroups in coordination with the California
7 Workforce Investment Board and local boards, to increase their
8 representation and employment opportunities in the building and
9 construction trades.

10 (H) Any further information that the council may establish a
11 requirement for the district to furnish.

12 (6) (A) Within 30 days of receipt of a plan, the council shall
13 provide the applicant with a written statement identifying any
14 questions about the plan.

15 (B) If the council denies approval of the plan, the council shall,
16 not more than 30 days following the date the council has issued a
17 decision, provide the district with a written statement explaining
18 the reasons why the plan was denied.

19 (C) The council shall approve all plans for qualifying
20 homelessness prevention programs and affordable housing
21 projects.

22 (7) The council, after consultation with the Homeless
23 Coordinating and Financing Council, shall develop guidelines for
24 allocating available state matching funds in any year when the
25 available funds are less than the matching funds required by all
26 approved plans. These guidelines shall consider, among other
27 factors, the number of persons assisted per state dollar expended
28 by each qualifying homelessness prevention program and
29 affordable housing project, and maintenance of geographical
30 equity.

31 (8) (A) Each district that has received financing pursuant to
32 this subdivision for any fiscal year shall provide an annual report
33 to the council by a date set by the council that includes all of the
34 following information for the previous fiscal year:

35 (i) The amount of state matching funds received by the district.

36 (ii) The purposes for which those state matching funds were
37 used, including the number of households assisted through
38 homelessness prevention programs, and the number of housing
39 units constructed, with what number of bedrooms and at which
40 income levels.

- 1 (iii) *The actions taken during the prior fiscal year to implement*
2 *each program or project.*
- 3 (iv) *The total amount of funds expended for planning and*
4 *general administrative costs.*
- 5 (B) *The council shall develop a corrective action plan for*
6 *noncompliance with the requirements of this part.*
- 7 (9) (A) *If, based on annual reports submitted to the council,*
8 *the council determines that any of the following has occurred, the*
9 *council shall direct the district to develop a corrective action plan*
10 *based on recommendations made by the council:*
- 11 (i) *The applicant is not on track to produce the number of*
12 *housing units included in the plan.*
- 13 (ii) *The applicant is not on track to provide homelessness*
14 *prevention programs to the number of persons included in the*
15 *plan.*
- 16 (iii) *The applicant is on track to exceed the 5-percent limit on*
17 *administrative expenses.*
- 18 (iv) *The applicant is found to have used state matching funding*
19 *for purposes not authorized by NIFTI-2, including subsidizing*
20 *market rate housing.*
- 21 (v) *The district has violated the requirements of subdivision (k).*
- 22 (vi) *The district is not on track to complete all of the projects*
23 *included in the plan according to the timeline included in the plan.*
- 24 (B) *The district shall have one year from the date that the*
25 *council directed the district to develop a corrective action plan.*
- 26 (10) *The council shall issue a finding that the district is out of*
27 *compliance with the funding requirements of this subdivision if*
28 *the council finds any of the following apply:*
- 29 (A) *The district has not complied with a corrective action plan*
30 *developed by the council pursuant to paragraph (7).*
- 31 (B) *The district has not provided an adequate corrective action*
32 *plan to the council within one year of the date the council directed*
33 *the district to develop a corrective action plan.*
- 34 (C) *The annual report provided to the council does not*
35 *demonstrate that the district has taken adequate steps to implement*
36 *the corrective action plan that was provided to the council within*
37 *one year of the date the council directed the district to develop a*
38 *corrective action plan.*
- 39 (11) *If the council finds that the district is out of compliance*
40 *with the funding requirements of this subdivision, the council shall*

1 *stop transferring state matching funds to the district and shall*
2 *prohibit the district from applying for additional state matching*
3 *funds for a period of five years.*

4 *SEC. 3. No reimbursement is required by this act pursuant to*
5 *Section 6 of Article XIII B of the California Constitution because*
6 *the only costs that may be incurred by a local agency or school*
7 *district will be incurred because this act creates a new crime or*
8 *infraction, eliminates a crime or infraction, or changes the penalty*
9 *for a crime or infraction, within the meaning of Section 17556 of*
10 *the Government Code, or changes the definition of a crime within*
11 *the meaning of Section 6 of Article XIII B of the California*
12 *Constitution.*

O