SENATE RULES COMMITTEE SB 128

Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 128
Author: Beall (D), et al.
Amended: 3/21/19
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 6-0, 3/20/19
AYES: McGuire, Beall, Hertzberg, Hurtado, Nielsen, Wiener
NO VOTE RECORDED: Moorlach

SUBJECT: Enhanced infrastructure financing districts: bonds: issuance

SOURCE: California Association for Local Economic Development

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DIGEST: This bill authorizes Enhanced Infrastructure Financing Districts to issue bonds without voter approval.

ANALYSIS:

Existing law:

1) Allows allow local officials to create Enhanced Infrastructure Financing Districts (EIFDs) to finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community.

2) Establishes that an EIFD is governed by a public financing authority with a specified membership comprising both public members and members from the legislative body of a participating taxing entity or entities.

3) Requires the legislative body of a city or county to adopt a resolution of intention to establish the EIFD. The resolution must state a time and place for a hearing on the proposal, the proposed district's boundaries, the types of facilities and development to be financed, the need for the district, the goals the district proposes to achieve, and that incremental property tax revenues may be used to finance the EIFD's activities.

4) Requires the city or county to create the public financing authority at the same time it adopts the resolution of intention and directs an official to prepare an infrastructure financing plan.

5) Allows the EIFD to receive funding from property tax increment revenue. However, under the EIFD framework, local agencies must approve of the plan and the EIFD cannot access the school share of property tax revenue that would be backfilled by the General Fund.

6) Allows EIFDs to issue bonds and requires 55 percent voter approval to issue bonds.

This bill:

1) Requires the public financing authority to hold three public hearings to hear and comment on all public comments to consider the EIFD infrastructure plan.

2) Requires the public financing authority terminate the EIFD infrastructure plan if there is a majority protest. A majority protest exists if protests have been filed representing over 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age.

3) Requires an election if between 25 percent and 50 percent of the combined number of landowners and residents in the area who are at least 18 years of age file a protest.

4) Repeals the 55 percent voter approval requirement for an EIFD to issue bonds after the public finance authority approves the bond issuance.

5) Requires only the public finance authority to approve a bond before it can issue the bond.

Background

Generally, property tax increment financing involves a city or county forming a tax increment-financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area. To calculate the increased property tax revenues captured by the district, the amount of property tax revenues received by any local agency that receives a share of property tax revenues from property within a project area is “frozen” at the amount it received from that property prior to the project area’s formation. In future years, as the project area's assessed valuation grows above the frozen base, the resulting additional property tax revenues—the so-called property tax "increment" revenues—flow to the tax increment financing district instead of other local agencies. After the bonds have been fully repaid using the property tax increment revenues, the district is dissolved, ending the diversion of tax increment revenues from participating local agencies and property tax revenues again flow directly to each local agency that receives a share of the property tax.

After the state dissolved redevelopment agencies (RDAs) in 2011, local officials sought other ways to use tax increment financing to raise the capital they need to fund public works projects. In response, the Legislature enacted SB 628 (Beall, Chapter 785, Statutes of 2014) to allow local officials to create EIFDs, which augment the tax increment financing powers available to local agencies under existing infrastructure financing district statutes.

Comments

1) *Purpose of the bill*. According to the author, SB 128 "EIFDs are an important economic development finance tool since their structure and use allow jurisdictions to move economic development projects forward that would otherwise remain inactive. EIFDs provide local agencies a way to finance needed infrastructure projects with tax increment financing (TIF). The tax increment can be used to make infrastructure investments, inducing private investment. EIFDs are empowered to provide financing for a broad range of infrastructure work, and public use economic development projects. Presently, EIFDs require a 55% vote approval to issue bonds. The vote requirement is burdensome for implementing the key purpose of EIFDs—issuing bonds for infrastructure projects. It adds an element of uncertainty and restricts the ability of the EIFD to make long-term commitments. The solution is to eliminate the vote requirement to issue EIFD bonds. The property taxes allocated to EIFDs are not new taxes or special assessments, and EIFDS bonds do not result in an increased burden on taxpayers. Public oversight and transparency are built in to the EIFD process. SB 128 streamlines the EIFD tool, making it a more practical and attractive tool for economic growth. SB 128 will help California realize the full potential of EIFDs."

2) *Sure, but will it work*? RDAs were widely adopted for two reasons. First, they allowed cities and counties to take increment from the school share of the property tax, which the state backfills from the General Fund. This generated billions of dollars in additional funds that cities and counties could only access through redevelopment. Second, they allowed cities and counties to skirt voter

approval requirements on debt issuance. SB 128 moves EIFDs closer to RDAs on the second consideration, but does not grant them any funds beyond what would be otherwise available, making them significantly less attractive. Additionally, there may be other barriers to establishing EIFDs that SB 128 does not fix. Some observers suggest that EIFD formation has been slow due to legal uncertainty over their bonding capacity. They suggest that there is concern over whether making payments to an EIFD counts as a debt obligation for participating cities or counties, which would require two-thirds voter approval. It is unclear whether removing the vote threshold without addressing some of the other challenges faced by EIFDs will increase their utilization.

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

SUPPORT: (Verified 3/22/19)

California Association for Local Economic Development (source)
American Planning Association
California Special Districts Association
California State Association of Counties
California Transit Association
City of Indio
City of Lakeport
City of Merced
City of Sacramento
City of West Hollywood
City/County Association of Governments of San Mateo County
County of Stanislaus
Greater Sacramento Economic Council
League of California Cities
Madera County Economic Development Commission

OPPOSITION: (Verified 3/22/19)

Howard Jarvis Taxpayers Association
Southwest California Legislative Council

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