

PROPOSALS TO GREATLY EXPAND USE OF INFRASTRUCTURE FINANCING DISTRICTS GAIN MOMENTUM IN CALIFORNIA LEGISLATURE

As Governor Brown and California's legislators again take up the question of eliminating redevelopment agencies (RDAs) in order to balance California's budget, it is noteworthy that a number of bills are moving quickly through the California Assembly and Senate that would greatly expand the use of Infrastructure Financing Districts (IFDs) as an alternative to RDAs. IFDs are special purpose assessment districts that have rarely been utilized as project development financing tools due to severe limitations upon IFD creation. A number of bills before the California legislature would greatly expand financing possibilities for IFDs.

Under present law, cities and counties can create IFDs and issue bonds to pay for community scale public works: highways, transit, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities. To repay the bonds, IFDs divert property tax increment revenues from other local government agencies, excluding school districts, for 30 years. Creating IFDs is not easy. Under existing law, after preparing an infrastructure financing plan, local officials must obtain voter approval (two-thirds vote) in order to form the IFD or issue bonds. The IFD bonds must have a maturity of not more than 30 years, further hampering financial structuring. At present, an IFD cannot overlap the boundaries of an RDA's redevelopment area. Somewhat surprisingly, the current statutory scheme provides little accountability or oversight over the use of IFDs. This lack of accountability has been a complaint that also has been lodged against RDAs in the public debate to eliminate RDAs.

Several bills are being considered that would greatly expand the usefulness of IFDs. If one or more of these proposals are signed into law, it could create many new financing opportunities regardless of the ultimate disposition of the RDA debate. Four of these bills are summarized below:

► SB 214 (Wolk) passed the Senate on May 16, 2011 by a 24-13 vote and has moved on to the Assembly for consideration. SB 214 would make the following significant changes to the IFD regimen:

- Repeals the voter approval requirements to form an IFD, issue IFD bonds, and set the IFD's appropriations limit
- Extends the maximum term of IFDs' bonds from 30 years to 40 years
- Repeals the prohibition on an IFD area overlapping a redevelopment project area
- Creates a significant accountability and oversight system
- Prohibits IFDs from providing financial assistance to big box retailers or vehicle dealers to relocate from one local agency to another in the same market area

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- Allows IFDs to finance necessary actions to clean up brownfield sites under the Polanco Act
- Allows IFDs to finance any projects used to implement a Sustainable Communities Strategy under the Sustainable Communities and Climate Protect Act

► AB 485 (Ma) passed the Assembly on May 16, 2011, and has moved on to the Senate for consideration. AB 485 would make the following significant changes to the IFD regimen:

- Allows local officials to divert property tax increment revenues to pay for public facilities and amenities within transit village development districts (TVDD)
- Repeals the voter approval requirements to form an IFD, issue IFD bonds, and set the IFD's appropriations limit
- Creates an affordable housing inclusionary element which would set aside 20% of the IFD tax increment for affordable housing within the TVDD

► AB 910 (Torres), currently before the Assembly, would make the following significant changes to the IFD regimen:

- Allows an IFD to finance affordable housing facilities and economic development projects that provide significant benefits to an area larger than the IFD
- Repeals the voter approval requirements to form an IFD, issue IFD bonds, and set the IFD's appropriations limit where the IFD is implementing an affordable housing or economic development plan or a transit village plan.

► AB 664 (Ammiano), currently before the Assembly, would permit San Francisco to create a special purpose IFD along the San Francisco waterfront specifically to finance certain development work associated with hosting the America's Cup yachting event.

Cox Castle & Nicholson continues to closely monitor these proposed IFD bills, as well as other developments in the California budget debates that could affect affordable housing.

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