

Trip Report: League of California Cities Annual Conference
September 30 – October 2, 2015
San Jose Convention Center

Reporting: Tom Frutchey, City Manager

Sessions Attended:

- Wednesday, September 30
- City Managers Department Meeting
- Keynote Address: the Huge Civic Payoff of 21st Century Libraries
- Exposition Hall

Thursday, October 1

- Yes, Reducing Cost of Employee Benefits Is Possible
- Keynote Address: A Workplace in Transition
- How Cities Must Respond to the State's New Groundwater Law
- Monterey Bay Division lunch and meeting
- Contracting Fire Services: The Trials, Tribulations, Landmines, and Political Challenges
- Why Your Community Doesn't Know What You Are Doing
- Mastering the Five Foundations of Leading for Effectiveness

Friday, October 2

- Government's Crucial Employer Brand
- Tax Increment Financing Is Back: Using the New EIFD Tool
- Closing Session and General Assembly

The Mayor, Mayor pro tem, and I intentionally went to different sessions, where practical, to maximize our opportunities for receiving information of value to Pacific Grove. I will not duplicate in this report the key learnings from sessions they have already reported.

Notes and handouts from these sessions have been shared with the department heads and other key staff to whom they apply. (Please request any in which you are interested.) This report will focus on takeaways with broader applicability or immediate impact.

New Legislation

The Legislature's recent special session produced a number of pieces of legislation with significant potential impact on Pacific Grove (see Attachment 1).

Changes in Sources of Traditional City Revenue

Sales Tax

- SB 8, pending, would tax some services
- 15% of all generated sales taxes are now being siphoned off, never entering the County pool for distribution to local governments
- Congress may again take up taxing internet sales

Business License Tax

Local ordinances need to be updated to match NOX codes and should include a CPI factor

Utility Users Tax

AB 1717 allows pre-paid calling cards to be taxed. (Note: this would generate about \$1k per year in PG, but would require a ballot initiative.)

Tax Increment Financing

- The State has created two new tools since the abolishment of RDAs: Enhanced Infrastructure Financing Districts (EIFDs) and Community Revitalization and Investment Authorities (CRIAs)
- EIFDs can be integrated with Mello Roos districts and other traditional tools, and do not require a finding of blight. They can be of value if paired with new development. (See Attachment 2)
- CRIAs can be created only in areas of relatively low annual median income and three of the following four conditions: high non-seasonal unemployment; high crime; deteriorated infrastructure, and deteriorated residential or commercial structures. (See Attachment 3)

Groundwater Management

The 2014 Sustainable Groundwater Management Act may have greater implications for PG than was initially apparent. The City's goals may not, in all cases, align with those of either Cal Am or the Water Management District. As a result, we will be monitoring the County's process to implement.

The City's Employer Brand

Attracting high-quality employees is becoming more challenging for all cities. Many cities are responding by using high compensation (e.g., Carmel). Since that is not an approach available to PG, we need to identify, reinforce, and market those factors that make PG an attractive place to work. In essence, we need to build a brand and reputation as an employer, to differentiate us from other cities.

Fire

- Fires per 1,000 population in the US have dropped from 14.8 in 1977 to 3.9 in 2013
- In 1980, fire services saved \$1 of loss for each 75 cents in cost. In 2000 fire services saved \$1 of loss for every \$2.75 in cost.
- The building code has put a lot of effort into improving fire prevention.. However, because of additional responsibilities we have added on (e.g., EMS), as well as labor agreements, our fire protection resources are able to put less overall effort into fire prevention now than they did in 1977.
- Some of our major assumptions used to design the fire protection system are no longer valid. For example, the whole concept of locating fire stations to ensure a 6-minute response time was so that firefighters could be on scene before flashover

occurs. That doesn't work anymore, because flashover is occurring so much sooner in modern homes (see [http://paidpost.nytimes.com/nest/in-a-flash.html? r=0](http://paidpost.nytimes.com/nest/in-a-flash.html?r=0)).

- An increasing percentage of the demands being placed on the fire service are health related (EMS, etc), not fire.
- Mean public safety costs as a percentage of the general fund budget for cities in California are still climbing, and will soon reach 75%.

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Governor's Final Actions Mixed on League Priority Bills

Governor Signs 17 of League's 21 Requested Signatures; Vetoes Five of 11 Requests

Gov. Jerry Brown finished his work yesterday signing and vetoing legislation sent to him by the Legislature in 2015. Major positives for the League this year were his signatures on AB 2 (Alejo), which establishes a new economic development tool for poorer communities, and the medical marijuana regulatory bill package AB 243 (Wood), AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey and Wood), and SB 643 (McGuire). Disappointments included the veto of AB 35 (Chiu and Atkins), which would have increased the availability of affordable housing tax credits by \$100 million, and his signature on several measures which erode local land use and contracting flexibility.

The following is a list of bills on which the League asked the Governor to either sign or veto. It is broken down into Signed Support Legislation, Vetoed Support Legislation, Signed Oppose Legislation and Veto Oppose Legislation. For more information on legislative language, the League's position letters and sample position letters for cities, please enter bill number in the League's [bill search](#).

Signed Support Legislation

HOT AB 2 (Alejo): Community Revitalization and Investment Authorities

This bill authorizes the creation of a new entity at the local level called a Community Revitalization Investment Authority provides a redevelopment option for the most disadvantaged and poorest areas of our state.

AB 90 (Chau): Federal Housing Trust Fund

This bill prepares for future federal housing funding allocations by designating the state Department of Housing and Community Development (HCD) as the entity responsible for administering funds received through the Federal Housing Trust Fund. It requires HCD to collaborate with the California Housing Finance Agency in developing an allocation process meeting geographic distribution and other criteria and establishes a stakeholder process to inform these discussions.

AB 169 (Maienschein): Local Government: Public Records: Internet

This bill requires that those agencies that maintain an Internet Resource, which is titled or described as "open-data," meet specified formatting requirements.

AB 216 (Garcia): Vapor Products

This bill prohibits the sale of any device intended to deliver a non-nicotine product in a vapor state directly inhaled by the user to a person under 18 years of age.

HOT AB 243 (Wood): Medical Marijuana

AB 243 requires: licensing and regulation of marijuana cultivation under the Department of Food and Agriculture (DFA); the Department of Pesticide Regulation to develop related standards for pesticides and other foreign object residue, including maximum tolerances; and the Department of Public Health to develop standards for production and labelling of marijuana edibles. This bill assigns joint responsibility to DFA, the Department of Fish and Wildlife (DFW) and the State Water Resources Control Board (SWRCB) to prevent illegal water diversion associated with marijuana cultivation from adversely affecting California fish population. The bill also directs a multi-agency task force (DFW-SWRCB) to expand existing enforcement efforts to a statewide level to reduce adverse environmental impacts such as illegal discharge into waterways and poisoning of marine life and habitats.

HOT AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, Wood): Medical Marijuana

AB 266 protects local control as it establishes statewide regulatory scheme. Under the bill, state regulation will be headed by the Bureau of Marijuana Regulation within Department of Consumer Affairs. The bill provides for dual licensing: the state would issue licenses, while local governments would issue permits or licenses to operate marijuana businesses, according to local ordinances. This legislation also requires establishment of uniform health and safety standards, testing standards, and security requirements at dispensaries and during transport of the product.

AB 313 (Atkins): Enhanced Infrastructure Finance District: Cleanup

This bill makes various improvements to the Enhanced Infrastructure Finance District tool that will facilitate implementation.

AB 388 (Chang): Homeless Veteran's Housing Funding Reports

AB 388 requires the HCD to report specified performance data to the Legislature as part of an annual evaluation performed by the department, in collaboration with the Department of Veterans Affairs, on the expenditure of \$600 million in bonds, authorized by Prop. 41, for a variety of housing options including assisting homeless veterans.

AB 851 (Mayes): LAFCO: Disincorporation

AB 851 updates existing disincorporation laws, including requiring plan for providing services to the area following disincorporation.

AB 1157 (Nazarian): Aircraft Property Tax Assessment

This bill continues the existing aircraft property tax assessment program based on local county assessors for one year.

AB 1222 (Bloom): Tow Trucks

This bill addresses the problem of tow truck scams by requiring better documentation and providing tools for better enforcement.

HOT AB 1223 (O'Donnell): Emergency Medical Services: Ambulance Transportation

AB 1223 alleviates wait time for emergency medical services (EMS) personnel delivering

patients by requiring the California Emergency Medical Services Authority to develop a methodology for determining an acceptable amount of time for EMS crews to offload their patients at emergency rooms. The bill requires local EMS authorities to adopt this methodology and begin tracking wait times, and it gives EMS crews the ability to deliver their patients to alternative treatment locations when emergency departments cannot receive them.

AB 1228 (Gibson): Housing for Homeless and Foster Youth

This bill encourages additional flexibility in student housing facilities at state community college and university campuses for the challenges faced by students who are formerly homeless and foster youth.

HOT SB 485 (Hernandez): County of L.A.: Sanitation Districts

SB 485 authorizes sanitation districts in Los Angeles County to acquire, construct, operate, maintain and furnish facilities for the diversion, management, and treatment of stormwater and dry weather runoff.

HOT SB 493 (Cannella): Elections in Cities: By or From Districts

SB 493 authorizes a city council of a city with a population less than 100,000 to adopt an ordinance to switch the election system from at-large to by-district.

SB 533 (Pan): Sales Tax Rebate Agreements

This bill amends existing law to remove several exceptions which have allowed sales tax rebate agreements to shift of local Bradley-Burns sales taxes away from local agencies without their knowledge and consent. SB 533 also requires notification of affected agencies prior to enacting future agreements that would result in reduced sales tax allocations to the affected agencies.

HOT SB 643 (McGuire): Medical Marijuana

This bill imposes fines of up to \$5,000 against physicians for violating the prohibition against having a financial interest in a marijuana business. Recommendations for cannabis without a prior examination would constitute unprofessional conduct. This bill also: imposes restrictions on advertising for physician recommendations; places Department of Food and Agriculture in charge of cultivation regulations and licensing, and require a track-and-trace program; itemize disqualifying felonies for state licensure; places the Department of Pesticide Regulation in charge of pesticide regulation and Department of Public Health in charge of production and labelling of edibles; and upholds local power to levy fees and taxes.

Vetoed Support Legislation

HOT AB 35 (Chiu, Atkins): Housing Tax Credit

AB 35 would have increased the state's Low-Income Housing Tax Credit from \$70 to \$170 million annually for five years, providing an additional \$500 million to a program that is always heavily oversubscribed.

AB 428 (Nazarian): Seismic Rehabilitation Tax Credits

This bill would have offered a 30 percent tax credit for seismic rehabilitation of endangered properties, capped at a total of \$12 million per-year over a four-year program.

HOT SB 25 (Roth): Incorporations

This bill would have assisted, through a property tax adjustment, four recently incorporated cities harmed by prior vehicle license fee takeaway.

SB 168 (Gaines, Jackson): Unmanned Aircraft Systems

This bill would have provided first-responder immunity for damage to drones interfering with firefighting, airborne or ground ambulances and search-and-rescue operations. It would have increased fines for violation of existing laws prohibiting operations in flight-restricted airspace during emergencies.

Signed Oppose Legislation

HOT AB 57 (Quirk): Wireless Telecom Facilities

This bill deems approved any application for colocation or siting of a new wireless telecommunications facility if a city or county fails to approve or disapprove the application within time periods that the Federal Communications Commission established.

HOT AB 744 (Chau): Density Bonus-Parking

AB 744 undermines local control by establishing unrealistically low parking standards for various affordable housing projects.

AB 1236 (Chiu): EV Charging Stations

This bill requires cities and counties to streamline and expedite the permitting and inspection process for electric vehicle charging stations.

HOT SB 239 (Hertzberg): Fire Service Contracting/LAFCO: Request for Veto

This bill imposes significant barriers to new or extensions of contracts for firefighting services outside of jurisdictional boundaries.

HOT SB 331 (Mendoza): Public Contracts: Local Agencies: Negotiations

SB 331 requires that cities, counties or special districts that have a COIN ordinance for labor negotiations to apply the same standards to other contracts valued at \$250,000 or more for goods or services.

SB 379 (Jackson): Land Use: Safety Element

This bill requires the safety element to be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to that city or county.

Vetoed Oppose Legislation

HOT AB 36 (Campos): Local Government: Federal Surplus Property

This bill would have prohibited local agencies from receiving surplus military equipment under the federal 1033 program unless the legislative body of the local agency has first voted to approve the acquisition at a public meeting that is compliant with the Brown Act. Amendments allowing for closed-session votes and limited disclosure about approved equipment under specified circumstances were deleted from bill.

AB 88 (Gomez): Sales Tax Exemption: Utility Appliance Purchases

This bill would have expanded the scope of utility programs that provide free appliances to low income individuals, by exempting the utility from sales tax (both state and local shares) associated with the equipment purchases.

HOT AB 305 (Gonzalez): Workers' Compensation: Permanent Disability Apportionment

AB 305 would have prohibited apportionment of a permanent disability claim in the case of a physical injury from being based on: pregnancy (or menopause if the condition is contemporaneous with the claimed physical injury) or psychiatric injury occurring on or from being based on psychiatric disability or impairment caused by sexual harassment.

AB 1301 (Jones-Sawyer): Voting Rights: Preclearance

AB 1301 would have established a statewide preclearance system, requiring that voting-related laws, regulations and policies be submitted to the Secretary of State for approval.

SB 406 (Jackson): Employment: Leave

This bill would have changed what family members are covered under existing law. It would also permit parents who work for the same employer to each take 12 weeks of leave.

No Position Signed Legislation

SB 107 (Budget): RDA Dissolution

This legislation makes significant changes to redevelopment dissolution laws and procedures and contains several unrelated items. The League previously distributed a comprehensive summary of this measure to its members. A letter to the Journal was submitted by Sen. Mark Leno (D-San Francisco) to clarify various aspects. Impacts on cities affected by this issue will depend on future Department of Finance interpretation and implementation.

SB 628 (Beall) Enhanced Infrastructure Financing District (EIFD)¹

SB 628 (Beall) authorizes the creation of a new governmental entity called an Enhanced Infrastructure Financing District (EIFD). One or more² of these districts may be created within a city or county³ and used to finance the construction or rehabilitation of a wide variety of public infrastructure and private facilities. An EIFD may fund these facilities and development with the property tax increment of those taxing agencies (cities, counties, special districts, but not schools) that consent. EIFD's are also authorized to combine tax increment funding with other permitted funding sources including:

- Property tax revenue distributed to a city, county or special district after payment of a successor agency's debts⁴.
- Revenues dedicated by a city or county to the EIFD from property tax corresponding to the increase in assessed valuation of taxable property attributed to those property tax shares received by a city or county pursuant to in lieu of VLF⁵.
- Fee or assessment revenues derived from one of 10 specified existing sources.⁶
- Loans from a city, county or special district, that must be repaid at no more than the LAIF interest rate that is in effect on the date the loan is approved by the governing board of the city, county or special district making the loan⁷.

Facilities financed^{8,9} by an EIFD may include *but are not limited to*:

¹ This document is intended to be an initial explanation for city officials of the key elements of SB 628 (Beall). It is expected that there will be clean up legislation in the 2015 legislative session to address several technical issues. The League will be working with city attorneys to carefully review this law and propose various clarifications.

² Having the option to have more than one district provides significant flexibility for cities and counties. The ability to have non-contiguous areas within a district, pursuant to Sec. 53398.54 (c), provides additional flexibility. For instance, a city could create several districts within its territory, each with a different focus. Two cities could form a district with a county to fund new or upgraded infrastructure to attract a major employer. A county or more than one county could form a much larger IFD in conjunction with cities and special districts that focuses on improving projects of larger or regional benefit such as improving water systems, sanitation, or stormwater systems.

³ Given the definition of "legislative body" which is authorized to create a district is restricted to cities and counties, it appears that only a city or county may initiate the creation of a district. Special districts have the option of participating in the financing of a district as an "affected taxing entity."

⁴ This option provides flexibility to dedicate some or all of these additional funds to a district.

⁵ Section 97.70 of the Revenue and Taxation Code. This option significantly expands the revenue that could be dedicated to a district.

⁶ The EIFD may utilize revenues that are dedicated to it from benefit assessments under the 1911 Act, the 1913 Act and other laws providing for financing of public improvements through special benefit assessments; or special taxes as part of a Mello-Roos Community Facilities District. In addition, the Public Financing Authority of an EIFD, Sec. 53398.69 (b), may also impose those assessments and fees subject to the applicable requirements in the authorizing statutes. Proposition 218 includes certain procedural and substantive requirements that apply to benefit assessments and special taxes.

⁷ Presumably these loans can be made either early on to help establish an EIFD, or over time via a dedicated revenue stream.

⁸ Activities that may be financed by an EIFD include the purchase, construction, expansion, improvement, seismic retrofit or rehabilitation of any real or other tangible property with a useful life of 15 years or longer;

Public Infrastructure and Facilities:

- Highways, interchanges, ramps and bridges, arterial streets, parking and transit facilities.
- Sewage treatment, water reclamation plants and interceptor pipes.
- Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.
- Facilities to collect and treat water for urban uses.
- Flood control levees and dams, retention basins, and drainage canals.
- Parks, recreational facilities, open space and libraries.
- Brownfield restoration and other environmental mitigation. A district may use any powers of the Polanco Redevelopment Act to remediate property.
- Projects on a closed military base consistent with approved base reuse plans. Funds may also be used to repay loans made pursuant to Section 67851 to a military base reuse authority on or after the creation of the district.

Private Facilities:

- Acquisition, construction and repair of industrial structures for private use.
- Transit priority projects as defined under Section 21155 of the Public Resources Code.
- Projects which implement a sustainable communities strategy.
- Mixed-income housing developments (An EIFD may fund only those units dedicated to low or moderate income housing, and child care, after-school care and social services integrally linked to the tenant of the restricted.
- Reimbursement of a developer located within the boundaries of a district for permit and other expenses incurred when constructing affordable housing pursuant to the Transit Priority Project Program under Section 65470 of the Government Code.
- Facilities constructed to house providers of consumer goods and services.¹⁰
- Child care facilities.

Summary of Key Terms

- **Enhanced Infrastructure Financing District:** An EIFD is a governmental entity established by a city or a county that carries out a plan within a defined area (boundaries of which do not need to be contiguous) to construct, improve and rehabilitate infrastructure; construct housing, libraries, and parks; remediate brownfields, etc.
- **Public Financing Authority:** The PFA is legislative body that governs the EIFD. It is comprised of 3 members of the legislative body of the

associated planning and design work, costs associated with any removal and required replacement of affordable housing units, and costs associated with any legal challenge to an adopted plan.

⁹ Facilities financed need not be located within the boundaries of a district, but must have a “tangible connection” to the work of the district as detailed in the infrastructure financing plan adopted by the EIFD.

¹⁰ While this authorization is not contained in the long list of possible facilities and projects contained in Section 53398.52, it is specifically listed as an illustrative example in Section 53398.50.

participating affected taxing entity plus two members of the public. If more than one taxing entity agrees to participate in the EIFD, then the majority of the body must be members of the legislative bodies¹¹ of the taxing entities with at least two public members.

- **Infrastructure Financing Plan:** The EIFD, governed by the PFA, implements an Infrastructure Financing Plan adopted by the city or county¹² that describes the type of public facilities and development that will be financed by the EIFD.

Process for Creating an EIFD

SB 628¹³ provides that a city or county that created a redevelopment agency may not create an EIFD or participate on the PFA until each of the following has occurred¹⁴:

- The successor agency receives a finding of completion from DOF;
- The city/county certifies¹⁵ to DOF that no former redevelopment agency assets are the subject of litigation involving the state, where the city, successor agency or designated local authority are a named plaintiff, have been or will be used to benefit any efforts on an EIFD until the legal process has concluded¹⁶;
- The State Controller has completed its review of agency-city/county asset transfers after January 1, 2011, pursuant to section 34167.5; and the successor agency has complied with the findings and orders of the State Controller stemming from those reviews.

If an EIFD is created within a former redevelopment project area, property tax within the area must first be used for payment of the successor agency's enforceable obligations.

Adoption of Infrastructure Financing Plan

¹¹ The definition of "legislative body" is limited to cities and counties. Clarifying those special districts that consent to participating in the financing of an EIFD must serve on the governing body of the Public Finance Authority may be a subject for legislative clean up.

¹² The League believes that a clean-up amendment is needed to this structure to provide for the adoption of the plan by the Public Financing Authority rather than the city or county that initiated the EIFD.

¹³ An EIFD may include any portion of a former redevelopment project area. However while alternative mechanisms such as an EIFD are discussed, enacted, and utilized, property tax continues to be the primary source of funding for former redevelopment agency debts. To make sure that the dissolution process continues uninterrupted in territory of a former RDA property tax flow to and EIFD is subordinate to all enforceable obligations of the former RDA.,

¹⁴ It is likely that most cities considering the possible creation of an EIFD would conduct preliminary outreach to their property owners and residents as well as have exploratory discussions with other taxing entities about possible uses of the tool. All of these preliminary activities could occur before any decision by a city to initiate the creation of a district or decide to participate in its financing.

¹⁵ Certification must be sent to DOF within 10 days of a legislative body's decision to form an EIFD or participate in the financing of an EIFD.

¹⁶ This means that an EIFD may be created and begin to collect tax increment (if available after payment of successor agency enforceable obligations), provided that no assets of a former RDA that is the subject of pending litigation is or will be affected by the EIFD.

Once any certification associated with the dissolution of a former redevelopment agency is completed, the initiating city or county may establish one or more districts by resolution¹⁷. Following that, the city or county directs the preparation of an infrastructure financing plan¹⁸ that includes the details of the public facilities and other forms of development that is proposed within the area of the district and how those facilities and development will be funded.¹⁹

A variety of funding sources are available. The legislation envisions the main funding source will be property tax increment generated within the area encompassed by the EIFD. The preparation of an infrastructure financing plan will include discussions with other taxing entities (county, special districts) to determine whether they consent to transferring their share of the property tax increment or other eligible revenue to the EIFD for the purpose of financing facilities and development. Amounts contributed to the district by other taxing entities need not be the same for all taxing entities. There is flexibility for amounts contributed to vary and change over time.

Prior to approving a plan, the legislative body shall hold a public hearing with ample notice provisions to provide an opportunity for comments from landowners within the district, taxing agencies, and members of the public. Upon adoption, the plan is transferred to the PFA for implementation.

Housing Replacement Requirements

- *Replacement housing*²⁰: If housing within the District will be removed or destroyed because of private development or public works construction initiated by the PFA, then the Infrastructure Financing Plan must include a plan to replace the units removed on a (1) 1 for 1 basis if they were occupied by low or moderate income families; and (2) 1:4 basis if they were not occupied by low or moderate income families. Relocation benefits must also be paid to displaced tenants.
- *Affordability*: Affordable housing constructed to replace removed or destroyed units or otherwise financed by the district must be affordable to and occupied by low or moderate income households. Covenants must be recorded to ensure continued affordability for not less than 55 years for rental units and 45 years for owner-occupied units.

¹⁷ The drafting requires that the city or county ensure that the public financing authority is established prior to adopting a resolution to adopting a plan or forming a district. Sec. 53398.51.1. This sequencing issue may also need to be addressed in clean up legislation.

¹⁸ League proposed clean-up amendments would have the preparation of the plan performed by the Public Financing Authority

¹⁹ The process for developing and adopting a plan is detailed in Sections 53398.59- 53398.76. While the process is quite detailed, it is fairly logical, and reflects the expected public process for developing such a plan.

²⁰ Local agencies that plan for the District to finance affordable housing should review the provisions applicable to housing replacement and relocation carefully.

Provisions Affecting Issuing Bonds, Loans and Audits

The PFA may issue bonds payable from funds²¹ or properties of the district with 55% voter approval of either voters or landowners within the District.²² If at least 12 persons are registered to vote within the District, then the vote is by registered voters. If fewer than 12 persons are registered, then the vote is by landowners within the District. Each landowner has one vote for each acre or portion of an acre of land that s/he owns. A public agency is not considered a “landowner” unless all of the land in the district is owned by the public agency.

A city, county, or special district that contains territory within the District may loan moneys to the District to fund the activities described in the Plan at the LAIF rate of interest in effect at the time of the loan.

Every two years after the issuance of bonds, the District must contract for an independent financial and performance audit conducted according to guidelines established by the Controller. A copy of the audit is provided to the Controller, DOF, and to the Joint Legislative Budget Committee.

²¹ Clearly property tax increment from the district can be dedicated to the repayment of bonds. However, other revenue sources referenced in this statute could be used to augment a bond issuance by the District such as net revenue received by affected taxing entities from redevelopment dissolution, property tax allocations received by cities and counties in lieu of VLF, and potentially assessment or fee revenue dedicated to the District, or long-term loans from an affected taxing entity pursuant to Section 53398.7 that may be repaid from bond proceeds at LAIF rates when the District concludes its work.

²² Note: this vote requirement applies to the issuance of “bonds.” Additional language added to Section 53398.74) related to appropriations limits states that the PFA *may* submit an appropriations limit for voter approval when it asks for their approval for the issuance of bonds. From the League’s initial legal review it does not appear –similar to how this issue did not apply to redevelopment agencies—that an EIFD is required to adopt an appropriations limit. Clarifying clean-up language similar to that which was adopted for redevelopment agencies is under consideration.

Community Revitalization and Investment Authorities
AB 2 (Alejo and Garcia)
Chapter 319, Statutes of 2015

A New Planning and Financing Tool

AB 2 provides new authority to revitalize disadvantaged communities through planning and financing infrastructure improvements and upgrades; economic development activities; and affordable housing via tax increment financing based, in part, on the former community redevelopment law.

A Community Revitalization and Investment Authority (CRIA) can be created in the following two locations:

1. Areas where not less than 80% of the land contains census tracts or census block groups meet both of these conditions: (i) an annual median household income that is less than 80% of the statewide annual median income; and (ii) three of four following conditions:
 - a. non-seasonal unemployment at least 3% higher than statewide average.
 - b. crime rates at least 5% higher than statewide median.
 - c. deteriorated or inadequate infrastructure, and
 - d. deteriorated commercial or residential structures.¹

2. A former military based that is principally characterized by deteriorated or inadequate infrastructure or structures.

CRIA: Powers and Duties

A CRIA is a public agency separate from the city, county, or city and county that created it; and deemed to be an “agency” for purposes of receiving property tax increment pursuant to Article XVI, section 16(b) of the Constitution. Any taxing entity within the Area (except for a school district) may choose to allocate some or all its share of tax increment funds to the CRIA. The CRIA may issue bonds backed by property tax increment revenues.²

A CRIA’s key powers and duties mirror those of former redevelopment agencies and consist of the following:

- Adopt community revitalization and investment plan³

¹ Section 62001(d), (e).

² Section 62005

³ Section 62002.

- Provide funding for infrastructure
- Provide for affordable housing
- Brownfield remediation and clean-up
- Seismic retrofits of existing buildings
- Acquire and sell property
- Issue bonds
- Borrow funds and make loans
- Receive cap and trade funds designated for disadvantaged communities funds or enter agreements with a qualified community development entity to coordinate the investment of federal New Market Tax Credit Funds.⁴
- Provide direct assistance to businesses within the plan area (with some exceptions)⁵

Two Ways to be Eligible to Create a CRIA:

1. A city, county, or city and county that has received a Finding of Completion from DOF and whose successor agency has complied with all orders of the Controller may form the CRIA; or
2. Any combination of a city, county, city and county, and special district may form a CRIA through a joint powers agreement.⁶

Composition of Governing Body

1. For a CRIA created by a city, county, or city and county: 3 members of the city council or board of supervisors and 2 public members who live or work within the community revitalization and investment area.
2. For a CRIA created through a joint powers agreement: majority of the members from the legislative bodies of the public agencies that created the authority and a minimum of two public members who live or work within the area.⁷

Required Contents Community Revitalization and Investment Plan (Plan)

⁴ 62002(g)

⁵ 62202. As with former redevelopment law, the following types of developments cannot be assisted:

- Auto dealerships located on land not previously developed for urban use.
- Developments generating sales and use taxes on parcels of five acres on land not previously developed for urban use, unless the principal permitted use is an office, hotel, manufacturing or industrial.
- Any gaming establishments.

⁶ Government Code 62001(b)(1). A CRIA may not include a school district or a successor agency. All references are to the Government Code.

⁷ Section 62001(c)

A CRIA must adopt a Plan that guides its revitalization programs and authorizes receipt and expenditure property tax increment revenues. The Plan includes:

- Statement of principal goals and objectives
- Description of the deteriorated or inadequate infrastructure and program for repair and upgrade
- Housing program
- A program to remedy or remove the release of hazardous substances
- A program to provide funding for or otherwise facilitate the economic revitalization of the area
- A fiscal analysis setting forth projected receipt of revenues and expenses over five-year planning horizon
- Time limits to establishing loans, advances and indebtedness and fulfilling all the authority's housing obligations.⁸

Robust Procedure for Plan Adoption:

The Plan must be adopted over a series of three public hearings, held at least 30 days apart. The final version of the plan is subject to written and oral protests. Proceedings to adopt the plan must terminate if there is a majority protest (over 50% of the combined number of property owners and residents in the area). An election on whether to adopt the plan must be called if between 25% and 50% of the combined number of property owners and residents file a protest.⁹

Ongoing Accountability: 10-year Check-In with Property Owners and Residents

An annual report and annual independent financial audit is required.¹⁰ Every ten years the CRIA must conduct a protest proceeding to consider property owners and residents' protests against the continuing work of the Authority. A majority protest means no additional work can be undertaken pursuant to the plan, but the authority can complete projects underway, repay existing indebtedness, and fulfill existing housing obligations. If between 25 and 50 percent protest, then an election is called to determine whether the CRIA should continue with its work.

Affordable Housing: 25% Requirement

The following affordable housing requirements apply to a CRIA:

- 25% of property tax increment revenues must be used to increase, improve and preserve the community's supply of low and moderate income families.
- CRIA affordable housing programs are entitled to receive a priority, after housing successor agencies, for assistance in housing programs administered

⁸ Section 62003.

⁹ Section 62004.

¹⁰ Section 62006.

by the California Housing Finance Agency, the Department of Housing and Community Development and other state agencies and departments, if those agencies determine that the housing is otherwise eligible for assistance under a particular program.¹¹

- The CRIA may transfer its housing responsibilities to the housing authority if it determines that combining funding streams will reduce administrative costs or expedites the construction of affordable housing.¹²
- Every five years beginning in the year in which the CRIA is allocated a cumulative total of more than \$1,000,000 in tax increment revenues, an independent audit is required to determine compliance with affordable housing requirements.
- All housing assisted with property tax increment funds must remain affordable for 55 years for rental units and 45 years for owner-occupied units.
- Housing funds must be spent proportionally on low, very low, and moderate income housing.¹³

Affordable Housing: Replacement and Relocation

- Replacement of housing destroyed or removed within 2 years of destruction or removal¹⁴
- Number of housing units occupied by extremely low, very low, and low-income households at the time the plan is adopted may not be reduced during the effective period of the plan
- Relocation in compliance with state relocation law¹⁵

Property acquisition

CRIA may acquire property through all of the commonly-used methods including, purchasing, leasing, accepting a conveyance from a public or private entity, and acquiring property via eminent domain.¹⁶

Key Similarities and Differences:
Community Revitalization and Investment Authority (CRIA) vs.
Enhanced Infrastructure Financing District (EIFD)

¹¹ Section 62104
¹² Section 62100 (a)
¹³ Section 62102.
¹⁴ Section 62103
¹⁵ Section 62115
¹⁶ Section 62201

In 2014 the Legislature created the **Enhanced Infrastructure Financing District (EIFD)**, SB 628 (Beall), Chapter 785, Statutes of 2014, as a new way to finance public infrastructure, affordable housing and other projects. In 2015, refinements were made through AB 313 (Atkins), Chapter 320, Statutes of 2015. A CRIA and an EIFD have some things in common and are different in other ways.

CRIA and EIFD: Things in common

- Both are public entities separate and distinct from the city or county that established them.
- Both can finance a wide-range of public and private projects including the acquisition, construction or rehabilitation of affordable housing
- Creation of each requires finding of completion from DOF and compliance with State Controller's orders
- Authority to use property tax increment to finance facilities and housing with contributions from other taxing entities with their consent

CRIA and EIFD: Things that are different

- CRIA operates solely within specifically defined area characterized by social and economic deterioration or a former military base; EIFD can be used for a wide range of infrastructure and other development and established anywhere within a city or county
- CRIA is an "agency" for purposes of the tax-increment provisions of the California Constitution used by former redevelopment agencies; EIFD is modeled off of existing Infrastructure Financing District law rather than Community Redevelopment Law
- Adoption of a Plan by CRIA is subject to majority protest; adoption of Plan by EIFD is not.
- Issuance of bonds by CRIA does not require voter approval. Issuance of bonds by an EIFD requires 55% voter approval.
- Different replacement housing obligations are imposed.
- CRIA must dedicate 25% of tax increment revenue on affordable housing; EIFD may provide affordable housing as an option.
- CRIA relies on property tax increment revenue; EIFD also authorized to use funding from property taxes local agencies receive in lieu of former vehicle license fee revenue and a variety of assessment district laws (for example, Improvement Act of 1911, Landscaping and Lighting Act of 1972, Mello-Roos Community Facilities Act of 1982)