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CA Passes Enhanced Infrastructure Financing Districts Legislation.

It looks like Governor Jerry Brown's vision for Enhanced Infrastructure Financing Districts will become law. Meanwhile, a minor revival of redevelopment has also reached the Governor's desk but Brown appears likely to veto it.

In the closing days of the California legislative session, a bill expressing Brown's longstanding goals for Infrastructure Financing Districts (IFDs) came to the floor through a gut-and-amend of SB 628, by State Sen. Jim Beall, D-Campbell. The substitute amendment went on the record Tuesday, August 26. It passed the Legislature without further amendment in the year's closing session early Saturday morning, August 30, and was sent on to the Governor.

If, as expected, the Governor signs it, SB 628 would expand the existing but underused mechanism of IFDs, with the idea that they could take up some former functions of the state's abolished local redevelopment districts. The mechanism would be simpler, more focused on infrastructure, and more dependent on electoral approval, without the flexibility or protections for the existing urban public that were built and bashed into Redevelopment over the years.

The bill's language reportedly came from the Governor's office. It was supported energetically by the California Economic Summit organization. (The Summit's op-ed-style case for the bill, which Beall linked to prominently on his legislative Web site, is at http://bit.ly/1pfneLr.) But the bill alarmed housing advocates, who warned that it could lead to displacement of poorer neighborhoods as in the redevelopment "blight" clearances of the middle 20th century. And while the League of California Cities supported SB 628, the League's legislative director, Dan Carigg, described it as a "helpful" tool that should be one of several, saying it did not by itself replace the usefulness of redevelopment funding mechanisms to serve populated urban areas.

The Governor's press office, in response to a detailed request for comment, wrote: "SB 628 is consistent with the administration's previous proposal regarding infrastructure financing districts."

A very different bill, AB 2280 by Assemblymember Luis Alejo, D-Salinas, made it to the Governor's desk as of August 27 after extended negotiations (partly through its 2013 predecessor, AB 1080) that gathered support from business, local government and housing advocates. But the odds were still running against the Governor's signing it. AB 2280 would revive redevelopment-style tax-increment financing in narrowly chosen urban areas, with 25% affordable housing set-asides. Those provisions are more reassuring to housing and local-government advocates but more likely to trigger the Governor's opposition to former redevelopment mechanisms and his skepticism toward housing affordability restrictions.

Compared with its last formal expression in the May budget proposal revision, the Enhanced IFD's legislative language picked up two major changes in SB 628.

The bill removed a prior 55% popular vote requirement to create an Enhanced IFD, though it still requires a 55% vote for any such district to issue bonds. Carigg characterized this as the major

change since May. But he still said the 55% requirement for bond issues made Enhanced IFDs more likely to be created where “it’s less populated, or on the edge of town.”

Legislative staff veteran Fred Silva, now a senior fiscal policy advisor to California Forward and staff to the California Economic Summit “infrastructure action team”, said his group and the League had each advocated for the single 55% vote, to be required only at the stage of issuing bonds, rather than requiring two votes, first to create the district and then to issue the bonds.

Brian Augusta, a legislative advocate with the Western Center on Law and Poverty, noted SB 628 also softened a requirement on post-redevelopment disputes, appearing in the bill’s proposed new Sec. 53398.54 of the Government Code. As of the May revise this provision would have blocked local governments and/or special districts from making use of the Enhanced IFD mechanism unless they first had “resolved all litigation” with the state over specified statutes related to the redevelopment dissolution process, involving either themselves or their successor redevelopment agencies. But in the parallel SB 628 provision, as Augusta noted, “it says that they can’t use any assets of a former redevelopment agency that are the subject of litigation [involving the state] to ‘benefit’ the new IFD entity.”

The requirement remains in place in SB 628 that each would-be Enhanced IFD creator must first receive a Department of Finance “finding of completion” regarding assets managed by the successor agency for its former redevelopment agency.

Augusta wrote that the requirement to resolve litigation “was a big sticking point, I am told, in discussions between the Governor’s office and legislative leaders. Apparently the revised language was satisfactory to both sides.”

The Governor had been pushing all year to expand the IFD mechanism to perform selected redevelopment functions, rather than re-enact the old Redevelopment laws and processes. (See http://www.cp-dr.com/node/3480 on the post-Redevelopment picture as of mid-spring, http://www.cp-dr.com/node/3492 on the IFDs proposal in the May revise.)

The relevant May Revise language is at http://bit.ly/1qqn4ol. For comparison the SB 628 bill as passed is on the state legislative tracking site at http://bit.ly/Z38wlC.

Silva said the May revise already reflected a policy his group had supported: authorization to include vehicle license fee “backfill” funds as a source of IFD financing.

Carigg said that over the Legislature’s summer break the League sought something more along the lines of Sen. Lois Wolk’s SB 33, which was not successful in the 2013-14 session. He still saw a need to have some financing mechanism available that is patterned after “the proven tool of the past, which is redevelopment.” He said, “If you’re going to be realistic about the challenges of urban California,” addressing them would take more than SB 628.

Housing advocates said the bill did not contain adequate protections against displacement, nor any requirements to fund or build affordable housing. They warned that housing protections of these types were painstakingly added to redevelopment law because of lessons learned from the slum-clearance devastations of the twentieth century, and dropping them risked having to learn those lessons over again.

Augusta’s concern was for the possible loss of affordability and anti-displacement legal protections reflecting 70 years of lessons learned on redevelopment. He said it took creation of Redevelopment’s low- and moderate-income housing fund and the 20-percent housing set-aside obligation to stop the

program's original gentrifying effects, together with replacement housing requirements and housing production requirements assuring that affordable housing would be built in redevelopment areas. Although SB 628 does include some housing replacement and relocation protections, he described it as a redevelopment tool of a type "that often drives gentrification, displacement" without including the old tools that were developed to prevent it. Hence he called it "kind of half a loaf."

He said those concerns were expressed to the Assembly and the Governor's office but word came back that SB 628 in its current form was what the Governor was willing to sign.

The bill does provide some anti-displacement and relocation provisions, including that if an IFD removes affordable housing, it must be replaced within two years by "the construction or rehabilitation, for rent or sale to persons or families of low or moderate income" of an equal number of units if the removed units were home to people of "low or moderate income," or 25% of the units if the residents themselves were not of "low or moderate income." Affordability restrictions are to apply for 55 years to rentals or for 45 years to "owner-occupied units," with an alternative option to set up an equity-sharing agreement.

Silva said housing advocates were concerned, though, he argued, unduly so, about the bill's definition of "low or moderate income" by reference to Health and Safety Code Sec. 50093.

Section 50093 under current law defines "Persons and families of low or moderate income" as "persons and families whose income does not exceed 120 percent of area median income," adjusted for family size. The current official state income limits under Sec. 50093 appear at http://www.hcd.ca.gov/hpd/hrc/rep/state/inc2k14.pdf. They give San Francisco's area median income for a four-person household in 2014 as $103,000 per year and Los Angeles County's as $64,800 per year. As of early 2013 the maximum CalWORKS cash aid payment for a household with four eligible persons was $762 per month. (See http://bit.ly/1pvGGtf.)

While some spoke of fixing the legislation in a later cleanup bill, policy director John Bauters of Housing California sent a furious series of Twitter messages during the SB 628 gut-and-amend's brief pendency to liberal legislative leaders, once calling it a "horrible bill" and repeatedly saying "#SB628 will displace people of color from their communities. Vote NO!"

Arriving on the floor late and suddenly, the bill was not amended. Housing advocates had hoped to add an anti-displacement amendment but could not. Silva said in addition to housing relocation provisions, he expected cleanup legislation on the process for forming districts and setting up their financing with public participation — especially the question of whether a city that initiated formation of a district should be the only author of its financing plan, if the district included other local governments or districts as partners.

Silva said the bill's history was an instance of "one of the dilemmas where the Administration is working through the elements of a proposal and is not prepared to have a proposal heard and worked on by a legislative policy committee."

Augusta said work on a cleanup bill was likely to start in January, with any cleanup amendments likely to take effect in the fall of 2015 — timing that might not be a huge problem because he didn't expect "a gold rush" to create IFDs after the bill's signing.

He said, "The administration and the Speaker have committed to working next year to clean up the relocation and replacement housing provisions, and that's good. We are also looking to have the broader conversation about putting in place requirements and funding for affordable housing, because that is a key anti-displacement tool that is missing from this."

Silva argued that the objectives of the new Enhanced IFDs would be to create infrastructure, not so much to build housing. He suggested the example of a five-square-mile district, partly within a city limit, for which a city, its surrounding county, and the local water district might choose to layer together their tax increment eligibilities to cooperate on financing a stormwater capture project. Multiple districts would be most likely to agree on infrastructure types of projects, he suggested.

Silva noted that cities have extremely varied policy positions on whether to favor affordable housing, and said “we’re silent on that question because the Economic Summit wanted to [make] tools available as opposed to requirements that said, ‘whatever you’re going to do, you have to set money aside for a particular purpose’,” because “purposes are always going to be different.” He said his own group and the Governor’s office had concluded adequate tools were needed for infrastructure investment, not “the old redevelopment model that had more of a target to reduce blight.”

Responses by the Western Center on Law and Poverty to relevant parts of the May Revise are at http://bit.ly/1lT16rZ and http://bit.ly/1lAtRqo.

The League of California Cities’ response to the May Revise is at http://bit.ly/1lDa76W.

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