

ORANGE COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

June 04, 2019

Submitting Agency/Department: County Executive Office

Approve amended Debt Management Policy; and approve Enhanced Infrastructure Financing District Participation Policy
- All Districts (Continued from 3/26/19, Item 37; 4/9/19, Item 22; 5/21/19, Item 69)

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED OTHER

Unanimous (1) DO: X (2) STEEL: N (3) WAGNER: Y (4) CHAFFEE: Y (5) BARTLETT: Y

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O. =Board Order

Documents accompanying this matter:

- Resolution(s)
- Ordinances(s)
- Contract(s)

Item No. 34

Special Notes:

Copies sent to:

*CEO/Public Finance
Christine Gardea*

6/7/19



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By: _____
Deputy

the issuer that it has adopted local debt policies concerning the use of debt and that the contemplated debt issuance is consistent with those local debt policies.

At this time, the County Executive Office is asking to amend the Debt Management Policy to include updated industry best practices and incorporate feedback received from Standard & Poor's Global Ratings:

(A) Define the limit for long term General Fund debt obligations. Annual principal and interest payments on long term General Fund debt obligations will not exceed 4 percent of General Fund revenue (page 4). The 4 percent of General Fund revenue was determined based on the most conservative end of a 4 percent to 10 percent acceptable range recommended by the County's municipal advisor and determined to meet the County's needs.

(B) Include a requirement that the County's municipal advisor review cashflow projections when considering new Tax and Revenue Anticipation Notes (page 5). This requirement is being added to validate a cash low point deficit requirement.

(C) Create a new section for "Tax Increment Financing." Tax increment financing is a tool that allows municipalities to promote economic development by earmarking tax revenues from increases in assessed value within a designated tax increment financing district (pages 7-8).

In September 2014, the Governor approved Senate Bill 628, which authorized the formation of Enhanced Infrastructure Financing Districts (EIFD) as detailed in Government Code Sections 53398.50 to 53398.88.

An EIFD is a limited tax increment financing district created after the dissolution of redevelopment agencies in 2012. An EIFD would allow two or more governmental entities to agree to secure a portion of property tax revenue for the construction of infrastructure and other capital needs. A key difference between EIFDs and former redevelopment agencies is that the tax increment given to the new district excludes all property taxes associated with school districts.

No new taxes are created by establishing an EIFD. The County's participation in any such district is voluntary and would require Board approval. The conditions for the County's participation in an EIFD are contained in a separate EIFD Participation Policy.

The EIFD Participation Policy establishes criteria and procedures for the County's participation in an EIFD that includes:

1. Fiscal analysis demonstrating a positive net impact to the County.
2. Analysis that evaluates whether the County's participation is a necessary pre-condition for the infrastructure projects to be undertaken.
3. A requirement that a city's contribution of property tax in a project must be equal to or greater than the County's contribution.
4. The County may not contribute 100 percent of its share of property tax increment.
5. The County's contribution must be capped and have an end date identified.

Each requirement is intended to provide protection to the County in the event an EIFD does not meet its original property tax projections.

The County Executive Office requests the Board's approval of the amended Debt Management Policy and EIFD Participation Policy.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A - Amended Debt Management Policy 3-26-19 (Red Lined)

Attachment B - Amended Debt Management 3-26-19 (Clean)

Attachment C - Enhanced Infrastructure Financing District Participation Policy

Attachment D - Government Code Section 53398.50-53398.88

Attachment E - Government Code Section 8855(i)



2019 Debt Management Policy

Debt Management Policy

Introduction

The County of Orange Debt Management Policy provides guidance for the issuance of bonds and other forms of indebtedness to finance capital improvements, equipment acquisition, improve cashflow, and meet other identified needs.

The Debt Management Policy is intended to guide the County of Orange to:

- Maintain long-term financial stability by ensuring that its long-term financing commitments are affordable and do not create undue risk or burden
- Achieve and maintain high credit ratings
- Minimize debt service interest expense and issuance costs
- Provide accurate and timely financial disclosure and reporting
- Comply with applicable State and Federal laws and financing covenants

The Debt Management Policy is intended to improve the quality of decisions, provide guidance for the structure of debt issuance, and demonstrate a commitment to long-term financial planning. Adoption and adherence to a debt management policy is one factor by which rating agencies assess financial management practices. This policy governs all debt issued by the County of Orange (County), including bonds and other securities issued through any joint powers authority where the Board of Supervisors (BOS) acts as the legislative body.

The County is committed to fiscal responsibility and sustainability, as demonstrated by its Strategic Financial Plan, annual budget development and administration, maintenance of appropriate reserve levels, accurate and timely financial reporting, and management of debt and other long-term liabilities.

The County Executive Office (CEO), through the County Finance Office/Public Finance, is responsible for County debt management, including debt issuance, administration of proceeds, timely debt service payments, financial reporting, and continuing compliance with disclosure and other post-issuance obligations with exception of enterprise funds that are responsible for post-issuance administration and compliance.



2019 Debt Management Policy

Acceptable Uses of Debt

The County will consider financing for the acquisition, substantial refurbishment, replacement or expansion of major physical assets that would be unreasonable to cash finance from current revenues. Debt financing may also be appropriate for certain other extraordinary expenditures and for managing cashflows over a period of time.

The primary purpose of County debt is to finance one of the following:

1. Acquisition of a capital asset with a useful life of five or more years
2. Construction or reconstruction of a facility or other public improvement
3. Refunding, refinancing, or restructuring debt and similar obligations, subject to refunding objectives and parameters
4. The costs associated with a debt-financed project, including project planning, design, engineering and other preconstruction efforts; project-associated furniture, fixtures and equipment; and the costs of the financing itself, including capitalized interest, a debt service reserve, underwriter's discount and other costs of issuance
5. Interim or cashflow financing to better match revenues and expenditures, such as tax and revenue anticipation notes, or to provide temporary financing pending a more permanent financing plan
6. Prepaying a portion of the annual pension contribution to Orange County Employees Retirement System (OCERS) to receive an early payment discount that exceeds the cost of the borrowing
7. Paying for an extraordinary expense such as financing a major judgment or loss exceeding insurance

Prohibited Uses of Debt

The County will not use debt to defer obligations in a way that unduly burdens future taxpayers, rate payers or residents.

Types of Financing Instruments

Many different types of financing instruments are available to the County, the use of which will depend on the source of repayment and the use of proceeds. Some of these instruments are used to finance County projects, while others are used to provide tax-exempt financing to projects that are primarily for third parties where public benefit can be achieved while minimizing public risk. The following are the types of debt the County is most likely to issue.



2019 Debt Management Policy

Direct Debt Obligations

The following are considered “direct debt” obligations by rating agencies and other market participants, meaning that the debt is serviced out of tax or other general revenues.

1. General Obligation Bonds

General Obligation (GO) Bonds need approval of 2/3 of those voting in an election as required by California State Constitution Article 16. GO bonds are secured by the levy of additional ad valorem property taxes to pay debt service. Uses of bond proceeds are limited to the acquisition and improvement of real property and costs of issuance.

2. Lease Revenue Bonds or Certificates of Participation

Lease Revenue Bonds (LRBs) and lease-backed Certificates of Participation (COPs) are debt obligations serviced by a lease payment from the County’s general fund. California courts have determined that such long-term contracts do not require voter-approval under California law (and therefore, are not “indebtedness” under the State Constitutional Debt Limit) as long as the lease meets certain conditions. These financings are typically secured by a lease-back agreement between the County and another public entity (e.g., South Orange County Public Financing Authority).

To qualify as a valid lease, payments are due only to the extent that the County has use and occupancy of the leased property. The judicial decisions that define a valid lease financing effectively require that the fair rental of the leased property be equal to or greater than the lease payment that secures debt service. The governmental lessee is obligated to appropriate in the Annual Budget the rental payments that are due and payable during each fiscal, and to secure insurance to ensure that the property stays available for use.

Because it is paid from the General Fund and does not require voter approval, lease financing is the most common form of financing used by counties. Therefore, establishing thresholds for the appropriate levels for this form of “debt” is one of the critical goals of a debt policy. There are few external guidelines for the right amount of lease debt. Agencies that set limits on “affordability” have established



2019 Debt Management Policy

limits from 4% to 10% of General Fund expenditures or revenues (referred to as “lease burden”).

Rather than establish a specific limit on lease-backed debt, the County has a limit on long term General Fund debt obligations. Annual principal and interest payments on long term General Fund debt obligations will not exceed 4% of General Fund revenue. ~~in this Debt Management Policy,~~ The appropriate level of General Fund appropriation debt should also be considered in the development of the County’s Annual Strategic Financial Plan and Annual Budget process.

Revenue and other Special Fund Obligations

Debt secured by the County’s enterprise funds and certain other special funds can also be issued without voter approval. These obligations are payable solely from the dedicated revenues, and do not have recourse to ad valorem taxes or general fund revenues of the County.

- Revenue Bonds and Certificates of Participation

Revenue Bonds are obligations payable from revenue generated by an enterprise fund. These obligations can be in the form of revenue bonds issued under an indenture, or Certificates of Participation secured by an installment sale agreement. Two County enterprise funds that have supported revenue debt in the past are John Wayne Airport and Orange County Waste and Recycling.

In accordance with the agreed upon bond covenants, the revenues generated by these enterprise funds must be sufficient so that net revenues, after the payment of operating expenses, are greater than debt service so as to maintain required coverage levels. The revenue bond issuer covenants to revise the rates, fees and charges of the enterprise to maintain the required net revenue coverages.

In determining whether to issue revenue bonds, the County should consider similar principles that it would for the incurrence of other governmental debt: the extent it is more appropriate to spend the cost of capital improvements over time, without unduly increasing the capital costs, rather than pay for them out of current revenues. Other factors include the County’s ability to maintain the rate covenants that will be required by the bond market.



2019 Debt Management Policy

Interim Financing

The County may consider the use of various debt instruments to better match short-term revenues and expenditures.

1. Tax and Revenue Anticipation Notes

Tax and Revenue Anticipation Notes (TRANs) are short-term notes payable out of current year revenues, proceeds of which allow a municipality to cover the periods of cash shortfall resulting from a mismatch between timing of revenues and timing of expenditures.

The County may issue TRANs if necessary to meet General Fund cashflow needs in the upcoming fiscal year, which consist primarily of salaries and benefits, in anticipation of the receipt of property taxes and other revenues later in the fiscal year. The cashflow needs are determined by projections prepared by Auditor-Controller and CEO that require an estimate of a cashflow deficit during the fiscal year. The County's municipal advisor is required to review and concur with the County's cashflow projections if a TRANs is to be considered. As property tax payments and other revenues are received, they are used in part to repay the TRANs.

2. Prepayment of Annual Employer Pension Contribution

The County may receive notification from OCERS that the Board of Retirement approved a discount in the amount due if paid early. Typically, the payment must be received by mid-January to fund the next fiscal year's annual employer contribution to OCERS, a period of no longer than eighteen months. The County prepares an analysis, to determine the budget savings achieved from the OCERS discount, to evaluate whether to recommend financing the prepayment. While these borrowings are essentially a cashflow financing such as TRANs, they are structured as a short-term pension obligation bond to allow the obligation to extend beyond the fiscal year in which it is issued.

3. Teeter Financing



2019 Debt Management Policy

Under the alternative method of allocating taxes commonly referred to as the “Teeter Plan,” a county can advance property taxes to its taxing jurisdictions whether or not they are received, in exchange for retaining the penalties and interest received from late payments. These advances can be financed with funds of the County or by an external borrowing. For a number of years, the County has issued commercial paper to finance these advances (Teeter Program). Commercial paper (CP) is an obligation maturing in less than 270 days that is secured by a letter of credit. Maturing CP is typically refinanced with a subsequent CP issue until a permanent financing source is in place or the debt can otherwise be retired. Since 2013, the Teeter Program has been financed by a revolving line of credit from a commercial bank.

4. Interfund Borrowing

In lieu of issuing bonds or otherwise borrowing from third-parties, there will be situations where the most appropriate means is to temporarily transfer money from a County fund. Annually, in the final budget adoption, the BOS authorizes those funds which can provide temporary transfers. The BOS establishes the appropriate term and interest rate of each Interfund loan by resolution. The interest rate will be the amount that would have been earned by the lending fund from the County’s investment pool.

Conduit Financings

Conduit financings are sponsored by the County to allow third-parties to access tax-exempt interest rates. These financings are not secured by regular County revenues.

1. Community Facilities and Assessment Districts

Community Facilities Districts (CFD) and 1913/1915 Act Assessment Districts (AD) are typically developer initiated, whereby the developer seeks a public financing mechanism to fund public infrastructure. Special taxes or assessments may be levied upon properties within a district to pay for facilities. The conditions for the County’s approval of these financings are contained in a separate set of policies. Further information on formation of CFDs and ADs is available in the Orange County Public Finance Program Policy Statement and Application Information Package as amended September 12, 2000 and as amended May 18, 2004. This policy is posted on the County’s website.



2019 Debt Management Policy

2. Multi-Family Housing Revenue Bonds

Multi-Family Housing Revenue Bonds are issued to finance construction or rehabilitation of multi-family housing projects providing tax exempt financings for developers willing to set aside a portion of the units in the project as affordable housing. The County, as well as State agencies and joint powers authorities, may sponsor this type of conduit financing for those activities that have a general public purpose.

3. Public-Private Partnership (P3)

A P3 is a partnership between a public sector entity and a private sector entity to develop, design, construct, and finance a public facility. It can involve alternate approaches to both project procurement and its financing. In some cases, the private entity is a not-for-profit entity, with the financing structured to allow for the issuance of tax-exempt bonds to provide the lowest cost funding.

While the financing costs of a P3 can at times be higher than a direct County borrowing, there can still be offsetting benefits to a P3, such as transferring design and construction risks. The County shall perform an analysis to determine the benefits of this type of project procurement and alternate financing versus the County issuing the debt directly.

Tax Increment Financing

Tax increment financing is a tool that allows municipalities to promote economic development by earmarking tax revenues from increases in assessed value within a designated tax increment financing district. Redevelopment Agencies, a frequently used tool of the past, were dissolved by the California legislature as of February 12, 2012.

1. Enhanced Infrastructure Financing District

On September 24, 2014, the governor approved Senate Bill 628, which authorized the formation of an Enhanced Infrastructure Financing District (EIFD). An EIFD is a limited tax increment financing district created after the dissolution of redevelopment agencies in 2012.



2019 Debt Management Policy

3. Optional Prepayment

Long-term debt will, in most cases, contain an optional call provision to allow for the refunding of debt at lower interest rates in the future. A ten-year call option is most common for tax-exempt bonds. In considering the terms of the call, the County will evaluate any additional interest cost demanded by investors with the potential future benefits of the option.

4. Capitalized Interest

Use of capitalized interest (where interest in the early years is funded through the sale of additional bonds) should be minimized where possible. Interest may be capitalized for the construction period of a revenue producing project so that debt service expense does not begin until the project is expected to be operational and generating revenue. State law requires that interest be capitalized when a lease financing is secured by the project being constructed with the proceeds, so that no payment is due until the County has use and occupancy. When possible, the County will secure its lease financing with existing County facilities to avoid issuing additional bonds for capitalized interest; this structure is referred to as an "asset transfer."

5. Debt Service Reserve Fund

Debt service reserve funds are held by and are available to the bond trustee to make principal and interest payments to bondholders in the event that pledged revenues are insufficient to do so.

The maximum size of the reserve fund for a tax-exempt bond issue is governed by tax law, which permits the lesser of: 1) 10% of par; 2) 125% of average annual debt service; or 3) 100% of maximum annual debt service. The County may issue bonds with a debt service reserve fund that is sized at a lower level or without a reserve fund if economically advantageous and recommended by the finance team.

The reserve fund requirement may also be satisfied by a surety policy, a form of insurance provided by a bond insurer to satisfy a reserve fund requirement for a bond issuance. Under this arrangement, instead of depositing cash in a reserve fund, the issuer buys a surety policy by paying a one-time premium equal to a



2019 Debt Management Policy

percentage of the face value of the policy. The County may use a surety policy instead of a debt service reserve when an analysis indicates that net cost to the County will be lower, taking into account the potential cost of replacing the surety at the time of any future refunding.

6. Credit Enhancement

Credit enhancement may be used to improve a credit rating on a County debt issuance. The most common form of credit enhancement is bond insurance, which will be considered when the cost of insurance is offset, on a present value basis, to the savings in debt service through the first optional call date of the bonds. Because of the County's high bond ratings, bond insurance will not be cost effective for most of the County's debt in the current market. The benefit of a credit enhancement will be evaluated for each bond issuance.

7. Variable Rate Debt

To maintain a predictable debt service burden, the County will give preference to debt that carries a fixed interest rate. An alternative to the use of fixed rate debt is variable rate debt. It may be appropriate to issue long-term variable rate debt to diversify the County's debt portfolio, reduce interest costs, provide interim funding for capital projects or improve the match of the County's assets (such as cash in the Treasury invested in shorter-term securities) to debt liabilities.

8. Use of Derivatives

The County will not use interest rate swaps in connection with variable rate debt to create synthetic fixed-rate debt.

Method of Sale

Debt issues can be sold through a public offering through either a competitive sale or a negotiated sale. In a competitive sale, bid parameters are established in the notice of sale or notice inviting bids. Bids are received from various underwriters at a given time, and the bonds awarded to the bid producing the lowest true interest cost (the interest rate that discounts debt service to the net amount of proceeds received after accounting for underwriter's discount). In a negotiated sale, the County selects the underwriter in advance through a request for proposal process, and the interest rate is set based on the



2019 Debt Management Policy

orders received from investors during the pricing period. While there are advantages to both methods of sale, most municipal bonds are currently sold on a negotiated basis, which has been the County's primary practice.

On occasion, the County may choose to privately place a financing with a bank, rather than borrowing through a public offering sold to multiple investors. Such financings can be more cost effective for smaller transactions, or for financings such as commercial paper that would otherwise require an alternative bank facility such as a letter of credit.

The Public Finance Director will recommend the appropriate method of sale based on the specific offering and market conditions, seeking advice from the County's municipal advisor.

Refunding of Indebtedness

Most municipal bonds can be pre-paid prior to their maturity by the exercise of an optional call. As a result, sometimes bond issues can be refunded for savings. The following are the two types of refundings.

- Current Refunding - The refunding bonds are issued less than 90 days before the date upon which the refunded bonds will be redeemed.
- Advance Refunding - The refunding bonds are issued more than 90 days prior to the date upon which the refunded bonds will be redeemed, and the refunding bond proceeds placed in an escrow that is sufficient to pay interest and principal until the call date. Municipal bonds may only be advanced refunded once over the life of a bond issuance. [The Tax cuts and Jobs Act, enacted December 22, 2017 essentially eliminated advanced refunding for municipal bonds issued after 2017 by making interest on advanced refunding bonds taxable. Interest on current refunding bonds remains tax-exempt eligible.](#)
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The County will regularly review its outstanding debt portfolio to identify opportunities to achieve net economic benefits from refunding its bonds. Recognizing that the County's ability to refund its debt is limited (i.e., federal tax law constraints on advance refundings and the market practice of making most fixed-rate bond issues non-callable for their first ten years), the County will seek to deploy its refunding options prudently. At a minimum, the County will seek to achieve net present value ("NPV") savings equal to at least three percent (3%) of the par amount of the bonds that are refunded. For advance refundings,



2019 Debt Management Policy

the threshold goal will be five percent (5%) NPV savings. A second limiting factor on advance refundings will be that negative arbitrage (the amount of additional funds that need to be deposited into an escrow to make up for interest earnings being less than the interest on the defeased bonds) will be no greater than half the amount of the NPV savings. The present value savings will be net of all costs of the refinancing, and will consider the difference in interest earnings of the debt service reserve funds of the refunded and refunding bonds.

These savings requirements may be waived by the BOS upon a finding that a refunding producing lower savings is in the County's best financial interest; for example, by restructuring debt service or eliminating burdensome covenants.

Debt Management Practices

The Public Finance Director shall be responsible for ensuring the County's debt is administered in accordance with the terms of the governing bond documents, federal and state law and regulations, and the best industry practices.

1. Arbitrage

Arbitrage is the profit made by issuing bonds bearing interest at tax-exempt rates, and investing the proceeds at materially higher taxable yields. The Internal Revenue Code limits the opportunity for borrowers to retain such investment profits; in most cases, the borrower must calculate such profits and rebate them to Internal Revenue Service every five years.

Public Finance shall maintain a system of recordkeeping to meet the arbitrage compliance requirements. The County will retain an arbitrage rebate consultant to assist in calculating any earnings on bond proceeds in excess of the rate on its bonds, and to calculate whether arbitrage should be rebated to the Federal Government. The Public Finance Director and/or staff shall ensure the calculation and payment are made in a timely manner.

2. Investment of Bond Proceeds

Investment of bond proceeds shall be consistent with federal tax requirements and requirements contained in the governing bond documents. If applicable, all future permitted investments shall be reviewed by the County's Treasurer to ensure compliance with the Orange County Treasurer Investment Policy Statement.



2019 Debt Management Policy

3. Continuing Disclosure

The County is committed to primary and secondary market disclosure practice. To remain in compliance with Security and Exchange Commission Rule 15C2-12, required information shall be submitted as stated in each bond financings' continuing disclosure certificate.

The County shall maintain a log or file evidencing that all continuing disclosure filings have been made promptly. Continuing disclosure procedures are maintained in Public Finance and will be updated as needed.

4. Disclosure on County's Website

All disclosure reports, County credit ratings and the debt program are posted on the County's website. The website shall be updated as needed.

5. Compliance with Other Bond Covenants

The County is responsible for verifying compliance with all covenants and agreements of each bond issuance on an ongoing basis. This typically includes ensuring:

- Annual appropriations to meet debt service payments
- Taxes/fees are levied and collected where applicable
- Timely transfer of debt service/rental payments to the trustee or paying agent
- Compliance with insurance requirements
- Compliance with rate covenants where applicable
- Recordkeeping and continued public use of financed asset
- Compliance with tax covenants including the timely spend-down of project fund proceeds
- Compliance with all other bond covenants

Rating Agency Relations and Annual or Ongoing Surveillance

The County seeks to maintain the highest possible credit ratings that can be achieved for debt instruments without compromising the County's policy objectives. Ratings are a reflection of the general fiscal soundness of the County.



2019 Debt Management Policy

The Public Finance Director shall be responsible for maintaining the County's relationship with S & P Global Ratings, Fitch Ratings, Moody's Investors Service and any other rating agency, including communicating with credit analysts at each agency and providing any requested information as deemed appropriate.

The Public Finance Director shall report feedback from rating agencies to the Chief Financial Officer and BOS, when and if available, regarding the County's financial strengths and weaknesses and recommendations for addressing any weaknesses as they pertain to maintaining the County's existing credit ratings.

Prior to each proposed new debt issuance, the Public Finance Director shall determine the number of rating agencies to provide a credit rating based upon the recommendations of the finance team. Meetings and/or conference calls with agency analysts shall be conducted to provide a thorough update on the County's financial position, including the impacts of the proposed debt issuance.

Financing Professionals

Process and Selection of Professionals

Once a financing need is identified, Public Finance will work with the appropriate County departments to recommend a finance team, debt structure, and debt service term to the Public Financing Advisory Committee (PFAC) and the BOS for consideration.

PFAC is responsible for reviewing all proposed County financings and financing professionals recommended by Public Finance. PFAC will approve, modify or deny the proposed recommendation. The BOS will ratify or disapprove the selection made by PFAC. Further information on PFAC is included in the Third Amended and Restated County of Orange Board of Supervisors Policies and Procedures approved by the BOS on May 19, 2009 and posted on the County's website.

Selection and Compensation

The Public Finance Director shall be responsible for establishing a solicitation and selection process for securing professional services that are required to develop and implement a debt issuance.



2019 Debt Management Policy

The identification of municipal advisor, underwriter, bond counsel and disclosure counsel shall be done through a Request for Qualifications (RFQ) process to create a pool of professionals in each of the stated categories. For each new financing, a Request for Proposal (RFP) shall be completed for municipal advisor, underwriter, bond counsel and disclosure counsel, as appropriate. The RFQ and RFP shall be in accordance with the County Procurement rules. The selection of the professional from each category and financing shall be first approved by PFAC and then ratified by the BOS.

If a sole source selection of a financial professional or consultant is recommended, Public Finance will follow sole source selection procedures as outlined in the County's Contract Policy Manual.

Compensation for the financing professionals is typically paid from the bond proceeds cost of issuance account.

1. Municipal Advisor (previously known as Financial Advisor)

The primary responsibilities of the Municipal Advisor are to provide independent analysis of the proposed financing to the County. Their responsibilities also include but are not limited to, working with underwriters and other finance team members to formulate a general financing plan for the issuance of bonds, assisting in the financing schedule, transaction structuring, and pricing of bonds. The Municipal Advisor shall also provide pricing comparables and market conditions advice.

2. Bond Counsel

The County will retain external Bond Counsel for all debt issuance. Bond Counsel will prepare the necessary authorizing resolutions, ordinances, agreements, and other legal documents necessary to execute the financing.

3. Disclosure Counsel

The County will retain Disclosure Counsel for all public issuances that entail disclosure of County finances and financial status. Disclosure Counsel will advise on issuer disclosure obligation, federal securities laws and proper disclosure practices, and due diligence process.



2019 Debt Management Policy

The Public Finance Director may recommend separate firms in the capacity of Bond and Disclosure Counsel or a single firm to perform bond and disclosure counsel functions based on anticipated complexity of the financing.

4. Underwriter

An Underwriter is a firm that administers the public issuance and distribution of the bond issuance. Underwriter services may include assisting in securing credit and meetings with principal retail/institutional investors. When undertaking a negotiated sale, the County will select an Underwriter through the solicitation process described previously.

5. Other Service Providers

Other professionals may be selected, at the discretion of the Public Finance Director, on an as-needed basis. These include, but are not limited to, the services of trustee, credit rating agencies, escrow agents, bond insurance providers, credit and liquidity banks, verification agents, title insurance companies, and document printing services.

Conclusion

This Policy is intended to guide and regulate the County's issuance of debt. The County is aware, however, the financial environment and best practices may change. This policy will be reviewed annually during the Strategic Financial Plan process and any necessary updates will be presented to the BOS for consideration.



2019 Debt Management Policy

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The Debt Management Policy is intended to guide the County of Orange to:

- Maintain long-term financial stability by ensuring that its long-term financing commitments are affordable and do not create undue risk or burden
- Provide guiding principles for the use of debt as one source of financing to provide the proper funding for infrastructure needs identified in the Capital Improvements section of the Strategic Financial Plan and the annual budget
- Achieve and maintain high credit ratings
- Minimize debt service interest expense and issuance costs
- Provide accurate and timely financial disclosure and reporting
- Comply with applicable State and Federal laws and financing covenants

The Debt Management Policy is intended to improve the quality of decisions, provide guidance for the structure of debt issuance, and demonstrate a commitment to long-term financial planning. Adoption and adherence to a debt management policy is one factor by which rating agencies assess financial management practices. This policy governs all debt issued by the County of Orange (County), including bonds and other securities issued through any joint powers authority where the Board of Supervisors (BOS) acts as the legislative body.

The County is committed to fiscal responsibility and sustainability, as demonstrated by its Strategic Financial Plan, annual budget development and administration, maintenance of appropriate reserve levels, accurate and timely financial reporting, and management of debt and other long-term liabilities. As repeatedly stated in the Strategic Financial Plan, the County is dedicated to long-term strategic financial planning to ensure its ability to respond to economic fluctuations and unanticipated events in a manner that allows the County to maintain the quality and range of services provided to the community. This policy is intended to help ensure that, in managing its debt and other long-term liabilities, the County is able to meet these planning goals and objectives.



2019 Debt Management Policy

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The County will consider financing for the acquisition, substantial refurbishment, replacement or expansion of major physical assets that would be unreasonable to cash finance from current revenues. Debt financing may also be appropriate for certain other extraordinary expenditures and for managing cashflows over a period of time.

The primary purpose of County debt is to finance one of the following:

1. Acquisition of a capital asset with a useful life of five or more years
2. Construction or reconstruction of a facility or other public improvement
3. Refunding, refinancing, or restructuring debt and similar obligations, subject to refunding objectives and parameters
4. The costs associated with a debt-financed project, including project planning, design, engineering and other preconstruction efforts; project-associated furniture, fixtures and equipment; and the costs of the financing itself, including capitalized interest, a debt service reserve, underwriter's discount and other costs of issuance
5. Interim or cashflow financing to better match revenues and expenditures, such as tax and revenue anticipation notes, or to provide temporary financing pending a more permanent financing plan
6. Prepaying a portion of the annual pension contribution to Orange County Employees Retirement System (OCERS) to receive an early payment discount that exceeds the cost of the borrowing
7. Paying for an extraordinary expense such as financing a major judgment or loss exceeding insurance

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2019 Debt Management Policy

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Many different types of financing instruments are available to the County, the use of which will depend on the source of repayment and the use of proceeds. Some of these instruments are used to finance County projects, while others are used to provide tax-exempt financing to projects that are primarily for third parties where public benefit can be achieved while minimizing public risk. The following are the types of debt the County is most likely to issue.

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1. **General Obligation Bonds**

General Obligation (GO) Bonds need approval of 2/3 of those voting in an election as required by California State Constitution Article 16. GO bonds are secured by the levy of additional ad valorem property taxes to pay debt service. Uses of bond proceeds are limited to the acquisition and improvement of real property and costs of issuance.

2. **Lease Revenue Bonds or Certificates of Participation**

Lease Revenue Bonds (LRBs) and lease-backed Certificates of Participation (COPs) are debt obligations serviced by a lease payment from the County's general fund. California courts have determined that such long-term contracts do not require voter-approval under California law (and therefore, are not "indebtedness" under the State Constitutional Debt Limit) as long as the lease meets certain conditions. These financings are typically secured by a lease-back agreement between the County and another public entity (e.g., South Orange County Public Financing Authority).

To qualify as a valid lease, payments are due only to the extent that the County has use and occupancy of the leased property. The judicial decisions that define a valid lease financing effectively require that the fair rental of the leased property be equal to or greater than the lease payment that secures debt service. The governmental lessee is obligated to appropriate in the Annual Budget the rental



2019 Debt Management Policy

payments that are due and payable during each fiscal, and to secure insurance to ensure that the property stays available for use.

Because it is paid from the General Fund and does not require voter approval, lease financing is the most common form of financing used by counties. Therefore, establishing thresholds for the appropriate levels for this form of "debt" is one of the critical goals of a debt policy. There are few external guidelines for the right amount of lease debt. Agencies that set limits on "affordability" have established limits from 4% to 10% of General Fund expenditures or revenues (referred to as "lease burden").

Rather than establish a specific limit on lease-backed debt, the County has a limit on long term General Fund debt obligations. Annual principal and interest payments on long term General Fund debt obligations will not exceed 4% of general fund revenue. The appropriate level of General Fund appropriation debt should also be considered in the development of the County's Annual Strategic Financial Plan and Annual Budget process.

Revenue and other Special Fund Obligations

Debt secured by the County's enterprise funds and certain other special funds can also be issued without voter approval. These obligations are payable solely from the dedicated revenues, and do not have recourse to ad valorem taxes or general fund revenues of the County.

- **Revenue Bonds and Certificates of Participation**

Revenue Bonds are obligations payable from revenue generated by an enterprise fund. These obligations can be in the form of revenue bonds issued under an indenture, or Certificates of Participation secured by an installment sale agreement. Two County enterprise funds that have supported revenue debt in the past are John Wayne Airport and Orange County Waste and Recycling.

In accordance with the agreed upon bond covenants, the revenues generated by these enterprise funds must be sufficient so that net revenues, after the payment of operating expenses, are greater than debt service so as to maintain required coverage levels. The revenue bond issuer covenants to revise the rates, fees and charges of the enterprise to maintain the required net revenue coverages.



2019 Debt Management Policy

In determining whether to issue revenue bonds, the County should consider similar principles that it would for the incurrence of other governmental debt: the extent it is more appropriate to spend the cost of capital improvements over time, without unduly increasing the capital costs, rather than pay for them out of current revenues. Other factors include the County's ability to maintain the rate covenants that will be required by the bond market.

Interim Financing

The County may consider the use of various debt instruments to better match short-term revenues and expenditures.

1. Tax and Revenue Anticipation Notes

Tax and Revenue Anticipation Notes (TRANs) are short-term notes payable out of current year revenues, proceeds of which allow a municipality to cover the periods of cash shortfall resulting from a mismatch between timing of revenues and timing of expenditures.

The County may issue TRANs if necessary to meet General Fund cashflow needs in the upcoming fiscal year, which consist primarily of salaries and benefits, in anticipation of the receipt of property taxes and other revenues later in the fiscal year. The cashflow needs are determined by projections prepared by Auditor-Controller and CEO that require an estimate of a cashflow deficit during the fiscal year. The County's municipal advisor is required to review and concur with the County's cashflow projections if a TRANs is to be considered. As property tax payments and other revenues are received, they are used in part to repay the TRANs.

2. Prepayment of Annual Employer Pension Contribution

The County may receive notification from OCERS that the Board of Retirement approved a discount in the amount due if paid early. Typically, the payment must be received by mid-January to fund the next fiscal year's annual employer contribution to OCERS, a period of no longer than eighteen months. The County prepares an analysis, to determine the budget savings achieved from the OCERS discount, to evaluate whether to recommend financing the prepayment. While these borrowings are essentially a cashflow financing such as TRANs, they are



2019 Debt Management Policy

structured as a short-term pension obligation bond to allow the obligation to extend beyond the fiscal year in which it is issued.

3. Teeter Financing

Under the alternative method of allocating taxes commonly referred to as the "Teeter Plan," a county can advance property taxes to its taxing jurisdictions whether or not they are received, in exchange for retaining the penalties and interest received from late payments. These advances can be financed with funds of the County or by an external borrowing. For a number of years, the County has issued commercial paper to finance these advances (Teeter Program). Commercial paper (CP) is an obligation maturing in less than 270 days that is secured by a letter of credit. Maturing CP is typically refinanced with a subsequent CP issue until a permanent financing source is in place or the debt can otherwise be retired. Since 2013, the Teeter Program has been financed by a revolving line of credit from a commercial bank.

4. Interfund Borrowing

In lieu of issuing bonds or otherwise borrowing from third-parties, there will be situations where the most appropriate means is to temporarily transfer money from a County fund. Annually, in the final budget adoption, the BOS authorizes those funds which can provide temporary transfers. The BOS establishes the appropriate term and interest rate of each Interfund loan by resolution. The interest rate will be the amount that would have been earned by the lending fund from the County's investment pool.

Conduit Financings

Conduit financings are sponsored by the County to allow third-parties to access tax-exempt interest rates. These financings are not secured by regular County revenues.

1. Community Facilities and Assessment Districts

Community Facilities Districts (CFD) and 1913/1915 Act Assessment Districts (AD) are typically developer initiated, whereby the developer seeks a public financing mechanism to fund public infrastructure. Special taxes or assessments may be levied upon properties within a district to pay for facilities. The conditions for the



2019 Debt Management Policy

County's approval of these financings are contained in a separate set of policies. Further information on formation of CFDs and ADs is available in the Orange County Public Finance Program Policy Statement and Application Information Package as amended September 12, 2000 and as amended May 18, 2004. This policy is posted on the County's website.

2. Multi-Family Housing Revenue Bonds

Multi-Family Housing Revenue Bonds are issued to finance construction or rehabilitation of multi-family housing projects providing tax exempt financings for developers willing to set aside a portion of the units in the project as affordable housing. The County, as well as State agencies and joint powers authorities, may sponsor this type of conduit financing for those activities that have a general public purpose.

3. Public-Private Partnership (P3)

A P3 is a partnership between a public sector entity and a private sector entity to develop, design, construct, and finance a public facility. It can involve alternate approaches to both project procurement and its financing. In some cases, the private entity is a not-for-profit entity, with the financing structured to allow for the issuance of tax-exempt bonds to provide the lowest cost funding.

While the financing costs of a P3 can at times be higher than a direct County borrowing, there can still be offsetting benefits to a P3, such as transferring design and construction risks. The County shall perform an analysis to determine the benefits of this type of project procurement and alternate financing versus the County issuing the debt directly.

Tax Increment Financing

Tax increment financing is a tool that allows municipalities to promote economic development by earmarking tax revenues from increases in assessed value within a designated tax increment financing district. Redevelopment Agencies, a frequently used tool of the past, were dissolved by the California legislature as of February 12, 2012.



2019 Debt Management Policy

1. Enhanced Infrastructure Financing District

On September 24, 2014, the governor approved Senate Bill 628, which authorized the formation of an Enhanced Infrastructure Financing District (EIFD). An EIFD is a limited tax increment financing district created after the dissolution of redevelopment agencies in 2012.

An EIFD would allow two or more governmental entities to agree to secure a portion of property tax revenue for the construction of infrastructure and other capital needs. A key difference between EIFDs and former redevelopment agencies is, that the tax increment given to the new district excludes all property taxes associated with school districts.

No new taxes are created by establishing an EIFD. The County's participation in any such district is voluntary and would require Board approval. The conditions for the County's participation in an EIFD are contained in a separate EIFD participation policy.

Debt Structure

The following are some general principles that will govern the structuring of County debt issues from time to time.

1. Term of Debt

In general, debt will be structured to distribute the payments for the asset over its useful life so that benefits closely match costs for current and future residents. Notwithstanding this policy goal, the early payment of principal (referred to as the "rapidity of debt repayment") is considered a credit strength by the rating agencies, as it creates future debt capacity. The County will consider such accelerated retirement when there is the capacity to accommodate such payments. Debt should not exceed the useful life of the improvement that it finances.

2. Debt Service Structure

To the extent practical, bonds will be amortized on a level repayment schedule. Alternate schedules can be considered when appropriate. For example, escalating debt service may be considered if it better matches forecasted available revenues;



2019 Debt Management Policy

any such escalation of debt service should be modest, to provide a margin of safety if revenue growth should underperform expectations. Deferral of the amortization of principal can be considered in order to wrap outstanding debt and create total level debt service. Extreme deferral of debt service (such as with capital appreciation bonds, which defer both interest and principal) should be avoided.

3. Optional Prepayment

Long-term debt will, in most cases, contain an optional call provision to allow for the refunding of debt at lower interest rates in the future. A ten-year call option is most common for tax-exempt bonds. In considering the terms of the call, the County will evaluate any additional interest cost demanded by investors with the potential future benefits of the option.

4. Capitalized Interest

Use of capitalized interest (where interest in the early years is funded through the sale of additional bonds) should be minimized where possible. Interest may be capitalized for the construction period of a revenue producing project so that debt service expense does not begin until the project is expected to be operational and generating revenue. State law requires that interest be capitalized when a lease financing is secured by the project being constructed with the proceeds, so that no payment is due until the County has use and occupancy. When possible, the County will secure its lease financing with existing County facilities to avoid issuing additional bonds for capitalized interest; this structure is referred to as an "asset transfer."

5. Debt Service Reserve Fund

Debt service reserve funds are held by and are available to the bond trustee to make principal and interest payments to bondholders in the event that pledged revenues are insufficient to do so.

The maximum size of the reserve fund for a tax-exempt bond issue is governed by tax law, which permits the lesser of: 1) 10% of par; 2) 125% of average annual debt service; or 3) 100% of maximum annual debt service. The County may issue bonds with a debt service reserve fund that is sized at a lower level or without a



2019 Debt Management Policy

reserve fund if economically advantageous and recommended by the finance team.

The reserve fund requirement may also be satisfied by a surety policy, a form of insurance provided by a bond insurer to satisfy a reserve fund requirement for a bond issuance. Under this arrangement, instead of depositing cash in a reserve fund, the issuer buys a surety policy by paying a one-time premium equal to a percentage of the face value of the policy. The County may use a surety policy instead of a debt service reserve when an analysis indicates that net cost to the County will be lower, taking into account the potential cost of replacing the surety at the time of any future refunding.

6. Credit Enhancement

Credit enhancement may be used to improve a credit rating on a County debt issuance. The most common form of credit enhancement is bond insurance, which will be considered when the cost of insurance is offset, on a present value basis, to the savings in debt service through the first optional call date of the bonds. Because of the County's high bond ratings, bond insurance will not be cost effective for most of the County's debt in the current market. The benefit of a credit enhancement will be evaluated for each bond issuance.

7. Variable Rate Debt

To maintain a predictable debt service burden, the County will give preference to debt that carries a fixed interest rate. An alternative to the use of fixed rate debt is variable rate debt. It may be appropriate to issue long-term variable rate debt to diversify the County's debt portfolio, reduce interest costs, provide interim funding for capital projects or improve the match of the County's assets (such as cash in the Treasury invested in shorter-term securities) to debt liabilities.

8. Use of Derivatives

The County will not use interest rate swaps in connection with variable rate debt to create synthetic fixed-rate debt.



2019 Debt Management Policy

Method of Sale

Debt issues can be sold through a public offering through either a competitive sale or a negotiated sale. In a competitive sale, bid parameters are established in the notice of sale or notice inviting bids. Bids are received from various underwriters at a given time, and the bonds awarded to the bid producing the lowest true interest cost (the interest rate that discounts debt service to the net amount of proceeds received after accounting for underwriter's discount). In a negotiated sale, the County selects the underwriter in advance through a request for proposal process, and the interest rate is set based on the orders received from investors during the pricing period. While there are advantages to both methods of sale, most municipal bonds are currently sold on a negotiated basis, which has been the County's primary practice.

On occasion, the County may choose to privately place a financing with a bank, rather than borrowing through a public offering sold to multiple investors. Such financings can be more cost effective for smaller transactions, or for financings such as commercial paper that would otherwise require an alternative bank facility such as a letter of credit.

The Public Finance Director will recommend the appropriate method of sale based on the specific offering and market conditions, seeking advice from the County's municipal advisor.

Refunding of Indebtedness

Most municipal bonds can be pre-paid prior to their maturity by the exercise of an optional call. As a result, sometimes bond issues can be refunded for savings. The following are the two types of refundings.

- **Current Refunding** - The refunding bonds are issued less than 90 days before the date upon which the refunded bonds will be redeemed.
- **Advance Refunding** - The refunding bonds are issued more than 90 days prior to the date upon which the refunded bonds will be redeemed, and the refunding bond proceeds placed in an escrow that is sufficient to pay interest and principal until the call date. Municipal bonds may only be advanced refunded once over the life of a bond issuance. The Tax cuts and Jobs Act, enacted December 22, 2017 essentially eliminated advanced refunding for municipal bonds issued after 2017 by making interest on advanced refunding bonds taxable. Interest on current refunding bonds remains tax-exempt eligible.



2019 Debt Management Policy

The County will regularly review its outstanding debt portfolio to identify opportunities to achieve net economic benefits from refunding its bonds. Recognizing that the County's ability to refund its debt is limited (i.e., federal tax law constraints on advance refundings and the market practice of making most fixed-rate bond issues non-callable for their first ten years), the County will seek to deploy its refunding options prudently. At a minimum, the County will seek to achieve net present value ("NPV") savings equal to at least three percent (3%) of the par amount of the bonds that are refunded. For advance refundings, the threshold goal will be five percent (5%) NPV savings. A second limiting factor on advance refundings will be that negative arbitrage (the amount of additional funds that need to be deposited into an escrow to make up for interest earnings being less than the interest on the defeased bonds) will be no greater than half the amount of the NPV savings. The present value savings will be net of all costs of the refinancing, and will consider the difference in interest earnings of the debt service reserve funds of the refunded and refunding bonds.

These savings requirements may be waived by the BOS upon a finding that a refunding producing lower savings is in the County's best financial interest; for example, by restructuring debt service or eliminating burdensome covenants.

Debt Management Practices

The Public Finance Director shall be responsible for ensuring the County's debt is administered in accordance with the terms of the governing bond documents, federal and state law and regulations, and the best industry practices.

1. Arbitrage

Arbitrage is the profit made by issuing bonds bearing interest at tax-exempt rates, and investing the proceeds at materially higher taxable yields. The Internal Revenue Code limits the opportunity for borrowers to retain such investment profits; in most cases, the borrower must calculate such profits and rebate them to Internal Revenue Service every five years.

Public Finance shall maintain a system of recordkeeping to meet the arbitrage compliance requirements. The County will retain an arbitrage rebate consultant to assist in calculating any earnings on bond proceeds in excess of the rate on its bonds, and to calculate whether arbitrage should be rebated to the Federal Government. The Public Finance Director and/or staff shall ensure the calculation and payment are made in a timely manner.



2019 Debt Management Policy

2. Administration of Bond Proceeds

Bond proceeds are administered in the CEO/Public Finance division to provide segregation of duties between the County administrative function responsible for disbursing bond proceeds and the County department or entity expensing the proceeds. Bond documents contained in the official bond transcripts govern the use of bond proceeds, as well as debt service payment terms and other legal covenants, and are maintained and accessible in the CEO/Public Finance division.

Public Finance Accounting, an Auditor-Controller department satellite unit located within the CEO/Public Finance division, is responsible to ensure bond proceed receipts are recorded in the County's accounting records, and confirm accounts established at the trustee and deposit of bond proceeds reconcile with controlling bond documents. Public Finance Accounting monitors accounts at the trustee, records expenditure activity, and reconciles trustee statements to County accounting records monthly.

Drawdown and use of bond proceeds are initiated by the project manager representing the County department or entity expensing the proceeds for eligible purposes. The requisition or drawdown request will contain invoices and other back-up documentation to validate the eligible expenses. Each requisition or drawdown request is reviewed by Public Finance Accounting staff and management and a Public Finance program analyst before final approval and authority to disburse from the Public Finance Director, and then forwarded to the trustee.

3. Investment of Bond Proceeds

Investment of bond proceeds shall be consistent with federal tax requirements and requirements contained in the governing bond documents. If applicable, all future permitted investments shall be reviewed by the County's Treasurer to ensure compliance with the Orange County Treasurer Investment Policy Statement.

4. Continuing Disclosure

The County is committed to primary and secondary market disclosure practice. To remain in compliance with Security and Exchange Commission Rule 15C2-12, required information shall be submitted as stated in each bond financings' continuing disclosure certificate.



2019 Debt Management Policy

The County shall maintain a log or file evidencing that all continuing disclosure filings have been made promptly. Continuing disclosure procedures are maintained in Public Finance and will be updated as needed.

5. Disclosure on County's Website

All disclosure reports, County credit ratings and the debt program are posted on the County's website. The website shall be updated as needed.

6. Compliance with Other Bond Covenants

The County is responsible for verifying compliance with all covenants and agreements of each bond issuance on an ongoing basis. This typically includes ensuring:

- Annual appropriations to meet debt service payments
- Taxes/fees are levied and collected where applicable
- Timely transfer of debt service/rental payments to the trustee or paying agent
- Compliance with insurance requirements
- Compliance with rate covenants where applicable
- Recordkeeping and continued public use of financed asset
- Compliance with tax covenants including the timely spend-down of project fund proceeds
- Compliance with all other bond covenants

Rating Agency Relations and Annual or Ongoing Surveillance

The County seeks to maintain the highest possible credit ratings that can be achieved for debt instruments without compromising the County's policy objectives. Ratings are a reflection of the general fiscal soundness of the County.

The Public Finance Director shall be responsible for maintaining the County's relationship with S & P Global Ratings, Fitch Ratings, Moody's Investors Service and any other rating agency, including communicating with credit analysts at each agency and providing any requested information as deemed appropriate.

The Public Finance Director shall report feedback from rating agencies to the Chief Financial Officer and BOS, when and if available, regarding the County's financial



2019 Debt Management Policy

strengths and weaknesses and recommendations for addressing any weaknesses as they pertain to maintaining the County's existing credit ratings.

Prior to each proposed new debt issuance, the Public Finance Director shall determine the number of rating agencies to provide a credit rating based upon the recommendations of the finance team. Meetings and/or conference calls with agency analysts shall be conducted to provide a thorough update on the County's financial position, including the impacts of the proposed debt issuance.

Financing Professionals

Process and Selection of Professionals

Once a financing need is identified, Public Finance will work with the appropriate County departments to recommend a finance team, debt structure, and debt service term to the Public Financing Advisory Committee (PFAC) and the BOS for consideration.

PFAC is responsible for reviewing all proposed County financings and financing professionals recommended by Public Finance. PFAC will approve, modify, or deny the proposed recommendation. The BOS will ratify or disapprove the selection made by PFAC. Further information on PFAC is included in the Third Amended and Restated County of Orange Board of Supervisors Policies and Procedures approved by the BOS on May 19, 2009 and posted on the County's website.

The Board of Supervisors shall be responsible for the selection of Financing Professionals engaged to assist in a public financing. Financial Professionals shall include Municipal Advisor(s), Underwriters, Bond Counsel, Disclosure Counsel, and any other paid professional utilized in connection with a proposed financing. The procurement of financial professionals shall be conducted according to procedures delineated in the County's Contract Policy Manual.

Selection and Compensation

The Public Finance Director shall be responsible for establishing a solicitation and selection process for securing professional services that are required to develop and implement a debt issuance.

The identification of municipal advisor, underwriter, bond counsel and disclosure counsel shall be done through a Request for Qualifications (RFQ) process to create a pool of professionals in each of the stated categories. For each new financing, a Request for Proposal (RFP) shall be completed for municipal advisor, underwriter, bond counsel and



2019 Debt Management Policy

disclosure counsel, as appropriate. The RFQ and RFP shall be in accordance with the County Procurement rules. The selection of the professional from each category and financing shall be first approved by PFAC and then ratified by the BOS.

If a sole source selection of a financial professional or consultant is recommended, Public Finance will follow sole source selection procedures as outlined in the County's Contract Policy Manual.

Compensation for the financing professionals is typically paid from the bond proceeds cost of issuance account.

1. Municipal Advisor (previously known as Financial Advisor)

The primary responsibilities of the Municipal Advisor are to provide independent analysis of the proposed financing to the County. Their responsibilities also include but are not limited to, working with underwriters and other finance team members to formulate a general financing plan for the issuance of bonds, assisting in the financing schedule, transaction structuring, and pricing of bonds. The Municipal Advisor shall also provide pricing comparables and market conditions advice.

2. Bond Counsel

The County will retain external Bond Counsel for all debt issuance. Bond Counsel will prepare the necessary authorizing resolutions, ordinances, agreements, and other legal documents necessary to execute the financing.

3. Disclosure Counsel

The County will retain Disclosure Counsel for all public issuances that entail disclosure of County finances and financial status. Disclosure Counsel will advise on issuer disclosure obligation, federal securities laws and proper disclosure practices, and due diligence process.

The Public Finance Director may recommend separate firms in the capacity of Bond and Disclosure Counsel or a single firm to perform bond and disclosure counsel functions based on anticipated complexity of the financing.



2019 Debt Management Policy

4. Underwriter

An Underwriter is a firm that administers the public issuance and distribution of the bond issuance. Underwriter services may include assisting in securing credit and meetings with principal retail/institutional investors. When undertaking a negotiated sale, the County will select an Underwriter through the solicitation process described previously.

5. Other Service Providers

Other professionals may be selected, at the discretion of the Public Finance Director, on an as-needed basis. These include, but are not limited to, the services of trustee, credit rating agencies, escrow agents, bond insurance providers, credit and liquidity banks, verification agents, title insurance companies, and document printing services.

Conclusion

This Policy is intended to guide and regulate the County's issuance of debt. The County is aware, however, the financial environment and best practices may change. This policy will be reviewed annually during the Strategic Financial Plan process and any necessary updates will be presented to the BOS for consideration.



EIFD Participation Policy

Enhanced Infrastructure Financing District (EIFD) Participation Policy

Introduction

On September 24, 2014, the governor approved Senate Bill 628, which authorized the formation of an Enhanced Infrastructure Financing District (EIFD). An EIFD is a limited tax increment financing district created after the dissolution of redevelopment agencies in 2012.

An EIFD would allow two or more governmental entities to agree to secure a portion of property tax revenue for the construction of infrastructure and other capital needs. A key difference between EIFDs and former redevelopment agencies is, that the tax increment given to the new district excludes all property taxes associated with school districts.

No new taxes are created by establishing an EIFD. The County's participation in any such district is voluntary and would require Board approval.

Purpose

Tax Increment financing is a tool that allows municipalities to promote economic development by earmarking tax revenues from increases in assessed value within a designated tax increment financing district.

This policy establishes criteria and procedures for the County's participation in an EIFD that includes:

1. Fiscal analysis demonstrating a positive net impact to the County
2. Analysis that evaluates whether the County's participation is a necessary precondition for infrastructure projects to be undertaken.
3. A requirement that a city's contribution of property tax in the project must be equal to or greater than the County's contribution.
4. The County may not contribute 100% of its share of property tax increment.
5. The County's contribution must be capped and have an end date identified.

Each requirement is intended to provide protection to the County in the event an EIFD does not meet its original property tax projections.



EIFD Participation Policy

Minimum Requirements

1. The city's contribution of property tax must be equal to or greater than that contributed by the County General Fund and/or special districts.
2. The County must not be required to contribute 100% of its share of property tax increment.
3. The fiscal analysis conducted must demonstrate a positive net impact to the County General Fund as a result of the tax revenue generated from the project area.
4. In addition to supporting economic development, the proposed EIFD project must align with established Board priorities in one of the following areas: a) affordable housing, b) homeless prevention, c) workforce development/job creation.
5. The EIFD proposal must be consistent with Division 2 of Title 5 of the California Government Code (Section 53398.5 – 53398.58), which authorizes the formation of EIFDs.

Fiscal Analysis

Each EIFD proposal shall be subject to fiscal analysis that will determine the expected financial impact to the County General Fund and any special districts that may contribute a portion of their property tax increment share. Where appropriate, the County may require reimbursement from the proposing entity for the cost of conducting analysis.

The fiscal analysis will review the following:

1. Anticipated growth in assessed value, absent any new development.
2. Expected new development: retail square footage, business park square footage, office space, apartment units, condominium units, housing units, hotel units, parking spaces.
3. Tax Increment generated as a result of each new development opportunity associated with EIFD.
4. Tax increment contributions from each participating agency.
5. Property tax revenue resulting to each taxing entity based on new development and growth in assessed value.
6. Sales and transient occupancy tax revenue resulting to the County and city.

The resulting fiscal analysis must demonstrate a positive net impact to the County General Fund based on anticipated tax revenue. The analysis will include a comparison



EIFD Participation Policy

of the increased amount of property tax and sales taxes to the County generated by the project with the amount of property taxes contributed to the EIFD.

Proposal Standards

1. The EIFD must demonstrate regional and community significance that may include affordable housing, job creation, blight removal, or improvements to regional transportation.
2. Project feasibility analysis must include a review that evaluates whether the County's property tax increment is a necessary pre-condition for the infrastructure and development project being considered.
3. Cost estimates for all infrastructure to be funded by the EIFD must be provided. A cap on County contributions and an end date of County contributions will be established related to the list of infrastructure projects to be completed. Additionally, a plan for funding the anticipated operations and maintenance costs for the proposed infrastructure must be given.
4. A plan to fund the administrative costs of the EIFD in the start-up and early years of the project will be included.
5. A schedule of bond issuance, estimated bond proceeds, estimated interest rate and interest cost must be provided in relation to any potential debt to be secured by EIFD tax increment.
6. Review and evaluate Infrastructure Financing Proposal.

Board of Supervisors Approval

This policy assumes the County is an EIFD participant, contributing property tax increment over a fixed period of time. As an EIFD participant, the Board will adopt a Resolution and approve a Participation Agreement.

If the County were to form an EIFD, there are additional district formation and public hearing requirements detailed in Division 2 of Title 5 of the California Government Code (Section 53398.5 – 53398.58). This policy would be submitted to the Board at that time for consideration to include the required additional processes.



EIFD Participation Policy

Conclusion

This Policy is intended to provide criteria and procedures for the County's participation in an EIFD. This policy will be reviewed annually for any changes to laws or best financial practices, and any necessary updates will be presented to the Board for consideration.

Senate Bill No. 628

CHAPTER 785

An act to add Chapter 2.99 (commencing with Section 53398.50) to Part 1 of Division 2 of Title 5 of the Government Code, relating to local government.

[Approved by Governor September 29, 2014. Filed with
Secretary of State September 29, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 628, Beall. Enhanced infrastructure financing districts.

Existing law authorizes a legislative body of a city, defined to mean a city or a city and county, to establish an infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, to finance specified public facilities upon approval by $\frac{2}{3}$ of the voters. Existing law authorizes an infrastructure financing district to fund infrastructure projects through tax increment financing, pursuant to the infrastructure financing plan and the agreement of affected taxing entities, as defined. Existing law requires an infrastructure financing plan to include the date on which an infrastructure financing district will cease to exist, that may not be more than 30 years from the date on which the ordinance forming the district is adopted.

This bill would additionally authorize the legislative body of a city or a county, defined to include a city and county, to establish an enhanced infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, upon approval by 55% of the voters; to finance public capital facilities or other specified projects of communitywide significance, including, but not limited to, brownfield restoration and other environmental mitigation; the development of projects on a former military base; the repayment of the transfer of funds to a military base reuse authority; the acquisition, construction, or rehabilitation of housing for persons of low and moderate income for rent or purchase; the acquisition, construction, or repair of industrial structures for private use; transit priority projects; and projects to implement a sustainable communities strategy. The bill would also authorize an enhanced infrastructure financing district to utilize any powers under the Polanco Redevelopment Act.

This bill would require the legislative body to establish a public financing authority, defined as the governing board of the enhanced infrastructure financing authority, comprised of members of the legislative body of the participating entities and of the public, prior to the adoption of a resolution to form an enhanced infrastructure district and infrastructure financing plan. This bill would require proceedings for the establishment of a district to be instituted by the adoption of a resolution of intention that, among other

things, states the boundaries of the district, the type of public facilities and development proposed to be financed or assisted by the district, and the need for the district and the goals the district proposes to achieve.

If the resolution is adopted by the legislative body after a public hearing, the bill would prohibit the public financing authority from implementing the infrastructure financing plan until specified events occur. This bill would authorize the public financing authority to initiate proceedings to issue bonds, and would require the proposal to issue bonds to be submitted to qualified electors of the proposed district, as specified. By requiring electors to make specified declarations on ballots under penalty of perjury, this bill would expand circumstances under which a person may be convicted of a crime and thereby, would impose a state-mandated local program.

This bill would authorize an enhanced infrastructure financing district to fund infrastructure projects through tax increment financing, pursuant to the infrastructure financing plan and the agreement of affected taxing entities, as defined. This bill would authorize the creation of an infrastructure financing district for up to 45 years from the date on which the issuance of bonds is approved, as specified. This bill would require an infrastructure financing district to contract for the performance of an independent financial and performance audit every 2 years, as specified. This bill would authorize a city, county, or special district that contains territory within the boundaries of an infrastructure financing district, upon approval of its governing body, to loan moneys to the infrastructure financing district to fund the activities described in the infrastructure financing plan, as specified.

This bill would authorize an enhanced infrastructure financing district to finance a project or portion of a project that is located in, or overlaps with, a redevelopment project area or former redevelopment project area, as specified. This bill would prohibit a city or county that created a redevelopment agency from creating a district until specified conditions related to the wind down of the former redevelopment agency have been satisfied. This bill would provide that any debt or obligation of an enhanced infrastructure financing district is subordinate to an enforceable obligation of a former redevelopment agency. This bill would additionally authorize the legislative body of the city forming an enhanced infrastructure financing district to choose to dedicate any portion of its net available revenue, as defined, to the enhanced infrastructure financing district through the infrastructure financing plan, as specified.

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.

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

SECTION 1. Chapter 2.99 (commencing with Section 53398.50) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 2.99. ENHANCED INFRASTRUCTURE FINANCING DISTRICT

Article 1. General Provisions

53398.50. The Legislature finds and declares that with the dissolution of redevelopment agencies, public benefits will accrue if local agencies, excluding schools, are provided a means to finance the reuse and revitalization of former military bases, fund the creation of transit priority projects and the implementation of sustainable communities plans, construct and rehabilitate affordable housing units, and construct facilities to house providers of consumer goods and services in the communities served by these efforts.

53398.51. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) "Affected taxing entity" means any governmental taxing agency which levied or had levied on its behalf a property tax on all or a portion of the property located in the proposed district in the fiscal year prior to the designation of the district, but not including any county office of education, school district, or community college district.

(b) "County" means a county or a city and county.

(c) "Debt" means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(d) "Designated official" means the city or county engineer or other appropriate official designated pursuant to Section 53398.62.

(e) (1) "District" means an enhanced infrastructure financing district.

(2) An enhanced infrastructure financing district is a district within the meaning of Section 1 of Article XIII A of the California Constitution.

(f) "Enhanced infrastructure financing district" means a legally constituted governmental entity separate and distinct from the city or county that established it pursuant to this chapter for the sole purpose of financing public facilities or other projects as authorized by this chapter. An enhanced infrastructure financing district shall be a local agency for purposes of Chapter 9 (commencing with Section 54950).

(g) "Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for

purposes of this chapter, unless the public agency owns all of the land to be included within the proposed district.

(h) "Legislative body" means the city council or board of supervisors.

(i) "Public financing authority" means the governing board of the district established pursuant to this chapter.

53398.51.1. (a) The public financing authority shall have a membership consisting of one of the following, as appropriate:

(1) If a district has only one participating affected taxing entity, the public financing authority's membership shall consist of three members of the legislative body of the participating entity, and two members of the public chosen by the legislative body. The appointment of the public members shall be subject to the provisions of Section 54974.

(2) If a district has two or more participating affected taxing entities, the public financing authority's membership shall consist of a majority of members from the legislative bodies of the participating entities, and a minimum of two members of the public chosen by the legislative bodies of the participating entities. The appointment of the public members shall be subject to the provisions of Section 54974.

(b) The legislative body shall ensure the public financing authority is established prior to adopting a resolution pursuant to Section 53398.69 to adopt an infrastructure financing plan and to form a district.

(c) Members of the public financing authority established pursuant to this chapter shall not receive compensation but may receive reimbursement for actual and necessary expenses incurred in the performance of official duties pursuant to Article 2.3 (commencing with Section 53232) of Chapter 2.

(d) Members of the public financing authority are subject to Article 2.4 (commencing with Section 53234) of Chapter 2.

(e) The public financing authority created pursuant to this chapter shall be a local public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950)), the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(2) The facilities need not be physically located within the boundaries of the district. However, any facilities financed outside of a district must have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district may not finance routine maintenance, repair work, or the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of low and moderate income, as defined in Section 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 2 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of low- or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of low or moderate incomes as defined in Section

50093 of the Health and Safety Code, and those onsite facilities for child care, after-school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code), and finance any action necessary to implement that act.

53398.53. Notwithstanding subdivision (b) of Section 53398.52, a district may reimburse a developer of a project that is located entirely within the boundaries of that district for any permit expenses incurred and to offset additional expenses incurred by the developer in constructing affordable housing units pursuant to the Transit Priority Project Program established in Section 65470.

53398.54. A city or county that created a redevelopment agency, as defined in Section 33003 of the Health and Safety Code, shall neither initiate the creation of a district, nor participate in the governance or financing of a district, until each of the following has occurred:

(a) The successor agency for the former redevelopment agency created by the city or county has received a finding of completion, as specified in Section 34179.7 of the Health and Safety Code.

(b) The city or county certifies to the Department of Finance and to the public financing authority that no former redevelopment agency assets that are the subject of litigation involving the state, where the city or county, the successor agency, or the designated local authority are a named plaintiff, have been or will be used to benefit any efforts of an enhanced infrastructure financing district formed under this chapter, unless the litigation and all possible appeals have been resolved in a court of law. The city or county shall provide this certification to the Department of Finance within 10 days of its legislative body's action to participate in an enhanced infrastructure financing district pursuant to Section 53398.68, or of its legislative body's action to form an enhanced infrastructure financing district pursuant to Section 53398.69.

(c) The office of the Controller has completed its review as specified in Section 34167.5 of the Health and Safety Code.

(d) The successor agency and the entity that created the former redevelopment agency have complied with all of the office of the Controller's findings and orders stemming from the reviews as specified in subdivision (c).

53398.55. (a) A district may include any portion of a former redevelopment project area that was previously created pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, provided that the city or county that created the former redevelopment agency has met the requirements of Section 53398.54.

(b) A district may finance only the facilities authorized in this chapter to the extent that the facilities are in addition to those provided in the territory of the district before the district was created. The additional facilities may not supplant facilities already available within that territory when the district

was created but may supplement, rehabilitate, upgrade, or make more sustainable those facilities.

(c) A district may include areas which are not contiguous.

53398.56. It is the intent of the Legislature that the creation of the districts should not ordinarily lead to the removal of existing dwelling units. If, however, any dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, the infrastructure financing plan adopted pursuant to Section 53398.69 shall contain provisions to do all of the following:

(a) Within two years of the removal or destruction, cause or require the construction or rehabilitation, for rent or sale to persons or families of low or moderate income, of an equal number of replacement dwelling units at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, within the territory of the district if the dwelling units removed were inhabited by persons or families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(b) Within two years of the removal or destruction, cause or require the construction or rehabilitation, for rent or sale to persons of low or moderate income, a number of dwelling units that is at least one unit but not less than 25 percent of the total dwelling units removed at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, within the territory of the district if the dwelling units removed or destroyed were not inhabited by persons of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

(c) Provide relocation assistance and make all the payments required by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1, to persons displaced by any public or private development occurring within the territory of the district. This displacement shall be deemed to be the result of public action.

(d) Ensure that removal or destruction of any dwelling units occupied by persons or families of low or moderate income not take place unless and until there are suitable housing units, at comparable cost to the units from which the persons or families were displaced, available and ready for occupancy by the residents of the units at the time of their displacement. The housing units shall be suitable to the needs of these displaced persons or families, and shall be decent, safe, sanitary, and otherwise standard dwellings.

(e) (1) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of low- or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(2) In lieu of a 45-year covenant or restriction, the district may subject owner-occupied units to an equity sharing agreement described in paragraph (2) of subdivision (c) of Section 65915.

53398.57. Any action or proceeding to attack, review, set aside, void, or annul the creation of a district, adoption of an infrastructure financing

plan, including a division of taxes thereunder, or an election pursuant to this chapter shall be commenced within 30 days after the enactment of the resolution creating the district pursuant to Section 53398.69. Consistent with the time limitations of this section, such an action or proceeding with respect to a division of taxes under this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, except that Section 869 of the Code of Civil Procedure shall not apply.

53398.58. An action to determine the validity of the issuance of bonds pursuant to this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. However, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, the action shall be commenced within 30 days after adoption of the resolution pursuant to Section 53398.81 providing for issuance of the bonds if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

Article 2. Preparation and Adoption of Infrastructure Financing Plan

53398.59. A legislative body of a city or county may designate one or more proposed enhanced infrastructure financing districts pursuant to this chapter. Proceedings for the establishment of a district shall be instituted by the adoption of a resolution of intention to establish the proposed district and shall do all of the following:

(a) State that an enhanced infrastructure financing district is proposed to be established under the terms of this chapter and describe the boundaries of the proposed district, which may be accomplished by reference to a map on file in the office of the clerk of the city or in the office of the recorder of the county, as applicable.

(b) State the type of public facilities and development proposed to be financed or assisted by the district in accordance with Section 53398.52.

(c) State the need for the district and the goals the district proposes to achieve.

(d) State that incremental property tax revenue from the city or county and some or all affected taxing entities within the district, if approved by resolution pursuant to Section 53398.68, may be used to finance these activities.

(e) Fix a time and place for a public hearing on the proposal.

53398.60. The legislative body shall direct the city clerk or county recorder, as applicable, to mail a copy of the resolution of intention to create the district to each owner of land within the district.

53398.61. The legislative body shall direct the city clerk or county recorder, as applicable, to mail a copy of the resolution to each affected taxing entity.

53398.62. After adopting the resolution pursuant to Section 53398.59, the legislative body shall designate and direct the city or county engineer or other appropriate official to prepare an infrastructure plan pursuant to Section 53398.63.

53398.63. After receipt of a copy of the resolution of intention to establish a district, the official designated pursuant to Section 53395.62 shall prepare a proposed infrastructure financing plan. The infrastructure financing plan shall be consistent with the general plan of the city or county within which the district is located and shall include all of the following:

(a) A map and legal description of the proposed district, which may include all or a portion of the district designated by the legislative body in its resolution of intention.

(b) A description of the public facilities and other forms of development or financial assistance that is proposed in the area of the district, including those to be provided by the private sector, those to be provided by governmental entities without assistance under this chapter, those public improvements and facilities to be financed with assistance from the proposed district, and those to be provided jointly. The description shall include the proposed location, timing, and costs of the development and financial assistance.

(c) If funding from affected taxing entities is incorporated into the financing plan, a finding that the development and financial assistance are of communitywide significance and provide significant benefits to an area larger than the area of the district.

(d) A financing section, which shall contain all of the following information:

(1) A specification of the maximum portion of the incremental tax revenue of the city or county and of each affected taxing entity proposed to be committed to the district for each year during which the district will receive incremental tax revenue. The portion need not be the same for all affected taxing entities. The portion may change over time.

(2) A projection of the amount of tax revenues expected to be received by the district in each year during which the district will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year.

(3) A plan for financing the public facilities to be assisted by the district, including a detailed description of any intention to incur debt.

(4) A limit on the total number of dollars of taxes that may be allocated to the district pursuant to the plan.

(5) A date on which the district will cease to exist, by which time all tax allocation to the district will end. The date shall not be more than 45 years from the date on which the issuance of bonds is approved pursuant to subdivision (a) of Section 53398.81, or the issuance of a loan is approved by the governing board of a local agency pursuant to Section 53398.87.

(6) An analysis of the costs to the city or county of providing facilities and services to the area of the district while the area is being developed and after the area is developed. The plan shall also include an analysis of the

tax, fee, charge, and other revenues expected to be received by the city or county as a result of expected development in the area of the district.

(7) An analysis of the projected fiscal impact of the district and the associated development upon each affected taxing entity.

(8) A plan for financing any potential costs that may be incurred by reimbursing a developer of a project that is both located entirely within the boundaries of that district and qualifies for the Transit Priority Project Program, pursuant to Section 65470, including any permit and affordable housing expenses related to the project.

(e) If any dwelling units occupied by persons or families are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, a plan providing for replacement of those units and relocation of those persons or families consistent with the requirements of Section 53398.56.

(f) The goals the district proposes to achieve for each project financed pursuant to Section 53398.52.

53398.64. The infrastructure financing plan shall be sent to each owner of land within the proposed district and to each affected taxing entity together with any report required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that pertains to the proposed public facilities or the proposed development project for which the public facilities are needed, and shall be made available for public inspection. The report shall also be sent to the planning commission and the legislative body.

53398.65. The designated official shall consult with each affected taxing entity, and, at the request of any affected taxing entity, shall meet with representatives of an affected taxing entity. Any affected taxing entity may suggest revisions to the plan.

53398.66. The legislative body shall conduct a public hearing prior to adopting the proposed infrastructure financing plan. The public hearing shall be called no sooner than 60 days after the plan has been sent to each affected taxing entity. In addition to the notice given to landowners and affected taxing entities pursuant to Sections 53398.60 and 53398.61, notice of the public hearing shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the city or county in which the proposed district is located. The notice shall state that the district will be used to finance public facilities or development, briefly describe the public facilities or development, briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the proposed district and state the day, hour, and place when and where any persons having any objections to the proposed infrastructure financing plan, or the regularity of any of the prior proceedings, may appear before the legislative body and object to the adoption of the proposed plan by the legislative body.

53398.67. At the hour set in the required notices, the legislative body shall proceed to hear and pass upon all written and oral objections. The

hearing may be continued from time to time. The legislative body shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the adoption of the plan. The legislative body may modify the plan by eliminating or reducing the size and cost of proposed facilities or development, by reducing the amount of proposed debt, or by reducing the portion, amount, or duration of incremental tax revenues to be committed to the district.

53398.68. (a) The legislative body shall not enact a resolution proposing formation of a district and providing for the division of taxes of any affected taxing entity pursuant to Article 3 (commencing with Section 53398.75) unless a resolution approving the plan has been adopted by the governing body of each affected taxing entity which is proposed to be subject to division of taxes pursuant to Article 3 (commencing with Section 53398.75) and has been filed with the legislative body at or prior to the time of the hearing.

(b) Nothing in this section shall be construed to prevent the legislative body from amending its infrastructure financing plan and adopting a resolution proposing formation of the enhanced infrastructure financing district without allocation of the tax revenues of any affected taxing entity that has not approved the infrastructure financing plan by resolution of the governing body of the affected taxing entity.

53398.69. (a) At the conclusion of the hearing, the legislative body may adopt a resolution proposing adoption of the infrastructure financing plan, as modified, and formation of the enhanced infrastructure financing district in a manner consistent with Section 53398.68, or it may abandon the proceedings.

(b) The infrastructure financing plan and the formation of the enhanced infrastructure financing district shall take effect upon the legislative body's adoption of the resolution. The infrastructure financing plan shall specify if the district shall be funded solely through the district's share of tax increment, governmental or private loans, grants, bonds, assessments, fees, or some combination thereof. However, the public financing authority may not issue bonds or levy assessments or fees that may be included in the infrastructure financing plan prior to one or more of the following:

(1) An affirmative vote, pursuant to subdivision (a) of Section 53398.81, to issue bonds to finance the infrastructure financing plan.

(2) Without compliance with the procedures required in subdivision (f) of Section 53398.75, to levy assessments or fees to finance the infrastructure financing plan.

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

53398.70. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall

govern all elections conducted pursuant to this chapter. Except as provided in subdivision (b), there shall be prepared and included in the ballot material provided to each voter, an impartial analysis pursuant to Section 9160 or 9280 of the Elections Code, arguments and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive, and Section 9190 of the Elections Code or pursuant to Sections 9281 to 9287, inclusive, and Section 9295 of the Elections Code.

(b) If the vote is to be by the landowners of the proposed district, analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election.

53398.71. (a) If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials pursuant to subdivision (d) of Section 53326 and Section 53327, together with all supplies and instructions necessary for the use and return of the ballot.

(b) The identification envelope for return of mail ballots used in landowner elections shall contain the following:

- (1) The name of the landowner.
- (2) The address of the landowner.
- (3) A declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope.
- (4) The printed name and signature of the voter.
- (5) The address of the voter.
- (6) The date of signing and place of execution of the declaration pursuant to paragraph (3).
- (7) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

53398.74. The public financing authority may submit a proposition to establish or change the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of a district to the qualified electors of a proposed or established district. The proposition establishing or changing the appropriations limit shall become effective if approved by the qualified electors voting on the proposition and shall be adjusted for changes in the cost of living and changes in populations, as defined by subdivisions (b) and (c) of Section 7901, except that the change in population may be estimated by the legislative body in the absence of an estimate by the Department of Finance, and in accordance with Section 1 of Article XIII B of the California Constitution. For purposes of adjusting for changes in population, the population of the district shall be deemed to be at least one person during each calendar year. Any election held pursuant to this section may be combined with any election held pursuant to Section 53398.80 in any convenient manner.

Article 3. Division of Taxes

53398.75. (a) Any infrastructure financing plan may contain a provision that taxes, if any, levied upon taxable property in the area included within the enhanced infrastructure financing district each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the ordinance adopted pursuant to Section 53398.69 to create the district, shall be divided as follows:

(1) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the district as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the ordinance adopted pursuant to Section 53398.69 to create the district, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid.

(2) That portion of the levied taxes each year specified in the adopted infrastructure financing plan for the city or county and each affected taxing entity that has agreed to participate pursuant to Section 53398.68 in excess of the amount specified in subdivision (a) shall be allocated to, and when collected shall be paid into a special fund of, the district for all lawful purposes of the district. Unless and until the total assessed valuation of the taxable property in a district exceeds the total assessed value of the taxable property in the district as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the district shall be paid to the respective affected taxing entities. When the district ceases to exist pursuant to the adopted infrastructure financing plan, all moneys thereafter received from taxes upon the taxable property in the district shall be paid to the respective affected taxing entities as taxes on all other property are paid.

(b) Notwithstanding subdivision (a), where any district boundaries overlap with the boundaries of any former redevelopment project area, any debt or obligation of a district shall be subordinate to any and all enforceable obligations of the former redevelopment agency, as approved by the Oversight Board and the Department of Finance. For the purposes of this chapter, the division of taxes allocated to the district pursuant to subdivision (a) of this section or of subdivision (b) of Section 53396 shall not include any taxes required to be deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund created pursuant to subdivision (b) of Section 34170.5 of the Health and Safety Code.

(c) The legislative body of the city or county forming the district may choose to dedicate any portion of its net available revenue to the district through the financing plan described in Section 53398.63.

(d) For the purposes of this section, "net available revenue" means periodic distributions to the city or county from the Redevelopment Property Tax Trust Fund, created pursuant to Section 34170.5 of the Health and

Safety Code, that are available to the city or county after all preexisting legal commitments and statutory obligations funded from that revenue are made pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. "Net available revenue" shall not include any funds deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund or funds remaining in the Redevelopment Property Tax Trust Fund prior to distribution. Net available revenues shall not include any moneys payable to a school district that maintains kindergarten and grades 1 to 12, inclusive, community college districts, county office of education, or to the Educational Revenue Augmentation Fund, pursuant to paragraph (4) of subdivision (a) of Section 34183 of the Health and Safety Code.

(e) (1) That portion of any ad valorem property tax revenue annually allocated to a city or county pursuant to Section 97.70 of the Revenue and Taxation Code that is specified in the adopted infrastructure financing plan for the city or county that has agreed to participate pursuant to Section 53398.68, and that corresponds to the increase in the assessed valuation of taxable property shall be allocated to, and when collected shall be apportioned to a special fund of the district for all lawful purposes of the district.

(2) When the district ceases to exist pursuant to the adopted infrastructure financing plan, the revenues described in this subdivision shall be allocated to, and when collected, shall be apportioned to the respective city or county.

(f) This section shall not be construed to prevent a district from utilizing revenues from any of the following sources to support its activities provided that the applicable voter approval has been obtained, and the infrastructure financing plan has been approved pursuant to Section 53398.69:

(1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(2) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code).

(3) The Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(4) The Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code).

(5) The Vehicle Parking District Law of 1943 (Part 1 (commencing with Section 31500) of Division 18 of the Streets and Highways Code).

(6) The Parking District Law of 1951 (Part 4 (commencing with Section 35100) of Division 18 of the Streets and Highways Code).

(7) The Park and Playground Act of 1909 (Chapter 7 (commencing with Section 38000) of Part 2 of Division 3 of Title 4 of this code).

(8) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of this title).

(9) The Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section 54703) of Part 1 of Division 2 of this title).

(10) The so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same

purpose by any other charter city pursuant to any ordinance or charter provision.

53398.76. All costs incurred by a county in connection with the division of taxes pursuant to Section 53398.75 for a district shall be paid by that district.

Article 4. Tax Increment Bonds

53398.77. The public financing authority may, by majority vote, initiate proceedings to issue bonds pursuant to this chapter by adopting a resolution stating its intent to issue the bonds.

53398.78. The resolution adopted pursuant to Section 53398.77 shall contain all of the following information:

(a) A description of the facilities or developments to be financed with the proceeds of the proposed bond issue.

(b) The estimated cost of the facilities or developments, the estimated cost of preparing and issuing the bonds, and the principal amount of the proposed bond issuance.

(c) The maximum interest rate and discount on the proposed bond issuance.

(d) The date of the election on the proposed bond issuance and the manner of holding the election.

(e) A determination of the amount of tax revenue available or estimated to be available, for the payment of the principal of, and interest on, the bonds.

(f) A finding that the amount necessary to pay the principal of, and interest on, the proposed bond issuance will be less than, or equal to, the amount determined pursuant to subdivision (e).

53398.79. The clerk of the public financing authority shall publish the resolution adopted pursuant to Section 53398.77 once a day for at least seven successive days in a newspaper published in the city or county at least six days a week, or at least once a week for two successive weeks in a newspaper published in the city or county less than six days a week.

If there are no newspapers meeting these criteria, the resolution shall be posted in three public places within the territory of the district for two succeeding weeks.

53398.80. (a) The public financing authority shall submit the proposal to issue the bonds to the voters who reside within the district. If the public financing authority adopts a resolution proposing initiation of proceedings to issue bonds pursuant to Section 53398.77, it shall then submit that proposal, together with the information specified in subdivisions (a) to (c), inclusive, of Section 53398.78, to the qualified electors of the district in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least 90 days but not more than 180 days following the adoption of the resolution of bond

issuance. The public financing authority shall provide the resolution of bond issuance, a certified map of sufficient scale and clarity to show the boundaries of the district, and a sufficient description to allow the election official to determine the boundaries of the district to the official conducting the election within three business days after the adoption of the resolution of bond issuance. The assessor's parcel numbers for the land within the district shall be included if it is a landowner election or the district does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than 125 days following the adoption of the resolution of bond issuance, the concurrence of the election official conducting the election shall be required. However, any time limit specified by this section or requirement pertaining to the conduct of the election may be waived with the unanimous consent of the qualified electors of the proposed district and the concurrence of the election official conducting the election.

(b) If at least 12 persons have been registered to vote within the territory of the district for each of the 90 days preceding the close of the hearing, the vote shall be by the registered voters of the district, who need not necessarily be the same persons, with each voter having one vote. Otherwise, the vote shall be by the landowners of the district and each landowner who is the owner of record at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the district. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

(c) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall be exclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

53398.81. (a) The bonds may be issued if 55 percent of the voters voting on the proposition vote in favor of issuing the bonds.

(b) If the voters approve the issuance of the bonds as provided by subdivision (a), the public financing authority shall proceed with the issuance of the bonds by adopting a resolution that shall provide for all of the following:

- (1) The issuance of the bonds in one or more series.
- (2) The principal amount of the bonds that shall be consistent with the amount specified in subdivision (b) of Section 53398.78.
- (3) The date the bonds will bear.
- (4) The date of maturity of the bonds.
- (5) The denomination of the bonds.
- (6) The form of the bonds.
- (7) The manner of execution of the bonds.

(8) The medium of payment in which the bonds are payable.

(9) The place or manner of payment and any requirements for registration of the bonds.

(10) The terms of call or redemption, with or without premium.

53398.82. If any proposition submitted to the voters pursuant to this chapter is defeated by the voters, the public financing authority shall not submit, or cause to be submitted, a similar proposition to the voters for at least one year after the first election.

53398.83. The public financing authority may, by majority vote, provide for refunding of bonds issued pursuant to this chapter. However, refunding bonds shall not be issued if the total net interest cost to maturity on the refunding bonds plus the principal amount of the refunding bonds exceeds the total net interest cost to maturity on the bonds to be refunded. The public financing authority may not extend the time to maturity of the bonds.

53398.84. The public financing authority or any person executing the bonds shall not be personally liable on the bonds by reason of their issuance. The bonds and other obligations of a district issued pursuant to this chapter are not a debt of the city, county, or state or of any of its political subdivisions, other than the district, and none of those entities, other than the district, shall be liable on the bonds and the bonds or obligations shall be payable exclusively from funds or properties of the district. The bonds shall contain a statement to this effect on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.

53398.85. The bonds may be sold at discount not to exceed 5 percent of par at public sale. At least five days prior to the sale, notice shall be published, pursuant to Section 6061, in a newspaper of general circulation and in a financial newspaper published in the City and County of San Francisco and in the City of Los Angeles. The bonds may be sold at not less than par to the federal government at private sale without any public advertisement.

53398.86. If any member of the public financing authority whose signature appears on bonds ceases to be a member of the public financing authority before delivery of the bonds, his or her signature is as effective as if he or she had remained in office. Bonds issued pursuant to this chapter are fully negotiable.

53398.87. Upon the approval of its governing board, a city, county, or special district that contains territory within the boundaries of a district, may loan moneys to the district to fund those activities described in the infrastructure financing plan approved and adopted pursuant to Section 53398.69. Moneys loaned pursuant to this provision may be repaid at an interest rate that does not exceed the Local Agency Investment Fund rate that is in effect on the date that the loan is approved by the governing board. Notwithstanding any other provision of law it is the intent of the Legislature that any loan issued to a public financing authority by a governmental entity shall be repaid fully unless agreed to otherwise between the authority and the governmental entity.

53398.88. (a) Every two years after the issuance of debt pursuant to Section 53398.81, the district shall contract for an independent financial and performance audit. The audit shall be conducted according to guidelines established by the Controller. A copy of the completed audit shall be provided to the Controller, the Director of Finance, and to the Joint Legislative Budget Committee.

(b) Upon the request of the Governor or of the Legislature, the Bureau of State Audits shall be authorized to conduct financial and performance audits of districts. The results of the audits shall be provided to the district, the Controller, the Director of Finance, and the Joint Legislative Budget Committee.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)Code: Section: [Up^](#) [Add To My Favorites](#)**GOVERNMENT CODE - GOV**

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)
DIVISION 1. GENERAL [8000 - 8899.24] (Division 1 enacted by Stats. 1943, Ch. 134.)

CHAPTER 11.5. California Debt and Investment Advisory Commission [8855 - 8859] (Heading of Chapter 11.5 amended by Stats. 2004, Ch. 7, Sec. 2.)

(a) There is created the California Debt and Investment Advisory Commission, consisting of nine members, [8855](#), selected as follows:

- (1) The Treasurer, or his or her designee.
 - (2) The Governor or the Director of Finance.
 - (3) The Controller, or his or her designee.
 - (4) Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with these agencies.
 - (5) Two Members of the Assembly appointed by the Speaker of the Assembly.
 - (6) Two Members of the Senate appointed by the Senate Committee on Rules.
- (b) (1) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.
- (2) Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter.
- (c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission.
- (d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars (\$50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars (\$300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.
- (e) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.
- (f) The commission shall meet on the call of the chairperson, at the request of a majority of the members, or at the request of the Governor. A majority of all nonlegislative members of the commission constitutes a quorum for the transaction of business.
- (g) The office of the Treasurer shall furnish all administrative assistance required by the commission.
- (h) The commission shall do all of the following:
- (1) Assist all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.
 - (2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of debt issues to reduce cost and to assist in protecting the issuer's credit.
 - (3) Collect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance, track and report on all state and local outstanding debt until fully repaid or redeemed, and serve as a statistical clearinghouse for all state and local debt. This information shall be available to the public.
 - (4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.
 - (5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.
 - (6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(7) Establish a continuing education program for local officials having direct or supervisory responsibility over municipal investments and debt issuance. The commission shall undertake these and any other activities necessary to disclose investment and debt issuance practices and strategies that may be conducive for oversight purposes.

(8) Collect, maintain, and provide information on local agency investments of public funds for local agency investment.

(9) Publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(i) (1) The issuer of any proposed debt issue of state or local government shall, no later than 30 days prior to the sale of any debt issue, submit a report of the proposed issuance to the commission by any method approved by the commission. This subdivision shall also apply to any nonprofit public benefit corporation incorporated for the purpose of acquiring student loans. The commission may require information to be submitted in the report of proposed debt issuance that it considers appropriate. Failure to submit the report shall not affect the validity of the sale. The report of proposed debt issuance shall include a certification by the issuer that it has adopted local debt policies concerning the use of debt and that the contemplated debt issuance is consistent with those local debt policies. A local debt policy shall include all of the following:

(A) The purposes for which the debt proceeds may be used.

(B) The types of debt that may be issued.

(C) The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable.

(D) Policy goals related to the issuer's planning goals and objectives.

(E) The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

(2) In the case of an issue of bonds the proceeds of which will be used by a governmental entity other than the issuer, the issuer may rely upon a certification by that other governmental entity that it has adopted the policies described in subparagraphs (C), (D), and (E) of paragraph (1), and references to the "issuer" in those subparagraphs shall be deemed to refer instead to the other governmental entity.

(j) The issuer of any debt issue of state or local government, not later than 21 days after the sale of the debt, shall submit a report of final sale to the commission by any method approved by the commission. A copy of the final official statement for the issue shall accompany the report of final sale. If there is no official statement, the issuer shall provide each of the following documents, if they exist, along with the report of final sale:

(1) Other disclosure document.

(2) Indenture.

(3) Installment sales agreement.

(4) Loan agreement.

(5) Promissory note.

(6) Bond purchase contract.

(7) Resolution authorizing the issue.

(8) Bond specimen.

The commission may require information to be submitted in the report of final sale that it considers appropriate. The issuer may redact confidential information contained in the documents if the redacted information is not information that is otherwise required to be reported to the commission.

(k) (1) A public agency, whether state or local, shall submit an annual report for any issue of debt for which it has submitted a report of final sale pursuant to subdivision (j) on or after January 21, 2017. The annual report shall cover a reporting period from July 1 to June 30, inclusive, and shall be submitted no later than seven months after the end of the reporting period by any method approved by the commission. Before approving any annual method of reporting pursuant to this subdivision, the commission shall consult with appropriate state and local debt issuers and organizations representing debt issuers for purposes that shall include, but not be limited to, making a proposed reporting method more efficient and less burdensome for issuers. The annual report shall consist of the following information:

(A) Debt authorized during the reporting period, which shall include the following:

(i) Debt authorized at the beginning of the reporting period.

(ii) Debt authorized and issued during the reporting period.

(iii) Debt authorized but not issued at the end of the reporting period.

(iv) Debt authority that has lapsed during the reporting period.

(B) Debt outstanding during the reporting period, which shall include the following:

(i) Principal balance at the beginning of the reporting period.

(ii) Principal paid during the reporting period.

(iii) Principal outstanding at the end of the reporting period.

(C) The use of proceeds of issued debt during the reporting period, which shall include the following:

- (i) Debt proceeds available at the beginning of the reporting period.
 - (ii) Proceeds spent during the reporting period and the purposes for which it was spent.
 - (iii) Debt proceeds remaining at the end of the reporting period.
- (2) Compliance with this subdivision shall be required for each issue of debt with outstanding debt, debt that has been authorized but not issued, or both, during the reporting period.
- (3) The commission may, if technology permits, develop an alternate reporting method, provided that any alternate reporting method is in furtherance of the purpose of collecting the data required by this subdivision. Before approving any alternate annual method of reporting pursuant to this subdivision, the commission shall consult with appropriate state and local debt issuers and organizations representing debt issuers for purposes that shall include, but not be limited to, making a proposed reporting method more efficient and less burdensome for issuers.

(Amended by Stats. 2016, Ch. 307, Sec. 2. Effective January 1, 2017.)

In carrying out the purposes of this chapter, the commission may charge fees to the lead underwriter, the 8856 purchaser, or the lender in an amount equal to one-fortieth of 1 percent of the principal amount of the issue, but not to exceed five thousand dollars (\$5,000) for any one issue. Amounts received under this section shall be deposited in the California Debt and Investment Advisory Commission Fund, which is hereby created in the State Treasury. All money in the fund shall be available, when appropriated, for expenses of the commission and the Treasurer.

(Amended by Stats. 2014, Ch. 181, Sec. 2. Effective January 1, 2015.)

The chairperson of the commission, on its behalf, may employ an executive director and other persons necessary 8857 to perform the duties imposed upon it by this chapter. The executive director shall serve at the pleasure of the commission and shall receive compensation as fixed by the commission. The commission may delegate to the executive director the authority to enter contracts on behalf of the commission.


(Amended by Stats. 1996, Ch. 833, Sec. 5. Effective January 1, 1997.)

The commission may, upon request, advise local agencies regarding the formation of local bond pooling 8859 authorities pursuant to Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1, and may advise the authorities regarding the planning, preparing, insuring, marketing, and selling of bonds as authorized by that article.

(Added by Stats. 1985, Ch. 868, Sec. 7. Effective September 23, 1985.)



Continuation or Deletion Request

Date: March 22, 2019
To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer 
Re: ASR Control #: 000163, Meeting Date 3-26-2019 Agenda Item No. # 37
Subject: Amend Debt Management Policy and Approve EIFD Participation Policy

Request to continue Agenda Item No. # 37 to the April 9, 2019 Board Meeting.

Comments: Please continue the item to allow County staff to provide additional information requested by Board members.

Request deletion of Agenda Item No. # _____

Comments:

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BOARD OF SUPERVISORS



Revision to ASR and/or Attachments

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Date: April 4, 2019
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: Michelle Aguirre, Chief Financial Officer *MAguirre*
Re: ASR Control #: 19-000163, Meeting Date: 4/9/2019, Item No. # 22
Subject: Amend Debt Management Policy and Approve EIFD Participation Policy

Explanation:

There are amendments to the EIFD Participation Policy at the request of the Board of Supervisors.

Revised Recommended Action(s)

Make modifications to the:

Subject Background Information Summary Financial Impact

The EIFD Participation Policy establishes criteria and procedures for the County's participation in an EIFD that includes:

1. Fiscal analysis demonstrating a positive net impact to the County.
2. Analysis that evaluates whether the County's participation is a necessary pre-condition for the infrastructure projects to be undertaken.
3. A requirement that a city's contribution of property tax in a project must be equal to or greater than the County's contribution.
4. The County may not contribute 100 contribution shall not exceed 50 percent of its share of property tax increment.
5. The County's contribution must be capped and have an end date identified.

~~Each requirement is intended to provide protection to the County in the event an EIFD does not meet its original property tax projections.~~

April 5, 2019

Revised Attachments (attach revised attachment(s) and redlined copy(s))

Please delete the existing Attachment C replace with the following:

Attachment C - Enhanced Infrastructure Financing District Participation Policy
Attachment F - Enhanced Infrastructure Financing District Participation Policy
(Redline)



EIFD Participation Policy

Enhanced Infrastructure Financing District (EIFD) Participation Policy

Introduction

On September 24, 2014, the governor approved Senate Bill 628, which authorized the formation of an Enhanced Infrastructure Financing District (EIFD). An EIFD is a limited tax increment financing district created after the dissolution of redevelopment agencies in 2012.

An EIFD would allow two or more governmental entities to agree to secure a portion of property tax revenue for the construction of infrastructure and other capital needs. A key difference between EIFDs and former redevelopment agencies is, that the tax increment given to the new district excludes all property taxes associated with school districts.

Currently, the law requires that no new taxes are created by the establishment of an EIFD and prohibits the use of Eminent domain. The County's participation in any such district is voluntary and requires Board approval.

Purpose

Tax Increment financing allows municipalities to promote economic development by earmarking additional tax revenues from increases in assessed value within a designated tax increment financing district.

The County reserves its right to impose more stringent requirements governing its participation in EIFDs than the parameters allowed by the state. The County's participation shall be governed by the criteria that follow.

Minimum Requirements

1. The city's contribution of property tax must be equal to or greater than that contributed by the County General Fund and/or special districts.
2. The County contribution shall not exceed 50% of its share of property tax increment.
3. The city applicant must meet all requirements as listed in the fiscal analysis section below.
4. The County shall contribute property tax increment for no longer than 20 years.



EIFD Participation Policy

5. In addition to the primary objective of supporting economic development, the proposed EIFD project must demonstrate regional and community significance that may also support established Board priorities in at least one of the following areas: a) workforce development/job creation or b) transportation improvements.
6. The County shall not participate in any EIFD that uses eminent domain.
7. The EIFD proposal must be consistent with Division 2 of Title 5 of the California Government Code (Section 53398.5 – 53398.58), which authorizes the formation of EIFDs.
8. Cost estimates for all infrastructure to be funded by the EIFD must be provided. A cap on County contributions and an end date of County contributions will be established related to the list of infrastructure projects to be completed. Additionally, a plan for funding the anticipated operations and maintenance costs for the proposed infrastructure must be given. A plan to fund the administrative costs of the EIFD in the start-up and early years of the project will be included.
9. A schedule of bond issuance, estimated bond proceeds, estimated interest rate and interest cost must be provided in relation to any potential debt to be secured by EIFD tax increment.
10. A complete Infrastructure Financing Plan.
11. Documents related to the EIFD or related Public Financing Authority shall be made available upon request to the County's internal or external auditors.

Fiscal Analysis

Each EIFD proposal shall be subject to fiscal analysis that will determine the expected financial impact to the County General Fund and any special districts that may contribute a portion of their property tax increment share. Where appropriate, the County may require reimbursement from the proposing entity for the cost of conducting its own analysis of the EIFD proposal.

The fiscal analysis will review the following:

1. Anticipated growth in assessed value, absent any new development.
2. Expected new development: retail square footage, business park square footage, office space, apartment units, condominium units, housing units, hotel units, parking spaces.
3. Tax Increment generated as a result of each new development opportunity associated with EIFD.
4. Tax increment contributions from each participating agency.



EIFD Participation Policy

5. Property tax revenue resulting to each taxing entity based on new development and growth in assessed value.
6. Sales and transient occupancy tax revenue resulting to the County and city.

The resulting fiscal analysis must demonstrate a positive net impact to the County General Fund based on anticipated tax revenue, and that the County's participation is a necessary pre-condition for the proposed infrastructure and development projects to be undertaken. The analysis will include a comparison of the increased amount of property tax and sales taxes to the County generated by the project with the amount of property taxes contributed to the EIFD.

Board of Supervisors Approval

This policy assumes the County is an EIFD participant, contributing property tax increment over a fixed period of time. As an EIFD participant, the Board will adopt a Resolution and approve a Participation Agreement.

If the County were to form an EIFD, there are additional district formation and public hearing requirements detailed in Division 2 of Title 5 of the California Government Code (Section 53398.5 – 53398.58). This policy would be submitted to the Board at that time for consideration to include the required additional processes.

Any EIFD proposal shall first be considered by the Board as part of a request to adopt a Resolution of Intent to participate. If the Resolution of Intent is approved, then the EIFD proposal may return at a later date with a request for the Board to approve the detailed Infrastructure Financing Plan and authorization of the County's participation in the EIFD.



EIFD Participation Policy

Enhanced Infrastructure Financing District (EIFD) Participation Policy

Introduction

On September 24, 2014, the governor approved Senate Bill 628, which authorized the formation of an Enhanced Infrastructure Financing District (EIFD). An EIFD is a limited tax increment financing district created after the dissolution of redevelopment agencies in 2012.

An EIFD would allow two or more governmental entities to agree to secure a portion of property tax revenue for the construction of infrastructure and other capital needs. A key difference between EIFDs and former redevelopment agencies is, that the tax increment given to the new district excludes all property taxes associated with school districts.

~~Currently, the law requires that No new taxes are created by the establishment of an EIFD. and prohibits the use of Eminent domain is not permitted.~~ The County's participation in any such district is voluntary and ~~would requires~~ Board approval.

Purpose

Tax Increment financing ~~is a tool that~~ allows municipalities to promote economic development by earmarking additional tax revenues from increases in assessed value within a designated tax increment financing district.

~~The County reserves its right to impose more stringent requirements governing its participation in EIFDs than the parameters allowed by the state. The County's participation shall be governed by the criteria that follow.~~

~~Some of the County's policy requirements are more restrictive than stated in the law in order to provide protection to the County in the event an EIFD does not meet its original property tax protections and to further limit the County's contribution to any one EIFD.~~

~~This policy establishes criteria and procedures for the County's participation in an EIFD that includes:~~

- ~~1. Fiscal analysis demonstrating a positive net impact to the County~~
- ~~2. Analysis that evaluates whether the County's participation is a necessary pre-condition for infrastructure projects to be undertaken.~~
- ~~3. A requirement that a city's contribution of property tax in the project must be equal to or greater than the County's contribution.~~



EIFD Participation Policy

- 4. ~~The County may not contribute 100% more than 50% of its share of property tax increment.~~
~~The County's contribution must be capped.~~
- 5. ~~Although the law allows 45 years, the County will contribute property tax increment for no longer than 20 years, and have an end date identified.~~

~~Each requirement is intended to provide protection to the County in the event an EIFD does not meet its original property tax projections.~~

Minimum Requirements

- 1. The city's contribution of property tax must be equal to or greater than that contributed by the County General Fund and/or special districts.
- 2. ~~The County must not be required to~~ contribution shall not exceed ~~contribute 100% more than 50%~~ of its share of property tax increment.
- 3. ~~The fiscal analysis conducted must demonstrate a positive net impact to the County General Fund as a result of the tax revenue generated from the project area. The city applicant must meet all requirements as listed in the fiscal analysis section below.~~
- 3.4. ~~The County shall contribute property tax increment for no longer than 20 years.~~
- 5. In addition to the primary objective of supporting economic development, the proposed EIFD project must demonstrate regional and community significance that must also align with ~~support~~ established Board priorities in at least one of the following areas: a) ~~affordable housing,~~ b) ~~homeless prevention,~~ c) ~~workforce development/job creation~~ or b) mobility/transportation improvements.
- 4.6. ~~Any rental housing proposed for the EIFD must allocate a minimum of 20% of all units for affordable housing. The County shall not participate in any EIFD that uses eminent domain.~~
- 7. The EIFD proposal must be consistent with Division 2 of Title 5 of the California Government Code (Section 53398.5 – 53398.58), which authorizes the formation of EIFDs.
- 5. ~~Cost estimates for all infrastructure to be funded by the EIFD must be provided. A cap on County contributions and an end date of County contributions will be established related to the list of infrastructure projects to be completed.~~

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EIFD Participation Policy

Additionally, a plan for funding the anticipated operations and maintenance costs for the proposed infrastructure must be given.

- 8. A plan to fund the administrative costs of the EIFD in the start-up and early years of the project will be included.
- 9. A schedule of bond issuance, estimated bond proceeds, estimated interest rate and interest cost must be provided in relation to any potential debt to be secured by EIFD tax increment.
- 10. A complete Infrastructure Financing Plan.
- 6.11. Documents related to the EIFD or related Public Financing Authority shall be made available upon request to the County's internal or external auditors.

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Fiscal Analysis

Each EIFD proposal shall be subject to fiscal analysis that will determine the expected financial impact to the County General Fund and any special districts that may contribute a portion of their property tax increment share. Where appropriate, the County may require reimbursement from the proposing entity for the cost of conducting its own analysis of the EIFD proposal.

The fiscal analysis will review the following:

- 1. Anticipated growth in assessed value, absent any new development.
- 2. Expected new development: retail square footage, business park square footage, office space, apartment units, condominium units, housing units, hotel units, parking spaces.
- 3. Tax Increment generated as a result of each new development opportunity associated with EIFD.
- 4. Tax increment contributions from each participating agency.
- 5. Property tax revenue resulting to each taxing entity based on new development and growth in assessed value.
- 6. Sales and transient occupancy tax revenue resulting to the County and city.

The resulting fiscal analysis must demonstrate a positive net impact to the County General Fund based on anticipated tax revenue, and that the County's participation is a necessary pre-condition for the proposed infrastructure and development projects to be undertaken. The analysis will include a comparison of the increased amount of property tax and sales taxes to the County generated by the project with the amount of property taxes contributed to the EIFD.

Proposal Standards



EIFD Participation Policy

- ~~1. The EIFD must demonstrate regional and community significance that may include affordable housing, job creation, blight removal, or improvements to regional transportation.~~
- ~~2. Project feasibility analysis must include a review that evaluates whether the County's property tax increment is a necessary pre-condition for the infrastructure and development project being considered.~~
- ~~3.1. Cost estimates for all infrastructure to be funded by the EIFD must be provided. A cap on County contributions and an end date of County contributions will be established related to the list of infrastructure projects to be completed. Additionally, a plan for funding the anticipated operations and maintenance costs for the proposed infrastructure must be given.~~
- ~~4. A plan to fund the administrative costs of the EIFD in the start-up and early years of the project will be included.~~
- ~~5. A schedule of bond issuance, estimated bond proceeds, estimated interest rate and interest cost must be provided in relation to any potential debt to be secured by EIFD tax increment.~~
- ~~6. Review and evaluate Infrastructure Financing Proposal.~~

Board of Supervisors Approval

This policy assumes the County is an EIFD participant, contributing property tax increment over a fixed period of time. As an EIFD participant, the Board will adopt a Resolution and approve a Participation Agreement.

If the County were to form an EIFD, there are additional district formation and public hearing requirements detailed in Division 2 of Title 5 of the California Government Code (Section 53398.5 – 53398.58). This policy would be submitted to the Board at that time for consideration to include the required additional processes.

Any EIFD proposal shall first be considered by the Board as part of a request to adopt a Resolution of Intent to participate. If the Resolution of Intent is approved, then the EIFD