

ACA 1 (Aguiar-Curry) Analysis and Recommendation

TITLE: Local government financing: affordable housing and public infrastructure: voter approval

AUTHORS: Aguiar-Curry (D-Winters), Berman (D-Menlo Park), Haney (D-San Francisco), Wiener (D-San Francisco)

CO-AUTHORS: Addis (D-Morro Bay), Arambula (D-Fresno), Grayson (D-Concord), Rivas (D-Hollister), Santiago (D-Los Angeles), Ward (D-San Diego), Wood (D-Santa Rosa)

SPONSORS: California Professional Firefighters, Housing California, State Building and Construction Trades Council, and California Labor Federation

RECOMMENDATION: Support

BACKGROUND: The California Constitution requires a two-thirds vote at the local level for both general obligation (GO) bonds and special taxes. However, current law specifies that local school districts must only achieve 55 percent voter approval for school bonds to fund construction, reconstruction, rehabilitation, replacement of school facilities, furnishing of schools, or the acquisition or lease of real property. From 2001 to 2013, over 2,200 local revenue measures have been placed before voters concerning school, city, county, or special district taxes or bonds. Of these, school bonds with a 55 percent threshold have been the most successful, with four out of every five passing. In contrast, just half of measures requiring a two-thirds vote succeeded. A 55 percent voter threshold for special taxes could make a dramatic difference in the number of measures that could pass, as nearly 80 percent of two-thirds supermajority measures garnered more than 55 percent of “yes” votes.

This constitutional amendment is a re-introduction of ACA 1 that was introduced in 2019 and 2021. BART supported the constitutional amendment in both of those years. In 2019, ACA 1 passed its assigned policy and fiscal committees in the Assembly but never received a floor vote. In 2021, the bill was assigned to the Assembly Committees on Local Government and Appropriations, but it did not receive a hearing.

PURPOSE: Assembly Constitutional Amendment (ACA) 1 will lower the necessary vote threshold from a two-thirds supermajority to 55 percent to approve local GO bonds and special taxes for affordable housing and public infrastructure projects. It will also exempt from the Constitution’s requirement that the maximum amount of tax on a property’s value not exceed 1 percent of the total value of the property bond debt incurred by a city, county, or special district for the following purposes:

- The construction, reconstruction, rehabilitation, or replacement of public infrastructure, as defined.
- The construction, reconstruction, rehabilitation, or replacement of affordable housing or permanent supportive housing, as defined, for persons at risk of chronic homelessness.
- The acquisition or lease of real property for public infrastructure, affordable housing, or permanent supportive housing, as defined, for persons at risk of chronic homelessness.

This measure gives local governments a more realistic financing option to fund an increase in the supply of affordable housing and to address the numerous local public infrastructure challenges cities, counties, and special districts are facing.

DISTRICT IMPACT: Cities, counties, and special districts face numerous challenges to securing funding for important infrastructure projects. ACA 1 defines “public infrastructure” to include improvements to transit, streets, and highways. If passed by the Legislature and approved by voters in a statewide election, this constitutional amendment would allow for the District and other agencies to more successfully pass GO bonds and special taxes.

KNOWN SUPPORT/OPPOSITION: In addition to the labor focused co-sponsors, additional support includes many cities and local governments, water districts, health districts, Community Service Districts, and other special districts. Opposition includes the Howard Jarvis Taxpayers Association and other tax focused organizations.

STATUS: Introduced, pending referral.

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

Assembly Constitutional Amendment

No. 1

Introduced by Assembly Members Aguiar-Curry, Berman, and Haney

(Principal coauthor: Senator Wiener)

(Coauthors: Assembly Members Addis, Arambula, Grayson, Robert Rivas, Santiago, Ward, and Wood)

December 5, 2022

Assembly Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of Article XIII A thereof, by amending Section 2 of, and by adding Section 2.5 to, Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to local finance.

LEGISLATIVE COUNSEL’S DIGEST

ACA 1, as introduced, Aguiar-Curry. Local government financing: affordable housing and public infrastructure: voter approval.

(1) The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions.

This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition

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includes specified accountability requirements. The measure would specify that these provisions apply to any city, county, city and county, or special district measure imposing an ad valorem tax to pay the interest and redemption charges on bonded indebtedness for these purposes that is submitted at the same election as this measure.

(2) The California Constitution conditions the imposition of a special tax by a local government upon the approval of $\frac{2}{3}$ of the voters of the local government voting on that tax, and prohibits these entities from imposing an ad valorem tax on real property or a transactions or sales tax on the sale of real property.

This measure would authorize a local government to impose, extend, or increase a sales and use tax or transactions and use tax imposed in accordance with specified law or a parcel tax, as defined, for the purposes of funding the construction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing if the proposition proposing that tax is approved by 55% of its voters voting on the proposition and the proposition includes specified accountability requirements. This measure would also make conforming changes to related provisions. The measure would specify that these provisions apply to any local measure imposing, extending, or increasing a sales and use tax, transactions and use tax, or parcel tax for these purposes that is submitted at the same election as this measure.

(3) The California Constitution prohibits specified local government agencies from incurring any indebtedness exceeding in any year the income and revenue provided in that year, without the assent of $\frac{2}{3}$ of the voters and subject to other conditions. In the case of a school district, community college district, or county office of education, the California Constitution permits a proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, to be adopted upon the approval of 55% of the voters of the district or county, as appropriate, voting on the proposition at an election.

This measure would expressly prohibit a special district, other than a board of education or school district, from incurring any indebtedness or liability exceeding any applicable statutory limit, as prescribed by the statutes governing the special district. The measure would also similarly require the approval of 55% of the voters of the city, county, city and county, or special district, as applicable, to incur bonded

indebtedness, exceeding in any year the income and revenue provided in that year, that is in the form of general obligation bonds issued to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing projects, if the proposition proposing that bond includes specified accountability requirements. The measure would specify that this 55% threshold applies to any proposition for the incurrence of indebtedness by a city, county, city and county, or special district for these purposes that is submitted at the same election as this measure.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2023–24 Regular
3 Session commencing on the fifth day of December 2022, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California, that the Constitution of the
6 State be amended as follows:

7 First—That Section 1 of Article XIII A thereof is amended to
8 read:

9 SECTION 1. (a) The maximum amount of any ad valorem
10 tax on real property shall not exceed ~~One 1 percent (1%)~~ of the
11 full cash value of ~~such~~ *that* property. ~~The one percent (1%) tax to~~
12 *1 percent tax shall* be collected by the counties and apportioned
13 according to law to the districts within the counties.

14 (b) The limitation provided for in subdivision (a) shall not apply
15 to ad valorem taxes or special assessments to pay the interest and
16 redemption charges on any of the following:

17 (1) Indebtedness approved by the voters ~~prior to~~ *before* July 1,
18 1978.

19 (2) Bonded indebtedness ~~for~~ *to fund* the acquisition or
20 improvement of real property approved on or after July 1, 1978,
21 by two-thirds of the votes cast by the voters voting on the
22 proposition.

23 (3) Bonded indebtedness incurred by a school district,
24 community college district, or county office of education for the
25 construction, reconstruction, rehabilitation, or replacement of
26 school facilities, including the furnishing and equipping of school
27 facilities, or the acquisition or lease of real property for school
28 facilities, approved by 55 percent of the voters of the district or

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1 county, as appropriate, voting on the proposition on or after the
2 effective date of the measure adding this paragraph. November 8,
3 2000. This paragraph shall apply only if the proposition approved
4 by the voters and resulting in the bonded indebtedness includes
5 all of the following accountability requirements:

6 (A) A requirement that the proceeds from the sale of the bonds
7 be used only for the purposes specified in ~~Article XIII A, Section~~
8 ~~1(b)(3)~~; *this paragraph*, and not for any other purpose, including
9 teacher and administrator salaries and other school operating
10 expenses.

11 (B) A list of the specific school facilities projects to be funded
12 and certification that the school district board, community college
13 board, or county office of education has evaluated safety, class
14 size reduction, and information technology needs in developing
15 that list.

16 (C) A requirement that the school district board, community
17 college board, or county office of education conduct an annual,
18 independent performance audit to ensure that the funds have been
19 expended only on the specific projects listed.

20 (D) A requirement that the school district board, community
21 college board, or county office of education conduct an annual,
22 independent financial audit of the proceeds from the sale of the
23 bonds until all of those proceeds have been expended for the school
24 facilities projects.

25 (4) (A) *Bonded indebtedness incurred by a city, county, city*
26 *and county, or special district for the construction, reconstruction,*
27 *rehabilitation, or replacement of public infrastructure, affordable*
28 *housing, or permanent supportive housing for persons at risk of*
29 *chronic homelessness, including persons with mental illness, or*
30 *the acquisition or lease of real property for public infrastructure,*
31 *affordable housing, or permanent supportive housing for persons*
32 *at risk of chronic homelessness, including persons with mental*
33 *illness, approved by 55 percent of the voters of the city, county,*
34 *city and county, or special district, as appropriate, voting on the*
35 *proposition on or after the effective date of the measure adding*
36 *this paragraph. This paragraph shall apply only if the proposition*
37 *approved by the voters and resulting in the bonded indebtedness*
38 *includes all of the following accountability requirements:*

39 (i) *A requirement that the proceeds from the sale of the bonds*
40 *be used only for the purposes specified in this paragraph, and not*

1 *for any other purpose, including city, county, city and county, or*
2 *special district employee salaries and other operating expenses.*

3 *(ii) A list of the specific projects to be funded, and a certification*
4 *that the city, county, city and county, or special district has*
5 *evaluated alternative funding sources.*

6 *(iii) A requirement that the city, county, city and county, or*
7 *special district conduct an annual, independent performance audit*
8 *to ensure that the funds have been expended only on the specific*
9 *projects listed.*

10 *(iv) A requirement that the city, county, city and county, or*
11 *special district conduct an annual, independent financial audit of*
12 *the proceeds from the sale of the bonds until all of those proceeds*
13 *have been expended for the public infrastructure or affordable*
14 *housing projects, as applicable.*

15 *(v) A requirement that the city, county, city and county, or*
16 *special district post the audits required by clauses (iii) and (iv) in*
17 *a manner that is easily accessible to the public.*

18 *(vi) A requirement that the city, county, city and county, or*
19 *special district appoint a citizens' oversight committee to ensure*
20 *that bond proceeds are expended only for the purposes described*
21 *in the measure approved by the voters.*

22 *(B) For purposes of this paragraph:*

23 *(i) "Affordable housing" shall include housing developments,*
24 *or portions of housing developments, that provide workforce*
25 *housing affordable to households earning up to 150 percent of*
26 *countywide median income, and housing developments, or portions*
27 *of housing developments, that provide housing affordable to lower,*
28 *low-, or very low income households, as those terms are defined*
29 *in state law.*

30 *(ii) "At risk of chronic homelessness" includes, but is not limited*
31 *to, persons who are at high risk of long-term or intermittent*
32 *homelessness, including persons with mental illness exiting*
33 *institutionalized settings, including, but not limited to, jail and*
34 *mental health facilities, who were homeless prior to admission,*
35 *transition age youth experiencing homelessness or with significant*
36 *barriers to housing stability, and others, as defined in program*
37 *guidelines.*

38 *(iii) "Permanent supportive housing" means housing with no*
39 *limit on length of stay, that is occupied by the target population,*
40 *and that is linked to onsite or offsite services that assist residents*

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1 *in retaining the housing, improving their health status, and*
2 *maximizing their ability to live and, when possible, work in the*
3 *community. “Permanent supportive housing” includes associated*
4 *facilities, if those facilities are used to provide services to housing*
5 *residents.*
6 *(iv) “Public infrastructure” shall include, but is not limited to,*
7 *projects that provide any of the following:*
8 *(I) Water or protect water quality.*
9 *(II) Sanitary sewer.*
10 *(III) Treatment of wastewater or reduction of pollution from*
11 *stormwater runoff.*
12 *(IV) Protection of property from impacts of sea level rise.*
13 *(V) Parks and recreation facilities.*
14 *(VI) Open space.*
15 *(VII) Improvements to transit and streets and highways.*
16 *(VIII) Flood control.*
17 *(IX) Broadband internet access service expansion in*
18 *underserved areas.*
19 *(X) Local hospital construction.*
20 *(XI) Public safety buildings or facilities, equipment related to*
21 *fire suppression, emergency response equipment, or interoperable*
22 *communications equipment for direct and exclusive use by fire,*
23 *emergency response, police, or sheriff personnel.*
24 *(XII) Public library facilities.*
25 *(v) “Special district” has the same meaning as provided in*
26 *subdivision (c) of Section 1 of Article XIII C and specifically*
27 *includes a transit district, except that “special district” does not*
28 *include a school district, redevelopment agency, or successor*
29 *agency to a dissolved redevelopment agency.*
30 *(C) This paragraph shall apply to any city, county, city and*
31 *county, or special district measure imposing an ad valorem tax to*
32 *pay the interest and redemption charges on bonded indebtedness*
33 *for those purposes described in this paragraph that is submitted*
34 *at the same election as the measure adding this paragraph.*
35 *(c) (1) Notwithstanding any other provisions of law or of this*
36 *Constitution, a school—districts, district, community college*
37 *districts, and district, or county—office of education may*
38 *levy a—55 percent 55-percent vote ad valorem tax pursuant to*
39 *paragraph (3) of subdivision (b).*

(2) Notwithstanding any other provisions of law or this Constitution, a city, county, city and county, or special district may levy a 55-percent vote ad valorem tax pursuant to paragraph (4) of subdivision (b).

Second—That Section 4 of Article XIII A thereof is amended to read:

~~Section 4. Cities, Counties and special districts;~~

SEC. 4. Except as provided by Section 2.5 of Article XIII C, a city, county, or special district, by a two-thirds vote of the qualified electors of such district, its voters voting on the proposition, may impose special taxes on such district, a special tax within that city, county, or special district, except an ad valorem taxes tax on real property or a transaction transactions tax or sales tax on the sale of real property within such City, County that city, county, or special district.

Third—That Section 2 of Article XIII C thereof is amended to read:

SEC. 2. ~~Local Government Tax Limitation.~~ Notwithstanding any other provision of this Constitution:

(a) ~~All taxes~~ Any tax imposed by any a local government shall be deemed to be is either a general taxes tax or a special taxes. Special purpose districts tax. A special district or agencies, agency, including a school districts, shall have no power district, has no authority to levy a general taxes tax.

(b) ~~No~~ A local government may not impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall is not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to before the effective date of this article, shall may continue to be imposed only if that general tax is approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years

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1 ~~of the effective date of this article~~ *no later than November 6, 1996,*
2 and in compliance with subdivision (b).

3 (d) ~~No~~ *Except as provided by Section 2.5,* a local government
4 may *not* impose, extend, or increase any special tax unless and
5 until that tax is submitted to the electorate and approved by a
6 two-thirds vote. A special tax ~~shall~~ *is not be* deemed to have been
7 increased if it is imposed at a rate not higher than the maximum
8 rate so approved.

9 Fourth—That Section 2.5 is added to Article XIII C thereof, to
10 read:

11 SEC. 2.5. (a) The imposition, extension, or increase of a sales
12 and use tax imposed in accordance with the Bradley-Burns Uniform
13 Local Sales and Use Tax Law (Part 1.5 (commencing with Section
14 7200) of Division 2 of the Revenue and Taxation Code) or a
15 successor law, a transactions and use tax imposed in accordance
16 with the Transactions and Use Tax Law (Part 1.6 (commencing
17 with Section 7251) of Division 2 of the Revenue and Taxation
18 Code) or a successor law, or a parcel tax imposed by a local
19 government for the purpose of funding the construction,
20 reconstruction, rehabilitation, or replacement of public
21 infrastructure, affordable housing, or permanent supportive housing
22 for persons at risk of chronic homelessness, including persons with
23 mental illness, or the acquisition or lease of real property for public
24 infrastructure, affordable housing, or permanent supportive housing
25 for persons at risk of chronic homelessness, including persons with
26 mental illness, is subject to approval by 55 percent of the voters
27 in the local government voting on the proposition, if both of the
28 following conditions are met:

29 (1) The proposition is approved by a majority vote of the
30 membership of the governing board of the local government.

31 (2) The proposition contains all of the following accountability
32 requirements:

33 (A) A requirement that the proceeds of the tax only be used for
34 the purposes specified in the proposition, and not for any other
35 purpose, including general employee salaries and other operating
36 expenses of the local government.

37 (B) A list of the specific projects that are to be funded by the
38 tax, and a certification that the local government has evaluated
39 alternative funding sources.

1 (C) A requirement that the local government conduct an annual,
2 independent performance audit to ensure that the proceeds of the
3 special tax have been expended only on the specific projects listed
4 in the proposition.

5 (D) A requirement that the local government conduct an annual,
6 independent financial audit of the proceeds from the tax during
7 the lifetime of that tax.

8 (E) A requirement that the local government post the audits
9 required by subparagraphs (C) and (D) in a manner that is easily
10 accessible to the public.

11 (F) A requirement that the local government appoint a citizens'
12 oversight committee to ensure the proceeds of the special tax are
13 expended only for the purposes described in the measure approved
14 by the voters.

15 (b) For purposes of this section, the following terms have the
16 following meanings:

17 (1) "Affordable housing" shall include housing developments,
18 or portions of housing developments, that provide workforce
19 housing affordable to households earning up to 150 percent of
20 countywide median income, and housing developments, or portions
21 of housing developments, that provide housing affordable to lower,
22 low-, or very low income households, as those terms are defined
23 in state law.

24 (2) "At risk of chronic homelessness" includes, but is not limited
25 to, persons who are at high risk of long-term or intermittent
26 homelessness, including persons with mental illness exiting
27 institutionalized settings, including, but not limited to, jail and
28 mental health facilities, who were homeless prior to admission,
29 transition age youth experiencing homelessness or with significant
30 barriers to housing stability, and others, as defined in program
31 guidelines.

32 (3) "Permanent supportive housing" means housing with no
33 limit on length of stay, that is occupied by the target population,
34 and that is linked to onsite or offsite services that assist residents
35 in retaining the housing, improving their health status, and
36 maximizing their ability to live and, when possible, work in the
37 community. "Permanent supportive housing" includes associated
38 facilities, if those facilities are used to provide services to housing
39 residents.

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(4) “Public infrastructure” shall include, but is not limited to, the projects that provide any of the following:

- (A) Water or protect water quality.
- (B) Sanitary sewer.
- (C) Treatment of wastewater or reduction of pollution from stormwater runoff.
- (D) Protection of property from impacts of sea level rise.
- (E) Parks and recreation facilities.
- (F) Open space.
- (G) Improvements to transit and streets and highways.
- (H) Flood control.
- (I) Broadband internet access service expansion in underserved areas.
- (J) Local hospital construction.
- (K) Public safety buildings or facilities, equipment related to fire suppression, emergency response equipment, or interoperable communications equipment for direct and exclusive use by fire, emergency response, police, or sheriff personnel.
- (L) Public library facilities.

(c) This section shall apply to any local measure imposing, extending, or increasing a sales and use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, a transactions and use tax imposed in accordance with the Transactions and Use Tax Law, or a parcel tax imposed by a local government for those purposes described in subdivision (a) that is submitted at the same election as the measure adding this section.

Fifth—That Section 3 of Article XIII D thereof is amended to read:

~~SEC. 3. Property Taxes, Assessments, Fees and Charges Limited.~~ (a) *No (a) An agency shall not assess a tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:*

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article ~~XIII A~~ *XIII A or receiving a 55-percent approval pursuant to Section 2.5 of Article XIII C.*

(3) Assessments as provided by this article.

1 (4) Fees or charges for ~~property-related~~ *property-related* services
2 as provided by this article.

3 (b) For purposes of this article, fees for the provision of electrical
4 or gas service ~~shall are not be~~ deemed charges or fees imposed as
5 an incident of property ownership.

6 Sixth—That Section 18 of Article XVI thereof is amended to
7 read:

8 SEC. 18. (a) ~~No~~ A county, city, town, township, board of
9 education, or school district, shall *not* incur any indebtedness or
10 liability in any manner or for any purpose exceeding in any year
11 the income and revenue provided for ~~such~~ *that* year, without the
12 assent of two-thirds of the voters of the public entity voting at an
13 election to be held for that purpose, except that with respect to any
14 such public entity ~~which~~ *that* is authorized to incur indebtedness
15 for public school purposes, any proposition for the incurrence of
16 indebtedness in the form of general obligation bonds for the
17 purpose of repairing, ~~reconstructing~~ *reconstructing*, or replacing
18 public school buildings determined, in the manner prescribed by
19 law, to be structurally unsafe for school use, shall be adopted upon
20 the approval of a majority of the voters of the public entity voting
21 on the proposition at ~~such~~ *the* election; nor unless before or at the
22 time of incurring such indebtedness provision shall be made for
23 the collection of an annual tax sufficient to pay the interest on such
24 indebtedness as it falls due, and to provide for a sinking fund for
25 the payment of the principal thereof, on or before maturity, which
26 shall not exceed forty years from the time of contracting the
27 indebtedness. *A special district, other than a board of education*
28 *or school district, shall not incur any indebtedness or liability*
29 *exceeding any applicable statutory limit, as prescribed by the*
30 *statutes governing the special district as they currently read or*
31 *may thereafter be amended by the Legislature.*

32 (b) (1) Notwithstanding subdivision (a), ~~on or after the effective~~
33 ~~date of the measure adding this subdivision, in the case of any~~
34 ~~school district, community college district, or county office of~~
35 ~~education, any proposition for the incurrence of indebtedness in~~
36 ~~the form of general obligation bonds for the construction,~~
37 ~~reconstruction, rehabilitation, or replacement of school facilities,~~
38 ~~including the furnishing and equipping of school facilities, or the~~
39 ~~acquisition or lease of real property for school facilities, purposes~~
40 *described in paragraph (3) or (4) of subdivision (b) of Section 1*

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1 of Article XIII A shall be adopted upon the approval of 55 percent
2 of the voters of the ~~district or county~~, school district, community
3 college district, county office of education, city, county, city and
4 county, or other special district, as appropriate, voting on the
5 proposition at an election. This subdivision shall apply ~~only~~ to a
6 proposition for the incurrence of indebtedness in the form of
7 general obligation bonds for the purposes specified in this
8 subdivision *only* if the proposition meets all of the accountability
9 requirements of paragraph (3) or (4) of subdivision ~~(b)~~ (b), as
10 appropriate, of Section 1 of Article XIII A.

11 (2) *The amendments made to this subdivision by the measure*
12 *adding this paragraph shall apply to any proposition for the*
13 *incurrence of indebtedness in the form of general obligation bonds*
14 *pursuant to this subdivision for the purposes described in*
15 *paragraph (4) of subdivision (b) of Section 1 of Article XIII A that*
16 *is submitted at the same election as the measure adding this*
17 *paragraph.*

18 (c) When two or more propositions for incurring any
19 indebtedness or liability are submitted at the same election, the
20 votes cast for and against each proposition shall be counted
21 separately, and ~~when~~ if two-thirds or a majority or 55 percent of
22 the voters, as the case may be, voting on any one of those
23 propositions, vote in favor thereof, the proposition shall be deemed
24 adopted.

AB 719 (Boerner Horvath) Analysis and Recommendation

TITLE: Medi-Cal benefits

AUTHORS: Boerner Horvath (D-Encinitas)

SPONSORS: California Transit Association, San Diego Metropolitan Transit System

RECOMMENDATION: Support

BACKGROUND: The Medi-Cal program, which is administered by the State Department of Health Care Services (DHCS), provides health benefits to qualified low-income individuals. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. The program establishes a schedule of benefits, including fee-for-service rates for nonmedical (NMT) and nonemergency (NEMT) transportation for a beneficiary to obtain covered Medi-Cal services. Nonmedical transportation is required to be provided by the beneficiary's managed care plan or by the department for a Medi-Cal fee-for-service beneficiary. NMT is defined as round trip transportation by passenger car, taxicab, or any other form of public or private conveyance in order to obtain covered Medi-Cal services; NEMT is defined as an ambulance, litter van, or wheelchair van services provided when a beneficiary's medical and physical condition precludes them from using NMT. There currently is no requirement to reimburse public transit operators for NMT or NEMT trips, so these operators are often left with little recourse to recoup costs.

To meet requirements of the Americans with Disabilities Act (ADA), BART and AC Transit established East Bay Paratransit. East Bay Paratransit is a public transit service for people who are unable to use regular buses or trains, like those operated by AC Transit and BART, because of a disability or a disabling health condition. East Bay Paratransit transports riders from their origin to their destination in vans equipped with a wheelchair lift. ADA paratransit is designed as a direct substitute for regular bus or BART service. Therefore, East Bay Paratransit service is only available near operating bus and train lines. Specifically, paratransit service is available within 3/4 of a mile of an AC Transit bus route or within 3/4 of a mile of a BART station during the same hours that buses and trains are running on those routes.

PURPOSE: Assembly Bill (AB) 719 seeks to correct the issue of reimbursement for public transit operators by requiring managed care plans, under the direction of DHCS, to contract with public transit operators for the purpose of establishing reimbursement rates for NMT or NEMT trips provided by a public transit operator. The bill would require the reimbursement rates set by the managed care plan to be based on the department's fee-for-service rates for nonmedical and nonemergency medical transportation service.

DISTRICT IMPACT: According to the California Transit Association (CTA), a co-sponsor of the bill, public transit operators provide both NMT and NEMT to Medi-Cal managed care plan enrollees to access medically necessary covered services, such as travel to appointments, picking up drug prescriptions that cannot be mailed, or picking up medical supplies. Currently, East Bay Paratransit trips are reimbursed at the rate of \$4 to \$7 per trip. With a cost of \$103 per trip per person, that translates to a farebox recovery of only 3.9% to 6.8%. It is estimated that 45% of East Bay Paratransit trips in 2022 were for medical purposes.

KNOWN SUPPORT/OPPOSITION: California Transit Association (Co-Sponsor), San Diego Metropolitan Transit System (Co-Sponsor), Access Services, California Association for Coordinated Transportation (CALACT), Gold Coast Transit District. No opposition on file.

STATUS: Passed the Assembly Committee on Health (11-0) on April 11 and referred to the Assembly Committee on Appropriations. Hearing set for April 26.

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 719

Introduced by Assembly Member Boerner Horvath

February 13, 2023

An act to amend Section 14132 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 719, as introduced, Boerner Horvath. Medi-Cal benefits.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law establishes a schedule of benefits under the Medi-Cal program, including nonmedical transportation for a beneficiary to obtain covered Medi-Cal services. Existing law requires nonmedical transportation to be provided by the beneficiary's managed care plan or by the department for a Medi-Cal fee-for-service beneficiary.

This bill would require the department to require managed care plans to contract with public transit operators for the purpose of establishing reimbursement rates for nonmedical and nonemergency medical transportation trips provided by a public transit operator. The bill would require the rates reimbursed by the managed care plan to the public transit operator to be based on the department's fee-for-service rates for nonmedical and nonemergency medical transportation service.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

SECTION 1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, respiratory care, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) (1) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy, and occupational therapy, are covered subject to utilization controls.

(2) For a Medi-Cal fee-for-service beneficiary, emergency services and care that are necessary for the treatment of an emergency medical condition and medical care directly related to the emergency medical condition. This paragraph does not change the obligation of Medi-Cal managed care plans to provide emergency services and care. For the purposes of this paragraph, “emergency services and care” and “emergency medical condition” have the same meanings as those terms are defined in Section 1317.1 of the Health and Safety Code.

(c) Nursing facility services, subacute care services, and services provided by any category of intermediate care facility for the developmentally disabled, including podiatry, physician, nurse practitioner services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Respiratory care, physical therapy, occupational therapy, speech therapy, and audiology services for patients in nursing facilities and any category of intermediate care facility for persons with developmental disabilities are covered subject to utilization controls.

(d) (1) Purchase of prescribed drugs is covered subject to the Medi-Cal List of Contract Drugs and utilization controls.

1 (2) Purchase of drugs used to treat erectile dysfunction or any
2 off-label uses of those drugs are covered only to the extent that
3 federal financial participation is available.

4 (3) (A) To the extent required by federal law, the purchase of
5 outpatient prescribed drugs, for which the prescription is executed
6 by a prescriber in written, nonelectronic form on or after April 1,
7 2008, is covered only when executed on a tamper resistant
8 prescription form. The implementation of this paragraph shall
9 conform to the guidance issued by the federal Centers for Medicare
10 and Medicaid Services, but shall not conflict with state statutes on
11 the characteristics of tamper resistant prescriptions for controlled
12 substances, including Section 11162.1 of the Health and Safety
13 Code. The department shall provide providers and beneficiaries
14 with as much flexibility in implementing these rules as allowed
15 by the federal government. The department shall notify and consult
16 with appropriate stakeholders in implementing, interpreting, or
17 making specific this paragraph.

18 (B) Notwithstanding Chapter 3.5 (commencing with Section
19 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
20 the department may take the actions specified in subparagraph (A)
21 by means of a provider bulletin or notice, policy letter, or other
22 similar instructions without taking regulatory action.

23 (4) (A) (i) For the purposes of this paragraph, nonlegend has
24 the same meaning as defined in subdivision (a) of Section
25 14105.45.

26 (ii) Nonlegend acetaminophen-containing products, including
27 children's acetaminophen-containing products, selected by the
28 department are covered benefits.

29 (iii) Nonlegend cough and cold products selected by the
30 department are covered benefits.

31 (B) Notwithstanding Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
33 the department may take the actions specified in subparagraph (A)
34 by means of a provider bulletin or notice, policy letter, or other
35 similar instruction without taking regulatory action.

36 (e) Outpatient dialysis services and home hemodialysis services,
37 including physician services, medical supplies, drugs, and
38 equipment required for dialysis, are covered, subject to utilization
39 controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetist services when rendered in an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and x-ray services are covered, subject to utilization controls. This subdivision does not require prior authorization for anesthesiologist services provided as part of an outpatient medical procedure or for portable x-ray services in a nursing facility or any category of intermediate care facility for the developmentally disabled.

(g) Blood and blood derivatives are covered.

(h) (1) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses that are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions that preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's California Children's Services program.

(2) For persons 21 years of age or older, the services specified in paragraph (1) shall be provided subject to the following conditions:

(A) Periodontal treatment is not a benefit.

(B) Endodontic therapy is not a benefit except for vital pulpotomy.

(C) Laboratory processed crowns are not a benefit.

(D) Removable prosthetics shall be a benefit only for patients as a requirement for employment.

(E) The director may, by regulation, provide for the provision of fixed artificial dentures that are necessary for medical conditions that preclude the use of removable dental prostheses.

(F) Notwithstanding the conditions specified in subparagraphs (A) to (E), inclusive, the department may approve services for persons with special medical disorders subject to utilization review.

(3) Paragraph (2) shall become inoperative on July 1, 1995.

1 (i) Medical transportation is covered, subject to utilization
2 controls.

3 (j) Home health care services are covered, subject to utilization
4 controls.

5 (k) (1) Prosthetic and orthotic devices and eyeglasses are
6 covered, subject to utilization controls. Utilization controls shall
7 allow replacement of prosthetic and orthotic devices and eyeglasses
8 necessary because of loss or destruction due to circumstances
9 beyond the beneficiary's control. Frame styles for eyeglasses
10 replaced pursuant to this subdivision shall not change more than
11 once every two years, unless the department so directs.

12 (2) Orthopedic and conventional shoes are covered when
13 provided by a prosthetic and orthotic supplier on the prescription
14 of a physician and when at least one of the shoes will be attached
15 to a prosthesis or brace, subject to utilization controls. Modification
16 of stock conventional or orthopedic shoes when medically indicated
17 is covered, subject to utilization controls. If there is a clearly
18 established medical need that cannot be satisfied by the
19 modification of stock conventional or orthopedic shoes,
20 custom-made orthopedic shoes are covered, subject to utilization
21 controls.

22 (3) Therapeutic shoes and inserts are covered when provided
23 to a beneficiary with a diagnosis of diabetes, subject to utilization
24 controls, to the extent that federal financial participation is
25 available.

26 (l) Hearing aids are covered, subject to utilization controls.
27 Utilization controls shall allow replacement of hearing aids
28 necessary because of loss or destruction due to circumstances
29 beyond the beneficiary's control.

30 (m) Durable medical equipment and medical supplies are
31 covered, subject to utilization controls. The utilization controls
32 shall allow the replacement of durable medical equipment and
33 medical supplies when necessary because of loss or destruction
34 due to circumstances beyond the beneficiary's control. The
35 utilization controls shall allow authorization of durable medical
36 equipment needed to assist a disabled beneficiary in caring for a
37 child for whom the disabled beneficiary is a parent, stepparent,
38 foster parent, or legal guardian, subject to the availability of federal
39 financial participation. The department shall adopt emergency
40 regulations to define and establish criteria for assistive durable

1 medical equipment in accordance with the rulemaking provisions
2 of the Administrative Procedure Act (Chapter 3.5 (commencing
3 with Section 11340) of Part 1 of Division 3 of Title 2 of the
4 Government Code).

5 (n) Family planning services are covered, subject to utilization
6 controls. However, for Medi-Cal managed care plans, utilization
7 controls shall be subject to Section 1367.25 of the Health and
8 Safety Code.

9 (o) Inpatient intensive rehabilitation hospital services, including
10 respiratory rehabilitation services, in a general acute care hospital
11 are covered, subject to utilization controls, when either of the
12 following criteria are met:

13 (1) A patient with a permanent disability or severe impairment
14 requires an inpatient intensive rehabilitation hospital program as
15 described in Section 14064 to develop function beyond the limited
16 amount that would occur in the normal course of recovery.

17 (2) A patient with a chronic or progressive disease requires an
18 inpatient intensive rehabilitation hospital program as described in
19 Section 14064 to maintain the patient's present functional level as
20 long as possible.

21 (p) (1) Adult day health care is covered in accordance with
22 Chapter 8.7 (commencing with Section 14520).

23 (2) Commencing 30 days after the effective date of the act that
24 added this paragraph, and notwithstanding the number of days
25 previously approved through a treatment authorization request,
26 adult day health care is covered for a maximum of three days per
27 week.

28 (3) As provided in accordance with paragraph (4), adult day
29 health care is covered for a maximum of five days per week.

30 (4) As of the date that the director makes the declaration
31 described in subdivision (g) of Section 14525.1, paragraph (2)
32 shall become inoperative and paragraph (3) shall become operative.

33 (q) (1) Application of fluoride, or other appropriate fluoride
34 treatment as defined by the department, and other prophylaxis
35 treatment for children 17 years of age and under are covered.

36 (2) All dental hygiene services provided by a registered dental
37 hygienist, registered dental hygienist in extended functions, and
38 registered dental hygienist in alternative practice licensed pursuant
39 to Sections 1753, 1917, 1918, and 1922 of the Business and
40 Professions Code may be covered as long as they are within the

1 scope of Denti-Cal benefits and they are necessary services
2 provided by a registered dental hygienist, registered dental
3 hygienist in extended functions, or registered dental hygienist in
4 alternative practice.

5 (r) (1) Paramedic services performed by a city, county, or
6 special district, or pursuant to a contract with a city, county, or
7 special district, and pursuant to a program established under former
8 Article 3 (commencing with Section 1480) of Chapter 2.5 of
9 Division 2 of the Health and Safety Code by a paramedic certified
10 pursuant to that article, and consisting of defibrillation and those
11 services specified in subdivision (3) of former Section 1482 of the
12 article.

13 (2) A provider enrolled under this subdivision shall satisfy all
14 applicable statutory and regulatory requirements for becoming a
15 Medi-Cal provider.

16 (3) This subdivision shall be implemented only to the extent
17 funding is available under Section 14106.6.

18 (s) (1) In-home medical care services are covered when
19 medically appropriate and subject to utilization controls, for a
20 beneficiary who would otherwise require care for an extended
21 period of time in an acute care hospital at a cost higher than
22 in-home medical care services. The director shall have the authority
23 under this section to contract with organizations qualified to
24 provide in-home medical care services to those persons. These
25 services may be provided to a patient placed in a shared or
26 congregate living arrangement, if a home setting is not medically
27 appropriate or available to the beneficiary.

28 (2) As used in this subdivision, "in-home medical care service"
29 includes utility bills directly attributable to continuous, 24-hour
30 operation of life-sustaining medical equipment, to the extent that
31 federal financial participation is available.

32 (3) As used in this subdivision, in-home medical care services
33 include, but are not limited to:

34 (A) Level-of-care and cost-of-care evaluations.

35 (B) Expenses, directly attributable to home care activities, for
36 materials.

37 (C) Physician fees for home visits.

38 (D) Expenses directly attributable to home care activities for
39 shelter and modification to shelter.

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- 1 (E) Expenses directly attributable to additional costs of special
2 diets, including tube feeding.
- 3 (F) Medically related personal services.
- 4 (G) Home nursing education.
- 5 (H) Emergency maintenance repair.
- 6 (I) Home health agency personnel benefits that permit coverage
7 of care during periods when regular personnel are on vacation or
8 using sick leave.
- 9 (J) All services needed to maintain antiseptic conditions at stoma
10 or shunt sites on the body.
- 11 (K) Emergency and nonemergency medical transportation.
- 12 (L) Medical supplies.
- 13 (M) Medical equipment, including, but not limited to, scales,
14 gurneys, and equipment racks suitable for paralyzed patients.
- 15 (N) Utility use directly attributable to the requirements of home
16 care activities that are in addition to normal utility use.
- 17 (O) Special drugs and medications.
- 18 (P) Home health agency supervision of visiting staff that is
19 medically necessary, but not included in the home health agency
20 rate.
- 21 (Q) Therapy services.
- 22 (R) Household appliances and household utensil costs directly
23 attributable to home care activities.
- 24 (S) Modification of medical equipment for home use.
- 25 (T) Training and orientation for use of life-support systems,
26 including, but not limited to, support of respiratory functions.
- 27 (U) Respiratory care practitioner services as defined in Sections
28 3702 and 3703 of the Business and Professions Code, subject to
29 prescription by a physician and surgeon.
- 30 (4) A beneficiary receiving in-home medical care services is
31 entitled to the full range of services within the Medi-Cal scope of
32 benefits as defined by this section, subject to medical necessity
33 and applicable utilization control. Services provided pursuant to
34 this subdivision, which are not otherwise included in the Medi-Cal
35 schedule of benefits, shall be available only to the extent that
36 federal financial participation for these services is available in
37 accordance with a home- and community-based services waiver.
- 38 (t) Home- and community-based services approved by the
39 United States Department of Health and Human Services are
40 covered to the extent that federal financial participation is available

1 for those services under the state plan or waivers granted in
2 accordance with Section 1315 or 1396n of Title 42 of the United
3 States Code. The director may seek waivers for any or all home-
4 and community-based services approvable under Section 1315 or
5 1396n of Title 42 of the United States Code. Coverage for those
6 services shall be limited by the terms, conditions, and duration of
7 the federal waivers.

8 (u) Comprehensive perinatal services, as provided through an
9 agreement with a health care provider designated in Section
10 14134.5 and meeting the standards developed by the department
11 pursuant to Section 14134.5, subject to utilization controls.

12 The department shall seek any federal waivers necessary to
13 implement the provisions of this subdivision. The provisions for
14 which appropriate federal waivers cannot be obtained shall not be
15 implemented. Provisions for which waivers are obtained or for
16 which waivers are not required shall be implemented
17 notwithstanding any inability to obtain federal waivers for the
18 other provisions. No provision of this subdivision shall be
19 implemented unless matching funds from Subchapter XIX
20 (commencing with Section 1396) of Chapter 7 of Title 42 of the
21 United States Code are available.

22 (v) Early and periodic screening, diagnosis, and treatment for
23 any individual under 21 years of age is covered, consistent with
24 the requirements of Subchapter XIX (commencing with Section
25 1396) of Chapter 7 of Title 42 of the United States Code.

26 (w) Hospice service that is Medicare-certified hospice service
27 is covered, subject to utilization controls. Coverage shall be
28 available only to the extent that no additional net program costs
29 are incurred.

30 (x) When a claim for treatment provided to a beneficiary
31 includes both services that are authorized and reimbursable under
32 this chapter and services that are not reimbursable under this
33 chapter, that portion of the claim for the treatment and services
34 authorized and reimbursable under this chapter shall be payable.

35 (y) Home- and community-based services approved by the
36 United States Department of Health and Human Services for a
37 beneficiary with a diagnosis of Acquired Immune Deficiency
38 Syndrome (AIDS) or AIDS-related complex, who requires
39 intermediate care or a higher level of care.

Services provided pursuant to a waiver obtained from the Secretary of the United States Department of Health and Human Services pursuant to this subdivision, and that are not otherwise included in the Medi-Cal schedule of benefits, shall be available only to the extent that federal financial participation for these services is available in accordance with the waiver, and subject to the terms, conditions, and duration of the waiver. These services shall be provided to a beneficiary in accordance with the client's needs as identified in the plan of care, and subject to medical necessity and applicable utilization control.

The director may, under this section, contract with organizations qualified to provide, directly or by subcontract, services provided for in this subdivision to an eligible beneficiary. Contracts or agreements entered into pursuant to this division shall not be subject to the Public Contract Code.

(z) Respiratory care when provided in organized health care systems as defined in Section 3701 of the Business and Professions Code, and as an in-home medical service as outlined in subdivision (s).

(aa) (1) There is hereby established in the department a program to provide comprehensive clinical family planning services to any person who has a family income at or below 200 percent of the federal poverty level, as revised annually, and who is eligible to receive these services pursuant to the waiver identified in paragraph (2). This program shall be known as the Family Planning, Access, Care, and Treatment (Family PACT) Program.

(2) The department shall seek a waiver in accordance with Section 1315 of Title 42 of the United States Code, or a state plan amendment adopted in accordance with Section 1396a(a)(10)(A)(ii)(XXI) of Title 42 of the United States Code, which was added to Section 1396a of Title 42 of the United States Code by Section 2303(a)(2) of the federal Patient Protection and Affordable Care Act (PPACA) (Public Law 111-148), for a program to provide comprehensive clinical family planning services as described in paragraph (8). Under the waiver, the program shall be operated only in accordance with the waiver and the statutes and regulations in paragraph (4) and subject to the terms, conditions, and duration of the waiver. Under the state plan amendment, which shall replace the waiver and shall be known as the Family PACT successor state plan amendment, the program

1 shall be operated only in accordance with this subdivision and the
2 statutes and regulations in paragraph (4). The state shall use the
3 standards and processes imposed by the state on January 1, 2007,
4 including the application of an eligibility discount factor to the
5 extent required by the federal Centers for Medicare and Medicaid
6 Services, for purposes of determining eligibility as permitted under
7 Section 1396a(a)(10)(A)(ii)(XXI) of Title 42 of the United States
8 Code. To the extent that federal financial participation is available,
9 the program shall continue to conduct education, outreach,
10 enrollment, service delivery, and evaluation services as specified
11 under the waiver. The services shall be provided under the program
12 only if the waiver and, when applicable, the successor state plan
13 amendment are approved by the federal Centers for Medicare and
14 Medicaid Services and only to the extent that federal financial
15 participation is available for the services. This section does not
16 prohibit the department from seeking the Family PACT successor
17 state plan amendment during the operation of the waiver.

18 (3) Solely for the purposes of the waiver or Family PACT
19 successor state plan amendment and notwithstanding any other
20 law, the collection and use of an individual's social security number
21 shall be necessary only to the extent required by federal law.

22 (4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005,
23 and 24013, and any regulations adopted under these statutes shall
24 apply to the program provided for under this subdivision. No other
25 law under the Medi-Cal program or the State-Only Family Planning
26 Program shall apply to the program provided for under this
27 subdivision.

28 (5) Notwithstanding Chapter 3.5 (commencing with Section
29 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
30 the department may implement, without taking regulatory action,
31 the provisions of the waiver after its approval by the federal Centers
32 for Medicare and Medicaid Services and the provisions of this
33 section by means of an all-county letter or similar instruction to
34 providers. Thereafter, the department shall adopt regulations to
35 implement this section and the approved waiver in accordance
36 with the requirements of Chapter 3.5 (commencing with Section
37 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
38 Beginning six months after the effective date of the act adding this
39 subdivision, the department shall provide a status report to the

1 Legislature on a semiannual basis until regulations have been
2 adopted.

3 (6) If the Department of Finance determines that the program
4 operated under the authority of the waiver described in paragraph
5 (2) or the Family PACT successor state plan amendment is no
6 longer cost effective, this subdivision shall become inoperative on
7 the first day of the first month following the issuance of a 30-day
8 notification of that determination in writing by the Department of
9 Finance to the chairperson in each house that considers
10 appropriations, the chairpersons of the committees, and the
11 appropriate subcommittees in each house that considers the State
12 Budget, and the Chairperson of the Joint Legislative Budget
13 Committee.

14 (7) If this subdivision ceases to be operative, all persons who
15 have received or are eligible to receive comprehensive clinical
16 family planning services pursuant to the waiver described in
17 paragraph (2) shall receive family planning services under the
18 Medi-Cal program pursuant to subdivision (n) if they are otherwise
19 eligible for Medi-Cal with no share of cost, or shall receive
20 comprehensive clinical family planning services under the program
21 established in Division 24 (commencing with Section 24000) either
22 if they are eligible for Medi-Cal with a share of cost or if they are
23 otherwise eligible under Section 24003.

24 (8) For purposes of this subdivision, “comprehensive clinical
25 family planning services” means the process of establishing
26 objectives for the number and spacing of children, and selecting
27 the means by which those objectives may be achieved. These
28 means include a broad range of acceptable and effective methods
29 and services to limit or enhance fertility, including contraceptive
30 methods, federal Food and Drug Administration-approved
31 contraceptive drugs, devices, and supplies, natural family planning,
32 abstinence methods, and basic, limited fertility management.
33 Comprehensive clinical family planning services include, but are
34 not limited to, preconception counseling, maternal and fetal health
35 counseling, general reproductive health care, including diagnosis
36 and treatment of infections and conditions, including cancer, that
37 threaten reproductive capability, medical family planning treatment
38 and procedures, including supplies and followup, and
39 informational, counseling, and educational services.
40 Comprehensive clinical family planning services shall not include

1 abortion, pregnancy testing solely for the purposes of referral for
2 abortion or services ancillary to abortions, or pregnancy care that
3 is not incident to the diagnosis of pregnancy. Comprehensive
4 clinical family planning services shall be subject to utilization
5 control and include all of the following:

6 (A) Family planning related services and male and female
7 sterilization. Family planning services for men and women shall
8 include emergency services and services for complications directly
9 related to the contraceptive method, federal Food and Drug
10 Administration-approved contraceptive drugs, devices, and
11 supplies, and followup, consultation, and referral services, as
12 indicated, which may require treatment authorization requests.

13 (B) All United States Department of Agriculture, federal Food
14 and Drug Administration-approved contraceptive drugs, devices,
15 and supplies that are in keeping with current standards of practice
16 and from which the individual may choose.

17 (C) Culturally and linguistically appropriate health education
18 and counseling services, including informed consent, that include
19 all of the following:

20 (i) Psychosocial and medical aspects of contraception.

21 (ii) Sexuality.

22 (iii) Fertility.

23 (iv) Pregnancy.

24 (v) Parenthood.

25 (vi) Infertility.

26 (vii) Reproductive health care.

27 (viii) Preconception and nutrition counseling.

28 (ix) Prevention and treatment of sexually transmitted infection.

29 (x) Use of contraceptive methods, federal Food and Drug
30 Administration-approved contraceptive drugs, devices, and
31 supplies.

32 (xi) Possible contraceptive consequences and followup.

33 (xii) Interpersonal communication and negotiation of
34 relationships to assist individuals and couples in effective
35 contraceptive method use and planning families.

36 (D) A comprehensive health history, updated at the next periodic
37 visit (between 11 and 24 months after initial examination) that
38 includes a complete obstetrical history, gynecological history,
39 contraceptive history, personal medical history, health risk factors,

1 and family health history, including genetic or hereditary
2 conditions.

3 (E) A complete physical examination on initial and subsequent
4 periodic visits.

5 (F) Services, drugs, devices, and supplies deemed by the federal
6 Centers for Medicare and Medicaid Services to be appropriate for
7 inclusion in the program.

8 (G) (i) Home test kits for sexually transmitted diseases,
9 including any laboratory costs of processing the kit, that are
10 deemed medically necessary or appropriate and ordered directly
11 by an enrolled Medi-Cal or Family PACT clinician or furnished
12 through a standing order for patient use based on clinical guidelines
13 and individual patient health needs.

14 (ii) For purposes of this subparagraph, “home test kit” means a
15 product used for a test recommended by the federal Centers for
16 Disease Control and Prevention guidelines or the United States
17 Preventive Services Task Force that has been CLIA-waived,
18 FDA-cleared or -approved, or developed by a laboratory in
19 accordance with established regulations and quality standards, to
20 allow individuals to self-collect specimens for STDs, including
21 HIV, remotely at a location outside of a clinical setting.

22 (iii) Reimbursement under this subparagraph shall be contingent
23 upon the addition of codes specific to home test kits in the Current
24 Procedural Terminology or Healthcare Common Procedure Coding
25 System to comply with Health Insurance Portability and
26 Accountability Act requirements. The home test kit shall be sent
27 by the enrolled Family PACT provider to a Medi-Cal-enrolled
28 laboratory with fee based on Medicare Clinical Diagnostic
29 Laboratory Tests Payment System Final Rule.

30 (9) In order to maximize the availability of federal financial
31 participation under this subdivision, the director shall have the
32 discretion to implement the Family PACT successor state plan
33 amendment retroactively to July 1, 2010.

34 (ab) (1) Purchase of prescribed enteral nutrition products is
35 covered, subject to the Medi-Cal list of enteral nutrition products
36 and utilization controls.

37 (2) Purchase of enteral nutrition products is limited to those
38 products to be administered through a feeding tube, including, but
39 not limited to, a gastric, nasogastric, or jejunostomy tube. A

1 beneficiary under the Early and Periodic Screening, Diagnostic,
2 and Treatment Program shall be exempt from this paragraph.

3 (3) Notwithstanding paragraph (2), the department may deem
4 an enteral nutrition product, not administered through a feeding
5 tube, including, but not limited to, a gastric, nasogastric, or
6 jejunostomy tube, a benefit for patients with diagnoses, including,
7 but not limited to, malabsorption and inborn errors of metabolism,
8 if the product has been shown to be neither investigational nor
9 experimental when used as part of a therapeutic regimen to prevent
10 serious disability or death.

11 (4) Notwithstanding Chapter 3.5 (commencing with Section
12 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
13 the department may implement the amendments to this subdivision
14 made by the act that added this paragraph by means of all-county
15 letters, provider bulletins, or similar instructions, without taking
16 regulatory action.

17 (5) The amendments made to this subdivision by the act that
18 added this paragraph shall be implemented June 1, 2011, or on the
19 first day of the first calendar month following 60 days after the
20 date the department secures all necessary federal approvals to
21 implement this section, whichever is later.

22 (ac) Diabetic testing supplies are covered when provided by a
23 pharmacy, subject to utilization controls.

24 (ad) (1) Nonmedical transportation is covered, subject to
25 utilization controls and permissible time and distance standards,
26 for a beneficiary to obtain covered Medi-Cal services.

27 (2) (A) (i) Nonmedical transportation includes, at a minimum,
28 round trip transportation for a beneficiary to obtain covered
29 Medi-Cal services by passenger car, taxicab, or any other form of
30 public or private conveyance, and mileage reimbursement when
31 conveyance is in a private vehicle arranged by the beneficiary and
32 not through a transportation broker, bus passes, taxi vouchers, or
33 train tickets.

34 (ii) Nonmedical transportation does not include the
35 transportation of a sick, injured, invalid, convalescent, infirm, or
36 otherwise incapacitated beneficiary by ambulance, litter van, or
37 wheelchair van licensed, operated, and equipped in accordance
38 with state and local statutes, ordinances, or regulations.

39 (B) (i) Nonmedical transportation shall be provided for a
40 beneficiary who can attest in a manner to be specified by the

1 department that other currently available resources have been
2 reasonably exhausted. For a beneficiary enrolled in a managed
3 care plan, nonmedical transportation shall be provided by the
4 beneficiary's managed care plan. For a Medi-Cal fee-for-service
5 beneficiary, the department shall provide nonmedical transportation
6 when those services are not available to the beneficiary under
7 Sections 14132.44 and 14132.47.

8 *(ii) The department shall require managed care plans to contract*
9 *with public transit operators for the purpose of establishing*
10 *reimbursement rates for nonmedical and nonemergency medical*
11 *transportation trips provided by a public transit operator.*

12 *(iii) Rates reimbursed by the managed care plan to the public*
13 *transit operator shall be based on the department's fee-for-service*
14 *rates for nonmedical and nonemergency medical transportation*
15 *service.*

16 (3) Nonmedical transportation shall be provided in a form and
17 manner that is accessible, in terms of physical and geographic
18 accessibility, for the beneficiary and consistent with applicable
19 state and federal disability rights laws.

20 (4) It is the intent of the Legislature in enacting this subdivision
21 to affirm the requirement under Section 431.53 of Title 42 of the
22 Code of Federal Regulations, in which the department is required
23 to provide necessary transportation, including nonmedical
24 transportation, for recipients to and from covered services. This
25 subdivision shall not be interpreted to add a new benefit to the
26 Medi-Cal program.

27 (5) The department shall seek any federal approvals that may
28 be required to implement this subdivision, including, but not
29 limited to, approval of revisions to the existing state plan that the
30 department determines are necessary to implement this subdivision.

31 (6) This subdivision shall be implemented only to the extent
32 that federal financial participation is available and not otherwise
33 jeopardized and any necessary federal approvals have been
34 obtained.

35 (7) Prior to the effective date of any necessary federal approvals,
36 nonmedical transportation was not a Medi-Cal managed care
37 benefit with the exception of when provided as an Early and
38 Periodic Screening, Diagnostic, and Treatment service.

39 (8) Notwithstanding Chapter 3.5 (commencing with Section
40 11340) of Part 1 of Division 3 of Title 2 of the Government Code,

1 the department, without taking any further regulatory action, shall
2 implement, interpret, or make specific this subdivision by means
3 of all-county letters, plan letters, plan or provider bulletins, or
4 similar instructions until the time regulations are adopted. By July
5 1, 2018, the department shall adopt regulations in accordance with
6 the requirements of Chapter 3.5 (commencing with Section 11340)
7 of Part 1 of Division 3 of Title 2 of the Government Code.
8 Commencing January 1, 2018, and notwithstanding Section
9 10231.5 of the Government Code, the department shall provide a
10 status report to the Legislature on a semiannual basis, in
11 compliance with Section 9795 of the Government Code, until
12 regulations have been adopted.

13 (9) This subdivision shall not be implemented until July 1, 2017.

14 (ae) (1) No sooner than January 1, 2022, Rapid Whole Genome
15 Sequencing, including individual sequencing, trio sequencing for
16 a parent or parents and their baby, and ultra-rapid sequencing, is
17 a covered benefit for any Medi-Cal beneficiary who is one year
18 of age or younger and is receiving inpatient hospital services in
19 an intensive care unit.

20 (2) Notwithstanding Chapter 3.5 (commencing with Section
21 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
22 the department, without taking any further regulatory action, shall
23 implement, interpret, or make specific this subdivision by means
24 of all-county letters, plan letters, plan or provider bulletins, or
25 similar instructions until the time regulations are adopted.

26 (3) This subdivision shall be implemented only to the extent
27 that any necessary federal approvals are obtained, and federal
28 financial participation is available and not otherwise jeopardized.

29 (af) (1) Home test kits for sexually transmitted diseases that
30 are deemed medically necessary or appropriate and ordered directly
31 by an enrolled Medi-Cal clinician or furnished through a standing
32 order for patient use based on clinical guidelines and individual
33 patient health needs.

34 (2) For purposes of this subdivision, “home test kit” means a
35 product used for a test recommended by the federal Centers for
36 Disease Control and Prevention guidelines or the United States
37 Preventive Services Task Force that has been CLIA-waived,
38 FDA-cleared or -approved, or developed by a laboratory in
39 accordance with established regulations and quality standards, to

1 allow individuals to self-collect specimens for STDs, including
2 HIV, remotely at a location outside of a clinical setting.

3 (3) Reimbursement under this subparagraph shall be contingent
4 upon the addition of codes specific to home test kits in the Current
5 Procedural Terminology or Healthcare Common Procedure Coding
6 System to comply with Health Insurance Portability and
7 Accountability Act requirements. The home test kit shall be sent
8 by the enrolled Medi-Cal provider to a Medi-Cal-enrolled
9 laboratory with fee based on Medicare Clinical Diagnostic
10 Laboratory Tests Payment System Final Rule.

11 (4) This subdivision shall be implemented only to the extent
12 that federal financial participation is available and not otherwise
13 jeopardized, and any necessary federal approvals have been
14 obtained.

15 (5) Notwithstanding Chapter 3.5 (commencing with Section
16 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
17 the State Department of Health Care Services may implement this
18 subdivision by means of all-county letters, plan letters, plan or
19 provider bulletins, or similar instructions, without taking any
20 further regulatory action.

21 (ag) (1) Violence prevention services are covered, subject to
22 medical necessity and utilization controls.

23 (2) Notwithstanding Chapter 3.5 (commencing with Section
24 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
25 the department, without taking any further regulatory action, may
26 implement, interpret, or make specific this subdivision by means
27 of all-county letters, plan letters, plan or provider bulletins, or
28 similar instructions until the time regulations are adopted.

29 (3) This subdivision shall be implemented only to the extent
30 that any necessary federal approvals are obtained, and federal
31 financial participation is available and not otherwise jeopardized.

32 (4) The department shall post on its internet website the date
33 upon which violence prevention services may be provided and
34 billed pursuant to this subdivision.

35 (5) “Violence prevention services” means evidence-based,
36 trauma-informed, and culturally responsive preventive services
37 provided to reduce the incidence of violent injury or reinjury,

- 1 trauma, and related harms and promote trauma recovery,
- 2 stabilization, and improved health outcomes.

O

AB 1377 (Friedman) Analysis and Recommendation

TITLE: Homeless Housing, Assistance, and Prevention program: Round 3

AUTHOR: Friedman (D-Glendale)

CO-AUTHORS: Carrillo (D-Los Angeles), Kalra (D-San Jose)

SPONSOR: Los Angeles County Metropolitan Transportation Authority (LA Metro)

RECOMMENDATION: Support

BACKGROUND: The Homeless Housing, Assistance, and Prevention (HHAP) program was created to distribute state funds to address homelessness by providing jurisdictions with one-time grant funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges. The program is informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting efforts to keep them stably housed. Funding has been allocated to continuums of care, cities, counties, and tribes in 4 rounds so far. The program is administered by the Interagency Council on Homelessness.

Beginning with Round 3, the program requires applicants to provide specified information for all rounds of program allocations through a data collection, reporting, performance monitoring, and accountability framework, as established by the council. This includes data on the applicant's progress towards meeting their outcome goals, to be submitted annually. If the applicant has not made significant progress towards those goals, they must submit a description of barriers and possible solutions as well as accept technical assistance from the council.

PURPOSE: Assembly Bill (AB) 1377 would require HHAP program funding recipients to provide data and a narrative summary of specific and quantifiable steps that they have taken to improve the delivery of housing and services to people experiencing homelessness or at risk of homelessness, on transit facilities owned and operated by transit districts that operate in their jurisdiction. This new accountability would ensure that funding recipients take action to reduce homelessness on transit.

DISTRICT IMPACT: AB 1377 would require HHAP program funding recipients located within BART's service area to share data and a narrative summary as to actions they have taken to improve homelessness on transit facilities owned and operated by BART. BART is not authorized to apply for HHAP funds and allocates already limited operating funds to cost-sharing agreements with cities and counties, local law enforcement, and nonprofit agencies to ensure unhoused populations are being served. AB 1337 would place further pressure on funding recipients to describe the steps taken to address homelessness and related quality of life issues impacting the District.

KNOWN SUPPORT/OPPOSITION: In addition to the sponsor, support on file includes the Central City Association of Los Angeles.

STATUS: Passed the Assembly Committee on Housing and Community Development (8-0) on April 12 and referred to the Assembly Committee on Appropriations. Hearing set for April 26.

AMENDED IN ASSEMBLY APRIL 13, 2023

AMENDED IN ASSEMBLY MARCH 9, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1377

Introduced by Assembly Member Friedman
(Coauthors: Assembly Members Wendy Carrillo and Kalra)

February 17, 2023

An act to amend Section 50223 of the Health and Safety Code, relating to homelessness.

LEGISLATIVE COUNSEL'S DIGEST

AB 1377, as amended, Friedman. Homeless Housing, Assistance, and Prevention Program: Round 3.

Existing law establishes, among various other programs intended to address homelessness in this state, the Homeless Housing, Assistance, and Prevention program for the purpose of providing jurisdictions with one-time grant funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges informed by a best-practices framework focused on moving homeless individuals and families into permanent housing and supporting the efforts of those individuals and families to maintain their permanent housing. Existing law provides for the allocation of funding under the program among continuums of care, cities, counties, and tribes in 4 rounds, which are to be administered by the Interagency Council on Homelessness.

Existing law, beginning with round 3 of the program, requires applicants to provide specified information for all rounds of program allocations through a data collection, reporting, performance monitoring,

AB 1377

— 2 —

and accountability framework, as established by the council. This includes data on the applicant's progress towards meeting their outcome goals, to be submitted annually, for each year of the program, and other information if the applicant has not made significant progress towards those goals.

This bill would also require data and a narrative summary of specific and quantifiable steps that the applicant has taken to improve the delivery of housing and services to people experiencing homelessness or at risk of homelessness, on transit ~~properties that operate facilities owned and operated by a transit district, as defined, in their jurisdiction.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 50223 of the Health and Safety Code is
2 amended to read:
3 50223. (a) Beginning with round 3 of the program, in addition
4 to the data required under Sections 50221 and 50222, applicants
5 shall provide the following information for all rounds of program
6 allocations through a data collection, reporting, performance
7 monitoring, and accountability framework, as established by the
8 council:
9 (1) (A) Data on the applicant's progress towards meeting their
10 outcome goals, which shall be submitted annually on December
11 31 of each year through the duration of the program.
12 (B) If the applicant has not made significant progress toward
13 their outcome goals, the applicant shall submit a description of
14 barriers and possible solutions to those barriers.
15 (C) Applicants that do not demonstrate significant progress
16 towards meeting outcome goals shall accept technical assistance
17 from the council and may also be required to limit the allowable
18 uses of these program funds, as determined by the council.
19 (D) Data and a narrative summary of specific and quantifiable
20 steps that the applicant has taken to improve the delivery of housing
21 and services to people experiencing homelessness or at risk of
22 homelessness, on transit ~~properties that operate facilities owned~~
23 ~~and operated by a transit district, as defined by Section 99213 of~~
24 ~~the Public Utilities Code, in their jurisdiction.~~

1 (2) (A) A quarterly fiscal report of program funds expended
2 and obligated in each allowable budget category approved in their
3 application for program funds.

4 (B) If the applicant has not made significant progress toward
5 their outcome goals, then the applicant shall report on their
6 outcome goals in their quarterly report.

7 (3) The council shall compile and post a statewide report that
8 aggregates each applicant's outcome goals into a single statewide
9 set of metrics.

10 (b) No later than October 1, 2026, each recipient that receives
11 a round 3 program allocation shall submit to the council a final
12 report in a format provided by the council, as well as detailed uses
13 of all program funds.

14 (c) No later than October 1, 2027, each recipient that receives
15 a round 4 program allocation shall submit to the council a final
16 report in a format provided by the council, as well as detailed uses
17 of all program funds.

SB 434 (Min) Analysis and Recommendation

TITLE: Transit operators: street harassment survey

AUTHORS: Min (D-Irvine)

CO-AUTHOR: Haney (D-San Francisco)

SPONSOR: Stop AAPI Hate

RECOMMENDATION: Support

BACKGROUND: The Unruh Civil Rights Act requires public agencies, including transit districts, to provide each person full and equal accommodations, advantages, facilities, privileges, or services regardless of factors such as sex, race, color, religion, disability, medical condition, sexual orientation, citizenship, among others. Despite this legal protection, women and other vulnerable communities are often unable to access public transit safely due to street harassment, which can include unwanted sexual and racialized comments and slurs, whistling, leering, and other intimidating actions.

Since its official launch on March 19, 2020, the Stop AAPI Hate coalition has received over 9,000 reports of hate incidents against Asian Americans and Pacific Islanders from across the country. Almost 50 percent of incidents took place at public venues, including streets, parks, and on transit. To that end, last year Senator Min authored Senate Bill (SB) 1161, which required the Mineta Transportation Institute at San Jose State University (MTI), to develop and make available on its website by December 31, 2023, a survey to allow for consistency in the collection of data to inform efforts to improve rider safety and reduce street harassment on transit. The BART Board of Directors voted to support SB 1161 on June 9, 2022, and it passed the Legislature and was signed into law by Governor Newsom later that year. BART was selected to be a pilot agency for the draft survey to test length and clarity, and the pilot on our trains recently concluded.

PURPOSE: SB 434 seeks to address the issue of street harassment on public transit by requiring the top ten public transit operators by ridership, upon appropriation of funds by the Legislature, to collect and publish survey data and conduct outreach activities for the purpose of informing their efforts to improve the safety of riders and reduce street harassment on transit. It would also require transit operators, by December 31, 2024, to publish the survey data on their websites and notify the Governor and Legislature of its publication.

DISTRICT IMPACT: According to preliminary analysis by the California Transit Association (CTA), the ten transit operators subject to the bill would be LA Metro, San Francisco Municipal Railway (Muni), BART, San Diego Metropolitan Transit System, Alameda-Contra Costa Transit (AC Transit), Orange County Transportation Authority (OCTA), Long Beach Transit, Santa Clara Valley Transportation Authority (VTA), Sacramento Regional Transit, and the Los Angeles Department of Transportation.

BART, along with these other agencies, would be required to collect survey data from its riders and to conduct focus groups paying special attention to underrepresented populations. Transit operators would be able to use the survey developed by MTI or their own surveys. After the data is collected, transit operators would be required, by December 31, 2024, to publish the survey data on their websites and inform the Governor and Legislature of its publication. Additionally, if an operator has collected data or conducted outreach activities required by the bill in the last five years before the effective date of the bill, they are deemed to be in compliance with its requirements. As BART has conducted its Not One More Girl campaign, the argument can be made that the District has satisfied the bill's requirements.

KNOWN SUPPORT/OPPOSITION: Supporters include numerous equity and racial and social justice organizations located throughout the state. No opposition currently on file.

STATUS: Passed the Senate Committee on Transportation (14-0) on March 29. On April 17, it was heard in the Senate Committee on Appropriations and placed on the suspense file.

AMENDED IN SENATE MARCH 16, 2023

SENATE BILL

No. 434

Introduced by Senator Min
(Coauthor: Assembly Member Haney)

February 13, 2023

An act to add Section 99178 to the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 434, as amended, Min. Transit operators: street harassment survey.

Existing law creates various transit districts throughout the state, with specified powers and duties relative to providing public transit service. Existing law provides various provisions applicable to all public transit and transit districts. Existing law requires the Mineta Transportation Institute at San Jose State University to, on or before December 31, 2023, develop and make available on its internet website a survey for the purpose of promoting consistency in the collection of specified survey data to inform efforts to improve the safety of riders and reduce street harassment on public transit.

This bill would require a transit operator, as defined, upon ~~allocation~~ *appropriation* of ~~certain~~ funds by the Legislature, to collect *and publish* specified survey data for the purpose of informing efforts to improve the safety of riders and reduce street harassment on public transit on or before ~~June 30~~, *December 31*, 2024. The bill would require a transit operator to conduct outreach activities with subpopulations of riders who are underrepresented in surveys and impacted by street harassment to gain insight into the perspectives of these riders based on their experiences. *The bill would authorize a transit operator to collect survey data in multiple languages to reach limited-English-proficient riders*

impacted by street harassment, as provided. The bill would require a transit operator to publish and make publicly available on its internet website the survey data collected pursuant to these provisions and promptly notify the Governor and the Legislature of publication of the survey data. The bill would provide that specified information collected by a transit operator in the 5 years before the effective date of this bill is deemed to be survey data collected by the transit operator for purposes of the bill, and that specified outreach activity conducted by a transit operator in the 5 years before the effective date of this bill is deemed to be outreach activities conducted by the transit operator for purposes of the bill. To the extent the bill imposes additional duties on a local agency, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Public transportation ensures that each person may enjoy
- 4 the freedom of movement. Providing a safe journey for women
- 5 and other vulnerable communities will increase ridership
- 6 throughout the public transit system.
- 7 (b) The State of California encourages transit operators to
- 8 recognize a definition of rider safety that acknowledges safety is
- 9 not merely the freedom from physical harm but also the freedom
- 10 to take public transit without street harassment.
- 11 (c) Street harassment on public transit diminishes ridership
- 12 growth, undermines riders' safety, hurts all riders, and can reinforce
- 13 social inequality and economic hardship throughout a rider's
- 14 lifetime.
- 15 (d) Women and girls, particularly those of color and those in
- 16 the LGBTQ+ communities, are often the targets of street

1 harassment on public transit. Such harassment includes unwanted
2 sexual and racialized comments and slurs, whistling, leering, and
3 other intimidating actions. According to a 2019 statewide study
4 by the University of California, San Diego Center on Gender
5 Equity and Health, 77 percent of women experience sexual
6 harassment in a public space, including 29 percent on mass transit.
7 Furthermore, women who identify as lesbian or bisexual are more
8 likely to report experiencing sexual harassment than straight
9 women.

10 (e) A 2019 bay area study by Alliance for Girls found that girls,
11 including transgender girls, cisgender girls, and nonconforming
12 youth, in the Cities of San Francisco, San Jose, and Oakland
13 expressed feeling unsafe on public transportation due to the daily
14 harassment they experience on buses and trains on their way to
15 and from school.

16 (f) LGBTQ riders face elevated risk of harassment and
17 discrimination on transit systems, according to a 2018 report by
18 the Movement Advancement Project. Additionally, 2017 data from
19 the Center for American Progress found that 11 percent of
20 transgender people and 9 percent of LGBT people with disabilities
21 avoided public transportation due to fear of discrimination.

22 (g) According to a 2019 report by the Los Angeles Metropolitan
23 Transportation Authority, safety is the primary barrier to riding
24 transit for women. Fear of harassment leads to behavioral
25 adjustments and precautions by women riders, including leaving
26 a bus or train mid-trip to avoid harassment, avoiding travel in the
27 evening, avoiding certain settings such as crowded buses, and not
28 walking alone.

29 (h) Low-income women face even greater barriers to movement,
30 including safety concerns, poor walking environments, lower
31 access to driver's licenses, and transit inefficiencies such as long
32 travel times and infrequent service. Unlike more affluent women,
33 low-income women have fewer private transportation options.

34 (i) Women of color on public transit experience even more
35 threats to their safety. According to the Los Angeles Department
36 of Transportation, women of color report feeling more unsafe on
37 public transportation than women who identify as white.

38 (j) Data collected by the Stop AAPI Hate coalition finds that
39 nearly 40 percent of the nationwide acts of hate against Asian
40 Americans and Pacific Islanders happen in California, and hate

1 incidents involving women make up nearly two-thirds of all reports
2 in the state. Most of these hate incidents involve verbal harassment
3 and occur in public spaces, including public transit.

4 (k) Though they experience higher levels of harassment, women
5 of color are also more dependent on public transit. According to
6 the Center for American Progress, women of color experience a
7 persistent gender wage gap in conjunction with racial bias in the
8 workplace, which leaves them perpetually underpaid. Without the
9 economic means for private transportation options, women of color
10 are more likely to be dependent on public transportation.

11 (l) Riders significantly underreport instances of street
12 harassment. Research published by the University of California,
13 Los Angeles Lewis Center for Regional Policy Studies finds that
14 only 10 percent of people who experienced or observed sexual
15 harassment on transit reported the incident. Research collected by
16 the Mineta Transportation Institute at San Jose State University
17 finds that street harassment is underreported globally as women
18 are often embarrassed and reluctant to report when public culture
19 puts the blame on the victims of harassment.

20 (m) The Legislature affirms that protecting transit riders' safety,
21 combating street harassment that could be experienced in transit
22 journeys, and ensuring equal access to transportation are public
23 policy priorities.

24 (n) Public transit operators may attract new riders by taking
25 steps to enhance rider safety and to combat street harassment.
26 When riders feel safe waiting at transit stops and riding transit,
27 they may increasingly use public transit. In turn, the growing
28 ridership helps to enable the public transit system to thrive.

29 SEC. 2. Section 99178 is added to the Public Utilities Code,
30 immediately following Section 99177, to read:

31 99178. (a) ~~For the purpose~~ *purposes* of this section, the
32 ~~following definitions apply:~~ *terms "street harassment," "survey*
33 *data," and "transit operator" have the same meanings as defined*
34 *in Section 99177.*

35 (1) ~~"Street harassment" means words, gestures, or actions~~
36 ~~directed at a specific person in a public place, without the consent~~
37 ~~of that person, because of a characteristic listed or defined in~~
38 ~~Section 11135 of the Government Code, that the person experiences~~
39 ~~as intimidating, alarming, terrorizing, or threatening to their safety.~~

1 For the purposes of this section, street harassment because of age
2 shall include any chronological age.

3 (2) ~~“Survey data” means information regarding public transit~~
4 ~~riders and their experiences using public transit, including, but not~~
5 ~~limited to, demographic information about riders and information~~
6 ~~about their experiences with safety, including, but not limited to,~~
7 ~~street harassment.~~

8 (3) ~~“Transit operator” means the 10 transit operators, as defined~~
9 ~~in Section 99210, with the most unlinked passenger trips in 2019~~
10 ~~in the state, according to the National Transit Database.~~

11 (b) (1) ~~On or before June 30, December 31, 2024, a transit~~
12 ~~operator shall, upon allocation appropriation of funds by the~~
13 ~~Legislature from the Public Transportation Account, Legislature,~~
14 ~~collect and publish survey data data, in accordance with this~~
15 ~~section, to the extent feasible with the funding it receives to~~
16 ~~implement this section, for the purpose of informing their efforts~~
17 ~~to improve the safety of riders and reduce street harassment on~~
18 ~~public transit.~~

19 (2) ~~The~~

20 (c) A transit operator shall collect, at a minimum, the information
21 described in paragraph (2) of subdivision (b) of Section 99177.
22 The

23 (d) A transit operator may, but is not required to, use the survey
24 made available pursuant to Section 99177 and may ask additional
25 questions beyond those in the survey.

26 (e)

27 (e) A transit operator shall conduct outreach activities with
28 subpopulations of riders who are underrepresented in surveys and
29 impacted by street harassment to gain insight into the perspectives
30 of these riders based on their experiences. ~~These activities~~ Activities
31 may include focus groups, participatory workshops, or other
32 methods of engaging riders. *Subpopulations may include, but are*
33 *not limited to, women riders, non-English-speaking riders,*
34 *LGBTQ+ riders, and riders with disabilities.*

35 (f) A transit operator may collect survey data in multiple
36 languages to reach limited-English-proficient riders impacted by
37 street harassment. *The languages may be determined by existing*
38 *data on riders or the top non-English languages used by*
39 *limited-English-proficient persons in the community served by the*

1 *transit operator according to the most recent American Community*
 2 *Survey by the United States Census Bureau.*

3 *(g) (1) A transit operator shall publish and make publicly*
 4 *available on its internet website all survey data collected pursuant*
 5 *to this section, including the information described in paragraph*
 6 *(2) of subdivision (b) of Section 99177, as required by subdivision*
 7 *(c).*

8 *(2) Notwithstanding paragraph (1), a transit operator shall not*
 9 *publish any personally identifiable information.*

10 *(3) A transit operator shall promptly notify the Governor and*
 11 *the Legislature of the publication of the survey data.*

12 ~~(d)~~

13 *(h) Notwithstanding anything in this section to the contrary,*
 14 *any information described in paragraph (2) of subdivision (b) of*
 15 *Section 99177 collected by a transit operator in the five years*
 16 *before the effective date of this section shall be deemed to be*
 17 *survey data collected by the transit operator pursuant to this section.*
 18 *section, and any outreach activities conducted by a transit operator*
 19 *to collect that information in the five years before the effective*
 20 *date of this section shall be deemed to have been conducted by the*
 21 *transit operator pursuant to this section.*

22 ~~(e)~~

23 *(i) Nothing in this section shall be construed to create new or*
 24 *additional liability for a transit operator for failing to respond to*
 25 *an incident of street harassment.*

26 SEC. 3. If the Commission on State Mandates determines that
 27 this act contains costs mandated by the state, reimbursement to
 28 local agencies and school districts for those costs shall be made
 29 pursuant to Part 7 (commencing with Section 17500) of Division
 30 4 of Title 2 of the Government Code.

S. 24 (Feinstein) and H.R. 516 (Lieu) Analysis and Recommendation

TITLE: The Fighting Homelessness Through Services and Housing Act

AUTHORS: Sen. Dianne Feinstein (D-CA), Rep. Ted Lieu (D-CA)

CO-SPONSORS: Sens. Padilla (D-CA), Klobuchar (D-MN), Bennet (D-CO), Shaheen (D-NH), Blumenthal (D-CT); Reps. Kamlager-Dove (D-CA), Garcia (D-CA), Swalwell (D-CA), Moskowitz (D-CA)

RECOMMENDATION: Support

BACKGROUND: Homelessness on the BART system is a major impediment to ridership recovery. Efforts to make BART directly eligible for homelessness funding from the federal and state governments have so far been unsuccessful. On the state level, BART is considering at its April 27, 2023, meeting supporting Assembly Bill 1377 (Friedman), which would require jurisdictions that receive state Homeless Housing, Assistance and Prevention funds to report on actions that they have taken to address homelessness on transit properties located in their jurisdictions. Cities, counties, and continuums of care are continually looking for additional funding for programs to address homelessness. BART previously supported a similar bill, S. 923 (Feinstein), in 2019.

PURPOSE: The Fighting Homelessness Through Services and Housing Act:

- Authorizes \$1 billion annually for five years, for a total of \$5 billion, to fund supportive housing models that provide comprehensive services and intensive case management.
- Requires a 25 percent match for services and housing from non-federal funds.
- Allows grants to be used for any combination of operations and capital building costs, as long as housing and services requirements are fulfilled.
- Funds would be available for both planning and implementation grants.
- Requires grantees to track outcomes and report on housing stability and improvements in health and wellbeing, including education of children.

Grant eligibility and requirements:

- Grants may go to local governmental entities, such as cities, counties, regional collaboratives and tribal governments.
- Services must address issues including mental health; substance use disorders; disabling or other chronic health conditions; educational and job training/employment outcomes; and life skills classes.
- Intensive case management must be provided with a ratio of no greater than 1 case manager to every 20 people served.

DISTRICT IMPACT: This infusion of federal funds into programs in the jurisdictions that BART serves would allow for more robust partnerships to address homelessness on the system and in areas around BART properties. While the District, as a regional government body, would be eligible to apply for grants, given the level of services that the District would need to provide in order to receive a grant, it would more likely support applications by the jurisdictions in which it operates.

KNOWN SUPPORT/OPPOSITION: None on file.

STATUS: S. 24 is referred to the Senate Committee on Health, Education, Labor and Pensions. No hearing date set. H.R. 516 is referred to the House Committee on Financial Services. No hearing date set.

118TH CONGRESS
1ST SESSION

S. 24

To fight homelessness in the United States by authorizing a grant program within the Health Resources and Services Administration for housing programs that offer comprehensive services and intensive case management for homeless individuals and families.

IN THE SENATE OF THE UNITED STATES

JANUARY 23 (legislative day, JANUARY 3), 2023

Mrs. FEINSTEIN (for herself, Mr. PADILLA, Ms. KLOBUCHAR, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To fight homelessness in the United States by authorizing a grant program within the Health Resources and Services Administration for housing programs that offer comprehensive services and intensive case management for homeless individuals and families.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fighting Homelessness
5 Through Services and Housing Act”.

1 **SEC. 2. ESTABLISHMENT OF GRANT PROGRAM.**

2 (a) IN GENERAL.—The Administrator of the Health
3 Resources and Services Administration (referred to in this
4 section as the “Administrator”), in consultation with the
5 working group established under subsection (b), shall es-
6 tablish a grant program to award competitive grants to
7 eligible entities for the planning and implementation of
8 programs to address homelessness.

9 (b) WORKING GROUP.—The Administrator shall es-
10 tablish an interagency working group to provide advice to
11 the Administrator in carrying out the program under sub-
12 section (a). The working group shall include representa-
13 tives from the United States Interagency Council on
14 Homelessness, Department of Education, Department of
15 Health and Human Services, Department of Housing and
16 Urban Development, Department of Labor, Department
17 of Transportation, Department of Veterans Affairs, De-
18 partment of Agriculture, Department of the Treasury, De-
19 partment of Justice, and Bureau of Indian Affairs.

20 (c) TYPES OF GRANTS.—

21 (1) IMPLEMENTATION GRANTS.—

22 (A) IN GENERAL.—Under the program
23 under subsection (a), the Administrator shall
24 award 5-year implementation grants to eligible
25 entities to assist such entities in carrying out
26 activities, and paying capital building costs, as-

sociated with the provision of housing and services to homeless individuals and families, including homeless children and youths (as defined by section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), or those at risk of becoming homeless.

(B) AMOUNT.—The amount awarded to an entity under a grant under this paragraph shall not exceed \$25,000,000.

(C) MATCHING REQUIREMENT.—With respect to the costs of the activities to be carried out by an entity under a grant under this paragraph, the entity shall make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that equals 25 percent of the amount of the grant.

(2) PLANNING GRANTS.—

(A) IN GENERAL.—Under the program under subsection (a), the Administrator shall award 1-year planning grants to eligible entities to assist such entities in developing comprehensive plans to address homelessness in the communities and regions served by such entities or to enhance the effectiveness of existing pro-

1 grams that serve homeless individuals and fami-
2 lies, including homeless children and youths (as
3 defined by section 725 of the McKinney-Vento
4 Homeless Assistance Act (42 U.S.C. 11434a)),
5 or those at risk of becoming homeless.

6 (B) AMOUNT.—The amount awarded to an
7 entity under a grant under this paragraph shall
8 not exceed \$100,000, and such amount shall
9 not be subject to any matching requirement.

10 (d) ELIGIBILITY.—

11 (1) IN GENERAL.—To be eligible to receive a
12 grant under the program under subsection (a), an
13 entity shall—

14 (A) be a governmental entity (at the coun-
15 ty, city, regional, or locality level), Indian tribe,
16 or tribal organization;

17 (B) demonstrate that the capacity of the
18 entity for providing services under the grant in-
19 cludes the ability to address mental health, sub-
20 stance use disorder and recovery services, dis-
21 abling or other chronic health conditions, edu-
22 cational and job training or employment out-
23 comes, and life skills needs (including financial
24 literacy); and

1 (C) submit to the Administrator an appli-
2 cation that includes an assurance that, in car-
3 rying out activities under the grant, the entity
4 will—

5 (i) ensure stable housing, intensive
6 case management, and comprehensive serv-
7 ices that include, at minimum, mental
8 health, substance use disorder treatment
9 and recovery services, education and job
10 training, age-appropriate services for chil-
11 dren, and life skills training (such as fi-
12 nancial literacy training);

13 (ii) coordinate with the population to
14 be served by the entity to ensure that sup-
15 portive services are tailored to meet the
16 specific and actual needs of the individuals
17 and families served;

18 (iii) coordinate with local law enforce-
19 ment, courts (including specialized courts),
20 probation, and other public services agen-
21 cies to conduct outreach and better iden-
22 tify at-risk or homeless populations that
23 would benefit from services offered by the
24 entity;

1 (iv) follow trauma-informed best prac-
2 tices to address the needs of the popu-
3 lations to be served;

4 (v) provide services under the grant
5 on-site or in-home as appropriate;

6 (vi) provide assistance in addressing
7 the transportation needs of individuals for
8 services provided under the grant off-site;
9 and

10 (vii) comply with additional require-
11 ments, if the entity intends to serve fami-
12 lies with children under the grant, to en-
13 sure—

14 (I) that services include chil-
15 dren’s behavioral and mental health
16 services, early childhood education,
17 regular and age-appropriate children’s
18 programming and activities, child
19 health, development, and nutrition
20 screening (including coordination of
21 medical and well-child services), and
22 parenting classes and support pro-
23 grams;

24 (II) in conditions where family
25 housing is provided in a central facil-

1 ity and not in mixed units in a com-
2 mercial building, that a safe space for
3 play and age-appropriate activities is
4 available on-site and has regular
5 hours of operation; and

6 (III) that the entity has in place
7 protocol for staff training and best
8 practices to identify and prevent child
9 trafficking, abuse, and neglect.

10 (2) CASE MANAGEMENT.—An entity receiving a
11 grant under this section shall ensure that case man-
12 agement provided by the entity under the grant does
13 not exceed a ratio of 1 caseworker to 20 cases.

14 (3) PARTNERSHIPS.—An entity may enter into
15 a partnership with more than one provider that may
16 include a local health agency, non-profit service pro-
17 viders, medical and mental health providers, housing
18 providers, and other service providers as necessary.

19 (e) OVERSIGHT REQUIREMENTS.—

20 (1) ANNUAL REPORTS.—Not later than 1 year
21 after the date on which a grant is received by an en-
22 tity under subsection (a), and annually thereafter
23 for the term of the grant, such entity shall submit
24 to the Administrator a report on the activities car-
25 ried out under the grant. Such report shall include,

1 with respect to activities carried out under the grant
2 in the community served, measures of outcomes re-
3 lating to—

4 (A) whether individuals and families who
5 are served continued to have housing and did
6 not experience intermittent periods of homeless-
7 ness;

8 (B) whether individuals and families who
9 are served see improvements in their physical
10 and mental health, have access to a specific pri-
11 mary care provider, promptly receive any need-
12 ed health care, and have a health care plan that
13 meets their individual needs (including access to
14 mental health and substance use treatment as
15 applicable, and family-based treatment models);

16 (C) whether children who are served are
17 enrolled in school, attend regularly, and are re-
18 ceiving services to meet their educational needs;

19 (D) whether children who are served have
20 access to trauma-informed mental health care
21 and screening for any mental and behavioral
22 health needs, as well as other services to meet
23 their needs, as appropriate;

24 (E) how grant funds are used; and

1 (F) other matters determined appropriate
2 by the Administrator.

3 (2) RULE OF CONSTRUCTION.—Nothing in this
4 subsection shall be construed to condition the receipt
5 of future housing and other services by individuals
6 under the grant on the outcomes detailed in the re-
7 ports submitted under paragraph (1).

8 (f) DEFINITION.—In this section, the terms “Indian
9 tribe” and “tribal organization” have the meanings given
10 such terms in section 4 of the Indian Self-Determination
11 and Education Assistance Act (25 U.S.C. 5304) and shall
12 include tribally designated housing entities (as defined in
13 section 4(22) of the Native American Housing Assistance
14 and Self-Determination Act of 1996 (25 U.S.C.
15 4103(22))) and entities that serve Native Hawaiians (as
16 defined in section 338K(c) of the Public Health Service
17 Act (42 U.S.C. 254s(c))).

18 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to carry out this section,
20 \$1,000,000,000 for each of fiscal years 2023 through
21 2028, of which—

22 (1) not less than 5 percent of such funds shall
23 be awarded to Indian tribes and tribal organizations;

24 (2) \$5,000,000 shall be made available for plan-
25 ning grants under subsection (c)(2); and

10

- 1 (3) the remainder shall be made available for
- 2 implementation grants under subsection (c)(1).

○

AB 930 (Friedman) Analysis and Recommendation

TITLE: Local government: Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) Districts

AUTHORS: Friedman (D-Glendale)

SPONSORS: CivicWell, Council of Infill Builders, San Francisco Bay Area Planning and Urban Research Association (SPUR)

RECOMMENDATION: Support and Seek Amendments

BACKGROUND: Redevelopment agencies (RDAs) were first created by the Legislature in 1945, with the purpose of eliminating blight in an area through development. These agencies relied on federal funding until 1952; that year, voters approved Proposition 13 to add Article XVI, Section 13 to the California Constitution, which authorizes funding for redevelopment by means of a self-financing schedule that pays for the redevelopment project with a tax increment derived from any increase in the assessed value of property within the redevelopment project area. Generally, property tax increment financing involves a local government forming a tax increment financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area.

In 2011, facing a severe budget shortfall, then-Governor Jerry Brown proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved, and the Governor signed two measures: Assembly Bill, First Extraordinary Session (ABX1) 26 (Blumenfeld) and ABX1 27 (Blumenfeld), that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. The California Supreme Court in *California Redevelopment Association v. Matosantos* upheld the Legislature's power to dissolve all RDAs and as a result all RDAs were required to dissolve as of February 1, 2012.

After the 2011 *Matosantos* decision, legislators enacted several measures creating new tax increment financing tools to pay for local economic development. Current law allows certain local agencies to form a community revitalization authority within a community revitalization and investment area and authorizes the authority to provide for low-income and moderate-income housing, and issuance of bonds. A community revitalization and investment plan can provide for the division of taxes within the plan area.

PURPOSE: Assembly Bill (AB) 930 would allow the legislative bodies of two or more cities or counties to jointly form a Reinvestment in Infrastructure for a Sustainable and Equitable California district (RISE district). The bill would authorize a special district to join a RISE district, by means of a resolution passed by its governing board. It would also require the Office of Planning and Research (OPR) to develop standards for the formation of RISE districts no later than November 30, 2025. The bill would provide for the establishment of a governing board of a RISE district with representatives of each participating local government. The RISE district's governing board would be required to prepare and adopt a RISE development plan that includes an identification of any intended source of revenue for financing a project or projects within the boundaries of the district and an identification of any tools or authority needed to implement the RISE development plan.

At least 50% of the total funding received by the district would be required to be spent on infill supportive infrastructure, and at least 30% of the total funds would be required to be spent on residential units that are restricted to persons and families of low or moderate income. For purposes of this bill, “infill supportive infrastructure” includes utilities upgrades, environmental cleanup, pedestrian and bicycle improvements, and transit facilities and investments. All projects that receive funding from a RISE district must either be located within one-half mile of public transit, or at least 75% of the development site must adjoin parcels that are developed with urban uses. Rise development plans are subject to public hearings, OPR review, and other periodic reviews.

Once funded by the Legislature, the Governor’s Office of Business and Economic Development (GO-Biz) would establish the RISE Revolving Loan Fund. The purpose of the fund is to provide RISE districts with initial startup funding for projects contained within the RISE district’s certified RISE development plan. RISE district funded projects must comply with specified wage and labor standards, including a requirement that all construction workers be paid at least the general prevailing rate of wages. The bill would require the Labor Commissioner to enforce the obligation to pay prevailing wages; however, these labor standards would not apply to a project that is entirely financed by private sources.

DISTRICT IMPACT: AB 930 would create a new financing tool for local governments and special districts to increase investment in infrastructure and transit-oriented infill development projects. The bill supports BART’s Transit Oriented Development Policy and goals by investing in housing and infrastructure that is not auto dependent. Staff are recommending a Support and Seek Amendments position to engage with the author and sponsors on the following provisions.

Ability of Special Districts to Form a RISE District

A previous version of the bill included the ability for two or more special districts or transit agencies to jointly form a RISE district. However, subsequent amendments removed special districts and transit agencies from the list, leaving just cities and counties, with the ability of a special district to join a RISE district already formed, by means of a resolution passed by its governing board. Staff recommend requesting an amendment to allow BART, by way of its status as a special district or a transit district, to be empowered as an entity to partner with a city or county to form a RISE district.

Clarifying Definition of “Transit Facilities and Investments”

The bill includes language that at least 50% of total funds received by a RISE district be spent on “infill supportive infrastructure,” which includes “transit facilities and investments.” Staff recommend requesting an amendment to clarify that transit facilities include intercity and commuter rail, to ensure that Link21 projects are included.

Clarifying Definitions of “Transit” and “Public Transit”

Several provisions of the bill refer to proximity to or otherwise access to “transit” or “public transit” when defining areas to be prioritized for the formation of RISE districts. Currently, there is no provision in any definitions of these terms to include possible future planned stations. Staff recommend requesting an amendment to clarify that the definition of transit for purposes of this legislation include both existing and planned stations, to accommodate for future stations as part of the Link21 project.

Exempting Certain Actions from CEQA

A previous version of the bill exempted certain actions pertaining to RISE districts from the California Environmental Quality Act (CEQA). These included the creation of a RISE district and the acquisition and disposal of real property by a RISE district. Staff recommend requesting an amendment to restore these exemptions, to avoid potential delays to the formation and operation of a RISE district.

KNOWN SUPPORT/OPPOSITION: In addition to the sponsors, support on file includes East Bay YIMBY, Grow the Richmond, How to ADU, Monterey County, Mountain View YIMBY, Napa-Solano for

Everyone, Northern Neighbors, Peninsula for Everyone, People for Housing Orange County, Progress Noe Valley, San Francisco YIMBY, San Luis Obispo YIMBY, Santa Cruz YIMBY, Santa Rosa YIMBY, Streets for All, South Bay YIMBY, Southside Forward, Streets for People, Sonoma Land Trust, Southern California Association of Governments, Urban Environmentalists, Ventura County YIMBY, and YIMBY Action.

Opponents include the Howard Jarvis Taxpayers Association. The State Building & Construction Trades Council of California has an Oppose Unless Amended position, with their concerns focusing on the labor provisions in the bill.

STATUS: Passed the Assembly Committee on Jobs, Economic Development, and the Economy (4-0) on April 25 and is currently under consideration by the Assembly Committee on Appropriations.

AMENDED IN ASSEMBLY APRIL 26, 2023

AMENDED IN ASSEMBLY APRIL 11, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 930

Introduced by Assembly Member Friedman

February 14, 2023

An act to amend Section 53993 of, to add Article 16 (commencing with Section 12100.170) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, and to add Division 7 (commencing with Section 62400) to Title 6 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 930, as amended, Friedman. Local government: Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) districts.

Existing law authorizes certain local agencies to form a community revitalization authority within a community revitalization and investment area, as defined, and authorizes an authority to, among other things, provide for low- and moderate-income housing and issue bonds, as provided. Existing law authorizes a community revitalization and investment plan to provide for the division of taxes within the plan area.

This bill would authorize the legislative bodies of 2 or more cities or counties to jointly form a Reinvestment in Infrastructure for a Sustainable and Equitable California district (RISE district) in accordance with specified procedures. The bill would authorize a special district to join a RISE district, by resolution, as specified. The bill would require the Office of Planning and Research (OPR) to develop standards for the formation of RISE districts no later than November 30, 2025.

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The bill would provide for the establishment of a governing board of a RISE district with representatives of each participating local government.

After the formation of a RISE district, the bill would require that district's governing board to prepare, or cause to be prepared, and adopt a RISE development plan that includes an identification of any intended source of revenue for financing a project or projects within the boundaries of the district and an identification of any tools or authority needed to implement the RISE development plan, as provided. The bill would require the standards developed by OPR to require a RISE development plan to provide that at least ~~50 percent~~ 50% of the total funding received by the district be spent on infill supportive infrastructure, as specified, and to provide that at least ~~20 percent~~ 30% of the total ~~number of funds received by the district be spent on~~ residential units created within the district ~~be that are~~ restricted to persons and families of low or moderate income, as specified. *The bill would require all projects that receive funding from a RISE district to either be located within 1/2 mile of public transit or at least 75% of the site of the development to adjoin parcels that are developed with urban uses.* The bill would require the RISE district to consider adoption of the RISE development plan at 3 public hearings that take place at least 30 days apart and to provide specified notice to land owners within the RISE district, as specified. The bill, after the RISE development plan is adopted, would require the governing board to submit the RISE development plan to OPR for review. The bill would require OPR to review the plan within 90 days and make a determination as to whether the plan complies with all applicable planning standards and other requirements under state law. The bill would deem the plan to be in effect as of the date that OPR approves the plan. The bill would require a RISE district to review the RISE development plan at least annually and make any amendments that are necessary and appropriate and would require the preparation of an annual independent financial audit. The bill would require a RISE district, every 15 years, at the public hearing held for ~~after~~ adopting the annual report, to consider whether the property owners and residents within the plan area wish to propose amendments to the RISE development plan, as specified.

This bill would authorize a RISE district to utilize various sources of revenue for district ~~purposes~~ *purposes*, including the division of property tax revenues, local sales and use taxes, ~~the portion of the state sales and~~

~~tax revenues that flow into the General Fund that is attributable to new development within the RISE district, and transient occupancy taxes.~~

This bill would also, upon appropriation by the Legislature, require the Governor's Office of Business and Economic Development to establish the RISE Revolving Loan Fund. The bill would provide that the purpose of the fund is to provide RISE districts with initial startup funding for projects contained within the RISE district's certified RISE development plan. The bill would require the office to establish the RISE District Revolving Loan Program and would require the office to award loans to RISE districts in an amount deemed necessary to fund the initial projects of the RISE district, as provided in the district's RISE development plan, as specified.

This bill would require a RISE district funded project to comply with specified wage and labor standards. The bill would require a development proponent to certify to the RISE district that certain wage and labor standards will be met, including a requirement that all construction workers be paid at least the general prevailing rate of wages, as specified. The bill would require the Labor Commissioner to enforce the obligation to pay prevailing wages. The bill would specify that these labor standards do not apply to a project that is privately financed in its entirety. By expanding the crime of perjury, the bill would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Article 16 (commencing with Section 12100.170)
2 is added to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the
3 Government Code, to read:

4

5 Article 16. RISE Revolving Loan Fund

6

7 12100.170. (a) "Fund" means the RISE Revolving Loan Fund.

1 (b) ~~“Go-Biz”~~ “*GO-Biz*” means the Governor’s Office of
2 Business and Economic Development.

3 (c) “Program” means the RISE District Revolving Loan Program
4 established pursuant to Section 12100.172.

5 (d) “RISE District” means a RISE district established pursuant
6 to Division 7 (commencing with Section 62400) of Title 6 that has
7 adopted a RISE development plan certified pursuant to Section
8 62412.

9 12100.171. (a) Upon appropriation by the Legislature, ~~Go-Biz~~
10 *GO-Biz* shall establish the RISE Revolving Loan Fund.

11 (b) The purpose of the fund is to provide RISE districts with
12 initial startup funding for projects contained within the RISE
13 district’s certified RISE development plan.

14 (c) Moneys in the fund shall be made available to ~~Go-Biz~~
15 *GO-Biz* for purposes of awarding loans pursuant to Section
16 12100.172.

17 (d) All interest, dividends, and pecuniary gains from investments
18 or deposits of moneys in the fund shall accrue to the fund,
19 notwithstanding Section 16305.7 of the Government Code. There
20 shall be paid into the fund all of the following:

21 (1) Any moneys appropriated and made available by the
22 Legislature for the purposes of the fund.

23 (2) Any moneys that ~~Go-Biz~~ *GO-Biz* receives in repayment of
24 loans made from the fund, including any interest on loans made
25 from the fund.

26 (3) Any other moneys that may be made available to ~~the~~
27 ~~department~~ *GO-Biz* for the purposes of this chapter from any other
28 source.

29 12100.172. (a) Upon appropriation by the Legislature, ~~Go-Biz~~
30 *GO-Biz* shall establish the RISE District Revolving Loan Program
31 pursuant to this article.

32 (b) ~~Go-Biz~~ *GO-Biz* shall award startup loans to RISE districts
33 based on the following criteria:

34 (1) ~~Go-Biz~~ *GO-Biz* shall award loans to a RISE district in an
35 amount deemed necessary to fund the initial projects of the RISE
36 district, as provided in the district’s RISE development plan.

37 (2) ~~Go-Biz~~ *GO-Biz* shall review applications on a
38 noncompetitive basis.

1 12100.173. (a) ~~Go-Biz~~ *GO-Biz* shall establish standard terms
2 that apply uniformly to all loans awarded pursuant to Section
3 12100.172, including interest rates and repayment terms.

4 (b) Loan terms shall ensure the continued existence of RISE
5 districts and facilitate RISE districts to establish long terms funding
6 sources otherwise authorized by Division 7 (commencing with
7 Section 62400) of Title 6.

8 (c) ~~(1) Go-Biz~~ *GO-Biz* shall adopt regulations as necessary or
9 appropriate to carry out the purposes of this article.

10 ~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1~~
11 ~~does not apply to any standard, criterion, procedure, determination,~~
12 ~~rule, notice, or guideline established or issued by Go-Biz.~~

13 SEC. 2. Section 53993 of the Government Code is amended
14 to read:

15 53993. (a) Notwithstanding any other law, except as provided
16 in subdivision (b), for the purpose of any law authorizing the
17 division of taxes levied upon taxable property, including, but not
18 limited to, Sections 53369.30, 53396, 53398.30, 53398.75, 62005,
19 and 62420, no revenues derived from the imposition of a property
20 tax rate approved by the voters pursuant to subdivision (b) of
21 Section 1 of Article XIII A of the California Constitution and levied
22 in addition to the property tax rate limited by subdivision (a) of
23 Section 1 of Article XIII A of the California Constitution shall be
24 divided.

25 (b) Subdivision (a) shall not apply to the allocation of property
26 taxes pursuant to Part 1.85 (commencing with Section 34170) of
27 Division 24 of the Health and Safety Code.

28 SEC. 3. Division 7 (commencing with Section 62400) is added
29 to Title 6 of the Government Code, to read:

30
31 DIVISION 7. REINVESTMENT IN INFRASTRUCTURE
32 FOR A SUSTAINABLE AND EQUITABLE CALIFORNIA
33 DISTRICTS

34
35 CHAPTER 1. GENERAL PROVISIONS

36
37 62400. For purposes of this division:

38 (a) "Affected taxing entity" means any governmental taxing
39 agency which levied or had levied on its behalf a property tax on
40 all or a portion of the property located in the proposed RISE district

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1 in the fiscal year prior to the designation of the RISE district, but
2 not including any county office of education, school district, or
3 community college district. An “affected taxing entity” may include
4 a special district if the special district is providing any portion of
5 the funding included in the RISE development plan adopted
6 pursuant to Section 62410. For the purposes of this section, “special
7 district” means an agency of the state formed for the performance
8 of governmental or proprietary functions within limited geographic
9 boundaries, and shall not include a school district or community
10 college district.

11 (b) “Governing board” means the governing board of an agency
12 established pursuant to Section 62407.

13 (c) “Legislative body” means the legislative body of a
14 participating local government.

15 (d) “Local government” includes, but is not limited to, a city,
16 county, special district, affordable housing finance agency, or
17 transit agency.

18 (e) “Location-efficient area” means an area that has access to
19 transit and uses compact design to facilitate pedestrian access to
20 transit, thereby linking people to a range of services, amenities,
21 and employment centers. Location-efficient areas include a mix
22 of uses, offer comfortable and convenient transit service to increase
23 the number of viable transportation options available to residents
24 to commute to work, school, or other destinations, and are
25 consistent with sustainable communities strategies to reduce vehicle
26 miles travelled.

27 (f) “Office” means the Office of Planning and Research.

28 (g) “Participating local government” means a local government
29 that proposes or agrees to jointly form a RISE district in accordance
30 with this chapter or that is added as a participating local
31 government pursuant to subdivision (d) of Section 62406.

32 (h) “Persons and families of low or moderate income” means
33 the same as defined in Section 50093 of the Health and Safety
34 Code.

35 (i) “Reinvestment in Infrastructure for a Sustainable and
36 Equitable California district” or “RISE district” means a regional,
37 joint governance district formed pursuant to this chapter by two
38 or more local governments.

39 (j) “Sustainable and equitable development” means a
40 development project that reduces disparities in urban, suburban,

1 and rural communities and reduces vehicle miles traveled by
2 supporting residents, specifically those that have been historically
3 underserved and neglected, by providing for a range of affordable
4 housing and transportation options, efficient access to a variety of
5 jobs and services, and clean air quality. Sustainable and equitable
6 developments are diverse and incorporate community input, values
7 of inclusion, equal access to housing, opportunity, and diversity
8 in our communities ensuring that all people, regardless of race,
9 ethnicity, family status, or disability, have a range of choices for
10 where to live now and in the future.

11 (k) “Sustainable communities strategy” means a sustainable
12 communities strategy adopted pursuant to Section 65080.

13 62401. No later than November 30, 2025, the office shall
14 develop standards for the formation of RISE districts. The standards
15 shall comply with the following requirements:

16 (a) The standards shall be consistent with the requirements of
17 this division.

18 (b) The standards shall encourage *sustainable and* equitable
19 development in location-efficient areas adjacent to public transit
20 investments, including passenger rail and frequent bus service, in
21 order to refocus growth toward city and community centers while
22 reducing greenhouse gas emissions, per capita vehicle miles
23 traveled, and reinforcing community resilience.

24 (c) The standards shall require a RISE development plan to
25 comply with all of the following:

26 (1) The RISE development plan shall require that at least 50
27 percent of the total funds received by the district be spent on infill
28 supportive infrastructure. For purposes of this paragraph,
29 “supportive infrastructure” includes utilities upgrades,
30 environmental cleanup, pedestrian and bicycle improvements,
31 transit facilities and investments, ~~gap financing for mixed-use~~
32 ~~development where housing comprises at least two-thirds of the~~
33 ~~development~~, and housing infrastructure that is an integral part of,
34 or necessary to facilitate, new infill housing or mixed-use
35 development within a RISE district.

36 (2) (A) The RISE development plan shall require that at least
37 ~~20~~ 30 percent of the total ~~number of funds received by the district~~
38 ~~shall be spent on~~ residential units created within the district ~~be~~
39 ~~that are~~ restricted to persons and families of low or moderate
40 income with an affordable sales price or an affordable rent, as

1 defined in Section 50052.5 or 50053 of the Health and Safety
2 Code, for 55 years for units that are rented, unless a local ordinance
3 or the terms of a federal, state, or local grant, tax credit, or other
4 project financing requires, as a condition of the development of
5 residential units, that the development include a certain percentage
6 of units that are affordable to, and occupied by, low-income, lower
7 income, very low income, or extremely low income households
8 for a term that exceeds 55 years for rental housing units and 45
9 years for owner-occupied units.

10 (B) RISE districts shall provide financing for affordable housing
11 and provide annual reporting to *the office to demonstrate progress*
12 to meet *the affordable housing requirements*. *requirements in*
13 *subparagraph (A).*

14 (C) *A RISE district may finance mixed-income housing*
15 *developments, but may finance only those units in such a*
16 *development that constitute affordable housing.*

17 (3) The RISE development plan shall require that any remaining
18 percentage of funding not otherwise allocated pursuant to the
19 standards established in the section be used for any lawful purpose
20 that supports sustainable and equitable development.

21 (4) The RISE development plan shall give first priority for
22 occupancy of housing funded through the RISE development plan
23 pursuant to the following:

24 (A) First, to income-qualified households displaced from the
25 district through no fault of their own.

26 (B) Second, to households with a member or members employed
27 within two miles of the district.

28 (C) Third, to households with an extended family member living
29 within two miles of the district.

30 (5) (A) *The RISE development plan shall require all projects*
31 *receiving funds from the district comply with at least one of the*
32 *following:*

33 (i) *The development is located within one-half mile of public*
34 *transit.*

35 (ii) *At least 75 percent of the perimeter of the site of the*
36 *development adjoins parcels that are developed with urban uses.*
37 *For the purposes of this section, parcels that are only separated*
38 *by a street or highway shall be considered to be adjoined.*

1 (B) For the purposes of this paragraph, “public transit” means
2 a major transit stop as defined in Section 21155 of the Public
3 Resources Code.

4 62402. In addition to the powers granted to an enhanced
5 infrastructure financing district pursuant to Chapter 2.99
6 (commencing with Section 53398.50) of Part 1 of Division 2 of
7 Title 5, a RISE district has the power to do all of the following
8 within the territorial jurisdiction of the district:

9 (a) Fund the ~~planning, acquisition,~~ *acquisition* and construction
10 of housing, infill supportive infrastructure, and any other project
11 otherwise permitted under a RISE development plan *with an*
12 *estimated useful life of 15 years or longer* that is certified pursuant
13 to Section 62412.

14 (b) *The planning and design work that is directly related to the*
15 *purchase, construction, expansion, or rehabilitation of the property*
16 *described in subdivision (a).*

17 ~~(b)~~

18 (c) Establish and impose any of the revenue generating activities
19 eligible to be included in a RISE development plan pursuant to
20 Section 62410.

21 ~~(c)~~

22 (d) Apply for and receive grants from federal and state agencies.

23 ~~(d)~~

24 (e) Solicit and accept gifts, fees, grants, and allocations from
25 public and private entities.

26 ~~(e)~~

27 (f) Incur general obligation bonded indebtedness for the
28 acquisition or improvement of real property or for funding or
29 refunding of any outstanding indebtedness, subject to any
30 applicable constitutional requirements.

31 ~~(f)~~

32 (g) Receive and manage a dedicated revenue source.

33 ~~(g)~~

34 (h) Deposit or invest moneys of the district in banks or financial
35 institutions in the state in accordance with state law.

36 ~~(h)~~

37 (i) Sue and be sued, except as otherwise provided by law, in all
38 actions and proceedings, in all courts and tribunals of competent
39 jurisdiction.

40 ~~(i)~~

1 (j) Engage counsel and other professional services.

2 ~~(j)~~

3 (k) Enter into and perform all necessary contracts.

4 ~~(k)~~

5 (l) Enter into joint powers agreements pursuant to the Joint
6 Exercise of Powers Act (Chapter 5 (commencing with Section
7 6500) of Division 7 of Title 1).

8 ~~(l)~~

9 (m) Hire staff, define their qualifications and duties, and provide
10 a schedule of compensation for the performance of their duties.

11 ~~(m)~~

12 (n) Use interim or temporary staff provided by local agencies
13 that are members of the district. A person who performs duties as
14 interim or temporary staff shall not be considered an employee of
15 the district.

16 62402.1. *Notwithstanding any other provision of this title, a*
17 *district shall not do either of the following:*

18 (a) *Finance services of any kind.*

19 (b) *Use the proceeds of bonds issued to finance the costs of*
20 *maintenance or ongoing operations of any kind.*

21 62403. (a) *It is the intent of the Legislature that the creation*
22 *of RISE districts should not ordinarily lead to the removal of*
23 *existing dwelling units. If, however, any dwelling units are*
24 *proposed to be removed or destroyed in the course of public works*
25 *construction within the area of the district or private development*
26 *within the area of the district that is subject to a written agreement*
27 *with the district, or that is financed in whole or in part by the*
28 *district, then the RISE development plan adopted pursuant to*
29 *Section 62410 shall contain provisions to do all of the following:*

30 (1) *If the dwelling units to be removed or destroyed are or were*
31 *inhabited by persons or families of very low, low, or moderate*
32 *income at any time within the five years prior to establishment of*
33 *the RISE district, the district shall cause or require the construction*
34 *or rehabilitation of an equal number of replacement dwelling units,*
35 *within one-half mile of the location of the units to be removed or*
36 *destroyed, that have an equal or greater number of bedrooms as*
37 *those removed or destroyed units within two years of the removal*
38 *or destruction of the dwelling units. The replacement dwelling*
39 *units shall be available for rent or sale to persons or families of*
40 *very low, low, or moderate income at affordable rent or at*

1 *affordable housing cost to persons in the same or a lower income*
2 *category as the persons displaced from, or who last occupied, the*
3 *removed or destroyed dwelling units.*

4 *(2) If the dwelling units to be removed or destroyed were not*
5 *inhabited by persons or families of very low, low, or moderate*
6 *income within the period of time specified in paragraph (1), the*
7 *district shall cause or require the construction or rehabilitation,*
8 *within one-half mile of the location of the units to be removed or*
9 *destroyed, of at least one unit, but not less than 25 percent of the*
10 *total dwelling units removed or destroyed, within two years of the*
11 *removal or destruction of the dwelling units. The units constructed*
12 *or rehabilitated pursuant to this paragraph shall be of equivalent*
13 *size and type to the units to be removed or destroyed. An equal*
14 *percentage of the replacement dwelling units constructed or*
15 *rehabilitated pursuant to this paragraph shall be available for*
16 *rent or sale at affordable rent or affordable housing cost to*
17 *extremely low income households and very low income households.*

18 *(3) Comply with all relocation assistance requirements of*
19 *Chapter 16 (commencing with Section 7260) of Division 7 of Title*
20 *1 for persons displaced from dwelling units by any public works*
21 *construction within the area of the district or private development*
22 *within the area of the district that is subject to a written agreement*
23 *with the district or that is financed in whole or in part by the*
24 *district as a result of the RISE development plan adopted pursuant*
25 *to Chapter 3 (commencing with Section 62410). The displacement*
26 *of any persons from a dwelling unit as a result of the plan shall*
27 *be deemed to be the result of public action.*

28 *(4) Ensure that the removal or destruction of any dwelling units*
29 *occupied by persons or families of very low, low, or moderate*
30 *income does not occur unless and until there has been full*
31 *compliance with the relocation assistance requirements of this*
32 *section and Chapter 16 (commencing with Section 7260) of*
33 *Division 7 of Title 1.*

34 *(5) (A) The district shall require, by recorded covenants or*
35 *restrictions, that all dwelling units constructed or rehabilitated*
36 *pursuant to this section remain available at affordable rent or*
37 *housing cost to, and occupied by, persons and families of the same*
38 *income categories as required by paragraph (1) or (2), as*
39 *applicable, for the longest feasible time, but for not less than 55*
40 *years for rental units and 45 years for owner-occupied units.*

1 (B) *The district may permit sales of owner-occupied units prior*
2 *to the expiration of the 45-year period for a price in excess of that*
3 *otherwise permitted under this paragraph pursuant to an adopted*
4 *program that protects the district's investment of moneys in the*
5 *unit or units, including, but not limited to, an equity sharing*
6 *program, not in conflict with another public funding source or*
7 *law, which establishes a schedule of equity sharing that permits*
8 *retention by the seller of a portion of those excess proceeds based*
9 *on the length of occupancy. For purposes of this subparagraph,*
10 *the terms of the equity sharing program shall be consistent with*
11 *the provisions of paragraph (2) of subdivision (c) of Section 65915,*
12 *provided, however, that the program shall require any amounts*
13 *recaptured by the district to be used within five years for any of*
14 *the affordable housing purposes described in Section 34176.1 of*
15 *the Health and Safety Code.*

16 (b) *For purposes of this section:*

17 (1) *"Affordable housing cost" means the same as defined in*
18 *Section 50052.5 of the Health and Safety Code.*

19 (2) *"Affordable rent" means the same as defined in Section*
20 *50053 of the Health and Safety Code*

21 (3) *"Extremely low income household" means the same as*
22 *defined in Section 50106 of the Health and Safety Code.*

23 (4) *"Persons or families of very low, low, or moderate income"*
24 *means the same as defined in Section 50093 of the Health and*
25 *Safety Code.*

26 (5) *"Very low income household" means the same as defined*
27 *in Section 50105 of the Health and Safety Code.*

28 62404. *A city or county that created a redevelopment agency,*
29 *as defined in Section 33003 of the Health and Safety Code, shall*
30 *neither initiate the creation of a RISE district, nor participate in*
31 *the governance or financing of a RISE district, until all of the*
32 *following has occurred:*

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

36 (b) *The city or county certifies to the Department of Finance*
37 *and to the RISE district that no former redevelopment agency*
38 *assets that are the subject of litigation involving the state, if the*
39 *city or county, the successor agency, or the designated local*
40 *authority are a named plaintiff, have been or will be used to benefit*

1 *any efforts of a RISE district formed under this title, unless the*
2 *litigation and all possible appeals have been resolved in a court*
3 *of law. The city or county shall provide this certification to the*
4 *Department of Finance within 10 days of its legislative body's*
5 *action to participate in a RISE district pursuant to Section 62406,*
6 *or of its legislative body's action to form a RISE district pursuant*
7 *to Section 62405.*

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

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

14
15 CHAPTER 2. RISE DISTRICT FORMATION AND GOVERNING
16 BOARD
17

18 62405. (a) ~~The~~ *After the office develops standards pursuant*
19 *to Section 62401, the legislative bodies of two or more cities,*
20 *counties, or a combination of cities and counties may jointly form*
21 *a RISE district pursuant to this division for the purpose of planning,*
22 *financing, and facilitating supportive infrastructure to spur*
23 *equitable development comprised of affordable housing and*
24 *economic development in location-efficient areas that meet goals*
25 *set out in an adopted sustainable communities strategy for*
26 *sustainable, walkable development that reduces carbon emissions*
27 *and vehicle miles traveled.*

28 (b) A special district may join a RISE district, by resolution,
29 initiated by a city, county, or a combination of cities and counties.

30 62406. (a) The formation of a RISE district shall be by
31 enactment of an ordinance or resolution of each participating city
32 and county which shall each be substantially similar.

33 (b) The ordinance or resolution of a participating city or county
34 shall include, at minimum, all of the following provisions:

35 (1) A statement of the purpose for which the RISE district is
36 proposed, including any specific project that the participating local
37 governments propose to plan, finance, or facilitate.

38 (2) Provision for the method by which the purpose of the RISE
39 district will be accomplished.

(3) A description of the boundaries of the RISE district. This 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.

(4) Establishment of a governing board in accordance with Section 62407.

(c) (1) The boundaries of a RISE district may include all or any portion of the territory within the jurisdiction of the participating local governments.

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

(d) After the formation of a RISE district, a local government may be added as a participating local government by enactment of an ordinance or resolution by a majority of the current participating local governments and subsequent enactment of an ordinance or resolution by the new participating local government that complies with the requirements of this section.

62407. (a) A RISE district shall have a membership consisting of one of the following, as appropriate:

(1) If a district has two or more participating local governments, the district's governing board membership shall consist of a majority of members from the legislative bodies of the participating local governments, and a minimum of two members of the public chosen by the legislative bodies of the participating local governments. A legislative body of a participating local government may appoint one of its members to be an alternate member of the legislative body who may serve and vote in place of a member who is absent or disqualifies themselves from participating in a meeting of the district. The appointment of the public members shall be subject to the provisions of Sections 54970 and 54972.

(2) If a district has more than three participating affected taxing entities, the legislative bodies of the taxing entities may, upon agreement by all participating affected taxing entities, appoint only one member and one alternate member of their respective legislative bodies to the RISE district, 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 Sections 54970 and 54972.

(3) For purposes of this subdivision, "legislative body" may include a directly elected mayor of a charter city who is not a

1 member of the city's legislative body under the city's adopted
2 charter.

3 (b) The legislative body shall ensure the RISE district is
4 established at the same time that it adopts an ordinance or
5 resolution pursuant to Section 62406.

6 (c) Members of the district established pursuant to this division
7 shall not receive compensation, but may receive reimbursement
8 for actual and necessary expenses incurred in the performance of
9 official duties pursuant to Article 2.3 (commencing with Section
10 53232) of Chapter 2 of Part 1 of Division 2 of Title 5.

11 (d) Members of the district are subject to Article 2.4
12 (commencing with Section 53234) of Chapter 2 of Part 1 of
13 Division 2 of Title 5.

14 (e) The RISE district created pursuant to this division shall be
15 a local public agency subject to the Ralph M. Brown Act (Chapter
16 9 (commencing with Section 54950) of Part 1 of Division 2 of
17 Title 5), the California Public Records Act (Division 10
18 (commencing with Section 7920.000) of Title 1), and the Political
19 Reform Act of 1974 (Title 9 (commencing with Section 81000)).

20 (f) Notwithstanding any other law, any member of the legislative
21 body of a participating local government who serves as a member
22 of the district pursuant to this section may also serve as a member
23 of the governing body of an agency or entity formed pursuant to
24 an agreement for the joint exercise of power that the participating
25 local government has entered into in accordance with the Joint
26 Exercise of Powers Act (Chapter 5 (commencing with Section
27 6500) of Division 7 of Title 1).

28 62408. An enhanced infrastructure financing district that
29 otherwise meets the criteria of this division may form or expand
30 into a RISE district.

31 32 CHAPTER 3. RISE DEVELOPMENT PLAN

33
34 62410. (a) After the RISE district is formed, the governing
35 board shall prepare, or cause to be prepared, and adopt a RISE
36 development plan, in accordance with this article, in order to meet
37 both of the following objectives:

38 (1) Ensure that the RISE district is consistent with priority
39 development areas in an adopted sustainable communities strategy,
40 any applicable planning standards, and other requirements under

1 state law, including those standards developed by the office
2 pursuant to Section 62401. The applicable metropolitan planning
3 organization shall make a finding that the RISE district complies
4 with this paragraph.

5 (2) Planning for and financing supportive infrastructure,
6 affordable housing, and equitable development near transit in
7 location-efficient areas in order to refocus growth toward infill
8 areas while reducing greenhouse gas emissions and reinforcing
9 community resilience.

10 (b) The RISE development plan shall include all of the
11 following:

12 (1) Identification of any intended source of revenue for financing
13 a project or projects within the boundaries of the RISE district.
14 Permissible sources of revenue may include, but are not limited
15 to, the following:

16 (A) Investments of state resources, as requested by the district.

17 (B) The division of property tax revenues, excluding revenues
18 dedicated to paying off the obligations of former redevelopment
19 agencies or other obligations, and revenues dedicated to school
20 districts, in accordance with Section 62420.

21 (C) Local sales and use taxes in accordance with Section 62421.

22 (D) Transient occupancy taxes imposed by a city or county in
23 accordance with Chapter 1 (commencing with Section 7280) of
24 Part 1.7 of Division 2 of the Revenue and Taxation Code.

25 (E) Tax increment bonds described in Article 5 (commencing
26 with Section 62425).

27 (F) Any other revenues that may be lawfully used.

28 (2) Identification of any tools or authority needed to implement
29 the RISE development plan, including, but not limited to, ~~the~~
30 ~~following: the authority to purchase, bank, and assemble parcels~~
31 ~~of real property.~~

32 ~~(A) The authority to purchase, bank, and assemble parcels of~~
33 ~~real property.~~

34 ~~(B) A right of first refusal for real property sold within the~~
35 ~~jurisdictional boundaries of the district.~~

36 (3) A financing section that contains all of the following
37 information:

38 (A) A projection of the amount of tax revenues expected to be
39 received by the RISE district in each year during which the RISE
40 district will receive tax revenues, including an estimate of the

1 amount of tax revenues attributable to each affected taxing entity
2 for each year.

3 (B) A plan for financing the housing or infill supportive
4 infrastructure projects to be assisted by the RISE district, including
5 a detailed description of any intention to incur debt.

6 (C) A statement of the total number of dollars of taxes that may
7 be allocated to the RISE district pursuant to the plan.

8 (D) An analysis of the costs to the city or county of providing
9 facilities and services to the area of the RISE district while the
10 area is being developed and after the area is developed. The plan
11 shall also include an analysis of the tax, fee, charge, and other
12 revenues expected to be received by the city or county as a result
13 of expected development in the area of the RISE district.

14 (E) An analysis of the projected fiscal impact of the RISE district
15 and the associated development upon each affected taxing entity.

16 62410.1. (a) (1) The RISE development plan shall be sent to
17 each owner of land within the RISE district and to each affected
18 taxing entity together with any report required by the California
19 Environmental Quality Act (Division 13 (commencing with Section
20 21000) of the Public Resources Code) that pertains to the proposed
21 RISE district projects, and shall be made available for public
22 inspection. The report shall also be sent to each participating local
23 government.

24 (2) As an alternative to mailing documents pursuant to paragraph
25 (1), and providing the additional 10-day mailed notices, pursuant
26 to subdivision (i) of Section 62410.2, for both the initial meeting
27 required by subdivision (b) of Section 62410.2, and for the first
28 scheduled public hearing on the plan, the RISE district may mail
29 a notice to each landowner, resident, and affected taxing entity at
30 least 40 days prior to the first scheduled public hearing on the
31 RISE development plan, held pursuant to paragraph (2) of
32 subdivision (a) of Section 62410.2. This notice shall include all
33 of the following:

34 (A) A summary of the RISE development plan including all
35 required information listed in paragraph (1) of subdivision (c) of
36 Section 62410.2.

37 (B) The internet website where the applicable documents,
38 including those described in paragraph (1), will be made available
39 for public viewing or inspection.

1 (C) A designated contact person to receive and process any
2 requests for a mailed packet of all materials.

3 (D) The location, date, and time of both the meeting to be held
4 in accordance with subdivision (b) of Section 62410.2 and the first
5 scheduled public hearing in accordance with paragraph (2) of
6 subdivision (a) of Section 62410.2.

7 (3) In addition to a notice provided by paragraph (2), the RISE
8 district shall provide notices for the second and third public hearing
9 on the plan, as described in paragraph (3) of subdivision (a) of
10 Section 62410.2, in accordance with subdivision (i) of Section
11 62410.2.

12 (b) The RISE district shall consult with each affected taxing
13 entity, and, at the request of any affected taxing entity, shall meet
14 with representatives of an affected taxing entity. Any affected
15 taxing entity may suggest revisions to the plan.

16 62410.2. (a) (1) The RISE district shall consider adoption of
17 the RISE development plan at three public hearings that shall take
18 place at least 30 days apart. In addition to the notice given pursuant
19 to Section 62410.1, the RISE district shall give notice of each
20 public hearing in accordance with subdivision (i).

21 (2) At the first public hearing, the RISE district shall hear all
22 written and oral comments, but take no action.

23 (3) At the second public hearing, the RISE district shall consider
24 any additional written and oral comments and take action to modify
25 or reject the RISE development plan. If the RISE development
26 plan is not rejected at the second public hearing, then the RISE
27 district shall conduct a protest proceeding at the third public hearing
28 to consider whether the landowners and residents within the RISE
29 development plan area wish to present oral or written protests
30 against the adoption of the RISE development plan.

31 (b) The draft RISE development plan shall be made available
32 to the public and to each landowner within the area on a designated
33 internet website and at a meeting held at least 30 days before the
34 first public hearing. The purposes of the meeting shall be to allow
35 the staff of the RISE district to present the draft RISE development
36 plan, answer questions about the plan, and consider comments
37 about the plan.

38 (c) (1) The RISE district shall give notice of the meeting
39 required by subdivision (b) and the public hearings required by

1 subdivision (a) in accordance with subdivision (i). The notice shall
2 do all of the following, as applicable:

3 (A) Describe specifically the boundaries of the proposed area.

4 (B) Describe the purpose of the RISE development plan.

5 (C) State the day, hour, and place when and where any and all
6 persons having any comments on the proposed RISE development
7 plan may appear to provide written or oral comments to the RISE
8 district.

9 (D) Notice of the second public hearing shall include a summary
10 of the changes made to the RISE development plan as a result of
11 the oral and written testimony received at or before the public
12 hearing and shall identify a location accessible to the public where
13 the RISE development plan proposed to be presented at the second
14 public hearing can be reviewed.

15 (E) Notice of the third public hearing to consider any written
16 or oral protests shall contain a copy of the RISE development plan,
17 and shall inform the landowner and resident of their right to submit
18 an oral or written protest before the close of the public hearing.
19 The protest may state that the landowner or resident objects to the
20 RISE district taking action to implement the RISE development
21 plan.

22 (2) At the third public hearing, the RISE district shall consider
23 all written and oral protests received before the close of the public
24 hearing along with the recommendations, if any, of affected taxing
25 entities, and shall terminate the proceedings or adopt the RISE
26 development plan subject to confirmation by the voters at an
27 election called for that purpose. The RISE district shall terminate
28 the proceedings if there is a majority protest. A majority protest
29 exists if protests have been filed representing over 50 percent of
30 the combined number of landowners and residents in the area who
31 are at least 18 years of age. An election shall be called if between
32 25 percent and 50 percent of the combined number of landowners
33 and residents in the area who are at least 18 years of age file a
34 protest.

35 (d) An election required pursuant to paragraph (2) of subdivision
36 (c) shall be held within 90 days of the public hearing and may be
37 held by mail-in ballot. The RISE district shall adopt, at a duly
38 noticed public hearing, procedures for this election.

39 (e) If a majority of the landowners and residents vote against
40 the RISE development plan, then the RISE district shall not take

1 any further action to implement the proposed RISE development
2 plan. The RISE district shall not propose a new or revised RISE
3 development plan to the affected landowners and residents for at
4 least one year following the date of an election in which the RISE
5 development plan was rejected.

6 (f) At the hour set in the notices required by subdivision (a), the
7 RISE district shall consider all written and oral comments.

8 (g) If less than 25 percent of the combined number of
9 landowners and residents in the area who are at least 18 years of
10 age file a protest, the RISE district may adopt the RISE
11 development plan at the conclusion of the third public hearing by
12 resolution. The resolution adopting the RISE development plan
13 shall be subject to referendum as prescribed by law.

14 (h) The RISE district shall consider and adopt an amendment
15 or amendments to a RISE development plan in accordance with
16 the provisions of this section.

17 (i) The RISE district shall post notice of each meeting or public
18 hearing required by this section in an easily identifiable and
19 accessible location on the RISE district's internet website and shall
20 mail a written notice of the meeting or public hearing to each
21 landowner, each resident, and each taxing entity at least 10 days
22 before the meeting or public hearing. A public finance authority
23 may meet the mailed notice requirements of this subdivision for
24 the meeting held pursuant to subdivision (b) and the first public
25 hearing on the proposed RISE development plan if it has mailed
26 a notice in compliance with paragraph (2) of subdivision (a) of
27 Section 62410.1.

28 (1) Notice of the first public hearing shall also be published not
29 less than once a week for four successive weeks before the first
30 public hearing in a newspaper of general circulation published in
31 the county in which the area lies. The notice shall state that the
32 RISE district will be used to plan, finance, and facilitate supportive
33 infrastructure, briefly describe any proposed projects or
34 development, briefly describe the proposed financial arrangements,
35 including the proposed commitment of incremental tax revenue,
36 describe the boundaries of the RISE district, and state the day,
37 hour, and place when and where any persons having any objections
38 to the proposed RISE development plan, or the regularity of any
39 of the prior proceedings, may appear before the RISE district and
40 object to the adoption of the proposed plan by the RISE district.

(2) Notice of the second public hearing shall also be published not less than 10 days before the second public hearing in a newspaper of general circulation in the county in which the area lies. The notice shall state that the district will be used to plan, finance, and facilitate supportive infrastructure, briefly describe any proposed projects or development, briefly describe the proposed financial arrangements, describe the boundaries of the proposed RISE district, and state the day, hour, and place when and where any persons having any objections to the proposed RISE development plan, or the regularity of any of the prior proceedings, may appear before the RISE district and object to the adoption of the proposed plan by the RISE district.

(3) Notice of the third public hearing shall also be published not less than 10 days prior to the third public hearing in a newspaper of general circulation in the county in which the area lies. The notice shall state that the RISE district will be used to plan, finance, and facilitate supportive infrastructure, briefly describe any proposed projects or development, briefly describe the proposed financial arrangements, describe the boundaries of the proposed RISE district, and state the day, hour, and place when and where any persons having any objections to the proposed RISE development plan, or the regularity of any of the prior proceedings, may appear before the RISE district and object to the adoption of the proposed plan by the RISE district.

62410.3. (a) (1) At the conclusion of the hearings pursuant to Section 62410.2, the RISE district may adopt a resolution proposing adoption of the RISE development plan, as modified, or it may adopt a resolution abandoning the proceedings. If the proceedings are abandoned, then the RISE district shall cease to exist by operation of this section with no further action required of the RISE district or the participating local governments and the participating local governments may not enact a resolution of intention to establish a RISE district that includes the same geographic area within one year of the date of the resolution abandoning the proceedings.

(2) If the RISE district adopts the RISE development plan, it shall then forward the plan to the Office of Planning and Research for review pursuant to Section 62412.

(b) The RISE development plan shall specify if the RISE district will be funded solely through the district's share of tax increment,

1 governmental or private loans, grants, bonds, assessments, fees,
2 or some combination thereof. However, the RISE district shall not
3 issue bonds or levy assessments or fees that may be included in
4 the RISE development plan before one or more of the following
5 occurs:

6 (1) The adoption of a resolution meeting the requirements of
7 Section 62425 to issue bonds to finance the RISE development
8 plan.

9 (2) Compliance with the procedures required in subdivision (e)
10 of Section 62420, to levy assessments or fees to finance the RISE
11 development plan.

12 (c) In addition, A RISE district may expend up to 10 percent of
13 any accrued tax increment in the first two years of the effective
14 date of the RISE district on planning and dissemination of
15 information to the residents within the district's boundaries about
16 the RISE development plan and planned activities to be funded by
17 the district.

18 62410.4. (a) (1) The RISE district shall review the RISE
19 development plan at least annually and make any amendments that
20 are necessary and appropriate and shall require the preparation of
21 an annual independent financial audit paid for from revenues of
22 the RISE district.

23 (A) Amendments to an approved RISE development plan,
24 including proposals to plan, finance, and facilitate supportive
25 infrastructure and additional eligible projects, as specified in this
26 division, may be approved by a majority vote of the governing
27 board at a public hearing held following the provision of a 30-day
28 mailed notice describing the proposed changes to all property
29 owners, residents, and affected taxing entities.

30 (B) Amendments that propose any of the following shall be
31 adopted in accordance with all notices and hearing requirements
32 for the affected landowners and residents within the proposed
33 additional territory applicable to an initial proposed RISE
34 development plan:

35 (i) Addition of new territory or project areas to a plan.

36 (ii) Increase of the limit of the total number of dollars in local
37 taxes allocated to the plan.

38 (iii) Approval of a project or development that was not proposed
39 to be financed or assisted by the district in the approved plan.

(2) A RISE district shall adopt an annual report on or before June 30 of each year after holding a public hearing. Written copies of the draft report shall be made available to the public 30 days before the public hearing. The RISE district shall cause the draft report to be posted in an easily identifiable and accessible location on the RISE district's internet website and shall mail a written notice of the availability of the draft report on the internet website to each owner of land and each resident within the area covered by the RISE development plan and to each participating local government. The notice shall be mailed by first-class mail, but may be addressed to "occupant."

(3) The annual report shall contain all of the following:

(A) A description of the projects undertaken in the fiscal year, including any rehabilitation of structures, and a comparison of the progress expected to be made on those projects compared to the actual progress.

(B) A chart comparing the actual revenues and expenses, including administrative costs, of the RISE district to the budgeted revenues and expenses.

(C) The amount of tax increment revenues received.

(D) An assessment of the status regarding completion of the RISE district's projects.

(E) The amount of revenues expended to assist private businesses.

(4) If the RISE district fails to provide the annual report required by paragraph (3), the RISE district shall not spend any funds received pursuant to a resolution adopted pursuant to this chapter until the RISE district has provided the report.

(b) Every 15 years, at the public hearing held pursuant to paragraph (2) of subdivision (a) and after adopting the annual report, the RISE district shall consider whether the property owners and residents within the plan area wish to propose amendments to the RISE development plan. The RISE district may consider and adopt amendments to the plan at the conclusion of the public hearing. After considering any amendments to the plan, the RISE district shall conduct a protest proceeding to consider whether the property owners or residents within the plan area wish to present oral or written protests against the RISE district undertaking new projects. Notice of this proceeding shall be included in the written notice of the hearing on the annual report and shall inform the

1 property owner and resident of their right to submit proposed
2 amendments to the plan, or an oral or written protest to prohibit
3 new projects under the plan, before the close of the public hearing.
4 The protest may state that the property owner or resident objects
5 to the RISE district taking action to implement new projects under
6 the plan on and after the date of the election described in
7 subdivision (c). The RISE district shall consider all written and
8 oral protests received prior to the close of the public hearing.

9 (c) Except as provided in subdivision (e), if there is a majority
10 protest, the RISE district shall not take any further action to
11 implement new projects under the RISE development plan on and
12 after the date the existence of a majority protest is determined. If
13 between 25 percent and 50 percent of the property owners and
14 residents file protests, then the RISE district shall call an election
15 of the property owners and residents in the area covered by the
16 plan, and shall not initiate or authorize any new projects until the
17 election is held. A majority protest exists if protests have been
18 filed representing over 50 percent of the combined number of
19 property owners and residents, at least 18 years of age or older, in
20 the area.

21 (d) An election required pursuant to subdivision (c) shall be
22 held within 90 days of the public hearing and may be held by
23 mail-in ballot. The RISE district shall adopt, at a duly noticed
24 public hearing, procedures for holding this election.

25 (e) If a majority of the property owners and residents vote
26 against the plan, then the RISE district shall not take any further
27 action to implement new projects under the plan on and after the
28 date of the election held pursuant to subdivision (b). This section
29 shall not be interpreted to prohibit a RISE district from doing either
30 of the following:

31 (1) In fulfilling its obligations to repay all outstanding bonded
32 indebtedness, fulfill all contractual obligations to third parties, or
33 take all actions necessary so that the interest on any outstanding
34 bonded indebtedness is excluded from gross income for federal
35 income tax purposes.

36 (2) Expending bond proceeds and other revenues to complete
37 any previously approved project or contractual obligation.

38 62410.5. (a) Except as otherwise provided in this chapter, the
39 provisions of law regulating elections of the local agency that calls
40 an election pursuant to this chapter, insofar as they may be

1 applicable, shall govern all elections conducted pursuant to this
2 chapter. Except as provided in subdivision (b), there shall be
3 prepared and included in the ballot material provided to each voter,
4 an impartial analysis pursuant to Section 9160 or 9280 of the
5 Elections Code, arguments and rebuttals, if any, pursuant to
6 Sections 9162 to 9167, inclusive, and Section 9190 of the Elections
7 Code or pursuant to Sections 9281 to 9287, inclusive, and Section
8 9295 of the Elections Code.

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

13 (c) (1) If the election is to be conducted by mail ballot, the
14 election official conducting the election shall provide ballots and
15 election materials pursuant to subdivision (d) of Section 53326
16 and Section 53327, together with all supplies and instructions
17 necessary for the use and return of the ballot.

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

20 (A) The name of the landowner.

21 (B) The address of the landowner.

22 (C) A declaration, under penalty of perjury, stating that the voter
23 is the owner of record or the authorized representative of the
24 landowner entitled to vote and is the person whose name appears
25 on the identification envelope.

26 (D) The printed name and signature of the voter.

27 (E) The address of the voter.

28 (F) The date of signing and place of execution of the declaration
29 pursuant to paragraph (3).

30 (G) A notice that the envelope contains an official ballot and is
31 to be opened only by the canvassing board.

32 62411. (a) The RISE district shall not enact a resolution
33 proposing formation of the district and providing for the division
34 of taxes of any affected taxing entity pursuant to Chapter 4
35 (commencing with Section 62420) unless a resolution approving
36 the plan has been adopted by the governing body of each affected
37 taxing entity that is proposed to be subject to division of taxes
38 pursuant to Chapter 4 (commencing with Section 62420) and has
39 been filed with the legislative body at or prior to the time of the
40 hearing.

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

(c) If after the date of district formation, an affected taxing entity adopts a resolution approving the RISE district plan and to participate in the division of taxes used to finance a RISE district, the division of taxes shall be based upon the last equalized assessment roll that is used for the district pursuant to paragraph (2) of subdivision (a) of Section 62420.

62412. (a) After adopting a RISE development plan pursuant to this chapter, the governing board shall submit that plan, along with all supporting documents, to the office for review.

(b) (1) The office shall review any RISE development plan received pursuant to this section and, within 90 days of that receipt, determine, and certify in writing to the governing board, either of the following, as applicable:

(A) The RISE development plan complies with all applicable planning standards and other requirements under state law, including those standards developed by the office pursuant to Section 62401.

(B) The RISE development plan does not comply with the planning standards and requirements described in subparagraph (A). If the office finds that the RISE development plan does not comply with those standards and requirements, the office shall provide the governing board with a written identification of which portions of the plan are not in compliance.

(2) A RISE development plan shall be deemed to be in effect as of the date of the office's approval pursuant to subparagraph (A) of paragraph (1).

62413. (a) A RISE district shall prepare an annual expenditure plan that identifies and describes the operations and eligible projects undertaken by the district. The expenditure plan shall be, after public review and hearing, adopted by the governing body of the district and subject to review and revision at least annually.

(b) A RISE district shall also prepare and adopt an annual operating budget and capital improvement budget. The annual operating budget and capital improvement budget shall be, after

1 public review and hearing, adopted by the governing body of the
2 district and subject to review and revision at least annually.

3 (c) A RISE district shall provide for regular audits of its accounts
4 and records, as specified in Section 62410.4, maintain accounting
5 records, and report accounting transactions in accordance with
6 generally accepted accounting principles adopted by the
7 Governmental Accounting Standards Board of the Financial
8 Accounting Foundation for both public reporting purposes and for
9 reporting of activities to the Controller.

10 (d) A RISE district shall provide for annual financial reports
11 and make copies of the annual financial reports available to the
12 public.

13
14 CHAPTER 4. DIVISION OF TAXES
15

16 62420. (a) Any RISE development plan may contain a
17 provision that taxes, if any, levied upon taxable property in the
18 area included within the RISE district each year by or for the
19 benefit of the State of California, or any affected taxing entity after
20 the effective date of the ordinance or resolution adopted pursuant
21 to Section 62406 to create the district, shall be divided, subject to
22 the provisions of Section 53993, as follows:

23 (1) That portion of the taxes that would be produced by the rate
24 upon which the tax is levied each year by or for each of the affected
25 taxing entities upon the total sum of the assessed value of the
26 taxable property in the district as shown upon the assessment roll
27 used in connection with the taxation of the property by the affected
28 taxing entity, last equalized prior to the effective date of the
29 resolution adopted pursuant to Section 62406 to create the RISE
30 district, shall be allocated to, and when collected shall be paid to,
31 the respective affected taxing entities as taxes by or for the affected
32 taxing entities on all other property are paid.

33 (2) That portion of the levied taxes each year specified in the
34 adopted RISE development plan for the city or county and each
35 affected taxing entity that has agreed to participate pursuant to
36 Section 62411 in excess of the amount specified in paragraph (1)
37 shall be allocated to, and when collected shall be paid into a special
38 fund of the RISE district for all lawful purposes of the RISE
39 district. Unless and until the total assessed valuation of the taxable
40 property in a district exceeds the total assessed value of the taxable

1 property in the district as shown by the last equalized assessment
2 roll referred to in paragraph (1), all of the taxes levied and collected
3 upon the taxable property in the RISE district shall be paid to the
4 respective affected taxing entities. When the RISE district ceases
5 to exist pursuant to the adopted RISE development plan, all moneys
6 thereafter received from taxes upon the taxable property in the
7 RISE district shall be paid to the respective affected taxing entities
8 as taxes on all other property are paid.

9 (b) Notwithstanding subdivision (a), where any RISE district
10 boundaries overlap with the boundaries of any former
11 redevelopment project area, any debt or obligation of a district
12 shall be subordinate to any and all enforceable obligations of the
13 former redevelopment agency, as approved by the Oversight Board
14 and the Department of Finance. For the purposes of this chapter,
15 the division of taxes allocated to the RISE district pursuant to
16 subdivision (a) shall not include any taxes required to be deposited
17 by the county auditor-controller into the Redevelopment Property
18 Tax Trust Fund created pursuant to subdivision (b) of Section
19 34170.5 of the Health and Safety Code.

20 (c) (1) The legislative body of the city or county forming the
21 RISE district may choose to dedicate any portion of its net available
22 revenue to the RISE district through the RISE development plan
23 described in Section 62410.

24 (2) For the purposes of this subdivision, “net available revenue”
25 means periodic distributions to the city or county from the
26 Redevelopment Property Tax Trust Fund, created pursuant to
27 Section 34170.5 of the Health and Safety Code, that are available
28 to the city or county after all preexisting legal commitments and
29 statutory obligations funded from that revenue are made pursuant
30 to Part 1.85 (commencing with Section 34170) of Division 24 of
31 the Health and Safety Code. “Net available revenue” shall not
32 include any funds deposited by the county auditor-controller into
33 the Redevelopment Property Tax Trust Fund or funds remaining
34 in the Redevelopment Property Tax Trust Fund prior to distribution.
35 Net available revenues shall not include any moneys payable to a
36 school district that maintains kindergarten and grades 1 to 12,
37 inclusive, community college districts, county office of education,
38 or to the Educational Revenue Augmentation Fund, pursuant to
39 paragraph (4) of subdivision (a) of Section 34183 of the Health
40 and Safety Code.

(d) (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 RISE development plan for the city or county that has agreed to participate pursuant to Section 64211, 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 RISE district for all lawful purposes of the district.

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

(e) This section shall not be construed to prevent a RISE 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 RISE development plan has been approved pursuant to Section 62410:

(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.

62420.1. (a) The portion of taxes required to be allocated pursuant to paragraph (2) of subdivision (a) of Section 62420 shall be allocated and paid into a special fund held in trust for the ~~agency~~ *RISE district* by the county auditor or officer responsible for the payment of taxes into the funds of the affected taxing entities pursuant to the procedure contained in this section.

(b) Not later than October 1 of each year, for each RISE development project for which the RISE development plan provides for the division of taxes pursuant to Section 62420, the RISE district shall file, with the county auditor or officer described in subdivision (a), a statement of indebtedness consistent with subdivision (c), and a reconciliation statement consistent with subdivision (d). All statements required to be filed by this subdivision shall be certified by the chief financial officer of the RISE district.

(c) (1) For each RISE development project for which a statement of indebtedness is required to be filed, the statement of indebtedness shall contain all of the following:

(A) For each loan, advance, or indebtedness incurred or entered into, all of the following information:

(i) The date the loan, advance, or indebtedness was incurred or entered into.

(ii) The principal amount, term, purpose, interest rate, and total interest of each loan, advance, or indebtedness.

(iii) The principal amount and interest due in the fiscal year in which the statement of indebtedness is filed for each loan, advance, or indebtedness.

(iv) The total amount of principal and interest remaining to be paid for each loan, advance, or indebtedness.

(B) The sum of the amounts determined under clause (iii) of subparagraph (A).

(C) The sum of the amounts determined under clause (iv) of subparagraph (A).

1 (D) The available revenues as of the end of the previous year,
2 as determined pursuant to paragraph (10) of subdivision (d).

3 (2) The RISE district may estimate the amount of principal or
4 interest, the interest rate, or term of any loan, advance, or
5 indebtedness if the nature of the loan, advance, or indebtedness is
6 such that the amount of principal or interest, the interest rate or
7 term cannot be precisely determined. The RISE district may list
8 on a statement of indebtedness any loan, advance, or indebtedness
9 incurred or entered into on or before the date the statement is filed.

10 (d) For each RISE district project for which a reconciliation
11 statement is required to be filed, the reconciliation statement shall
12 contain all of the following:

13 (1) A list of all loans, advances, and indebtedness listed on the
14 previous year's statement of indebtedness.

15 (2) A list of all loans, advances, and indebtedness, not listed on
16 the previous year's statement of indebtedness, but incurred or
17 entered into in the previous year and paid in whole or in part from
18 revenue received by the RISE district pursuant to Section 62420.
19 This listing may aggregate loans, advances, and indebtedness
20 incurred or entered into in the previous year for a particular
21 purpose, including relocation expenses, administrative expenses,
22 consultant expenses, or property management expenses, into a
23 single item in the listing.

24 (3) For each loan, advance, or indebtedness described in
25 paragraph (1) or (2), all of the following information:

26 (A) The total amount of principal and interest remaining to be
27 paid as of the later of the beginning of the previous year or the
28 date the loan, advance, or indebtedness was incurred or entered
29 into.

30 (B) Any increases or additions to the loan, advance, or
31 indebtedness occurring during the previous year.

32 (C) The amount paid on the loan, advance, or indebtedness in
33 the previous year from revenue received by the RISE district
34 pursuant to Section 62420.

35 (D) The amount paid on the loan, advance, or indebtedness in
36 the previous year from revenue other than revenue received by the
37 RISE district pursuant to Section 62420.

38 (E) The total amount of principal and interest remaining to be
39 paid as of the end of the previous fiscal year.

1 (4) The available revenues of the RISE district as of the
2 beginning of the previous fiscal year.

3 (5) The amount of revenue received by the RISE district in the
4 previous fiscal year pursuant to Section 62420.

5 (6) The amount of available revenue received by the RISE
6 district in the previous fiscal year from any source other than
7 pursuant to Section 62420.

8 (7) The sum of the amounts specified in subparagraph (D) of
9 paragraph (3), to the extent that the amounts are not included as
10 available revenues pursuant to paragraph (6).

11 (8) The sum of the amounts specified in paragraphs (4), (5), (6),
12 and (7).

13 (9) The sum of the amounts specified in subparagraphs (C) and
14 (D) of paragraph (3).

15 (10) The amount determined by subtracting the amount
16 determined under paragraph (9) from the amount determined under
17 paragraph (8). The amount determined pursuant to this paragraph
18 shall be the available revenues as of the end of the previous fiscal
19 year.

20 (e) For the purposes of this section, available revenues shall
21 include all cash or cash equivalents held by the RISE district that
22 were received by the RISE district pursuant to Section 62420 and
23 all cash or cash equivalents held by the RISE district that are
24 irrevocably pledged or restricted to payment of a loan, advance,
25 or indebtedness that the RISE district has listed on a statement of
26 indebtedness.

27 (f) The county auditor or officer shall, at the same time or times
28 as the payment of taxes into the funds of the affected taxing entities
29 of the county, allocate and pay the portion of taxes provided by
30 paragraph (2) of subdivision (a) of Section 62420 to a special trust
31 fund established for each RISE district. The amount allocated and
32 paid shall not exceed the amount determined pursuant to
33 subparagraph (C) of paragraph (1) of subdivision (c), minus the
34 amount determined pursuant to subparagraph (D) of paragraph (1)
35 of subdivision (c).

36 (g) (1) The statement of indebtedness constitutes prima facie
37 evidence of the loans, advances, or indebtedness of the RISE
38 district.

39 (2) (A) If the county auditor or other officer disputes the amount
40 of loans, advances, or indebtedness as shown on the statement of

1 indebtedness, the county auditor or other officer shall, within 30
2 days after receipt of the statement, give written notice to the RISE
3 district thereof.

4 (B) The RISE district shall, within 30 days after receipt of notice
5 pursuant to subparagraph (A), submit any further information it
6 deems appropriate to substantiate the amount of any loans,
7 advances, or indebtedness which has been disputed. If the county
8 auditor or other officer still disputes the amount of loans, advances,
9 or indebtedness, final written notice of that dispute shall be given
10 to the RISE district, and the amount disputed may be withheld
11 from allocation and payment to the RISE district as otherwise
12 required by subdivision (h). In that event, the auditor or other
13 officer shall bring an action in the superior court in declaratory
14 relief to determine the matter not later than 90 days after the date
15 of the final notice.

16 (3) In any court action brought pursuant to this section, the issue
17 shall involve only the amount of loans, advances, or indebtedness,
18 and not the validity of any contract or debt instrument or any
19 expenditures pursuant thereto. Payments to a trustee under a bond
20 resolution or indenture of any kind or payments to a public agency
21 in connection with payments by that public agency pursuant to a
22 lease or bond issue shall not be disputed in any action under this
23 section. The matter shall be set for trial at the earliest possible date
24 and shall take precedence over all other cases except older matters
25 of the same character. Unless an action is brought within the time
26 provided for herein, the auditor or other officer shall allocate and
27 pay the amount shown on the statement of indebtedness as provided
28 in subdivision (h).

29 (h) This section does not deny a remedy against the RISE district
30 otherwise provided by law.

31 (i) The Controller shall prescribe a uniform form for a statement
32 of indebtedness and reconciliation. These forms shall be consistent
33 with this section. In preparing these forms, the Controller shall
34 obtain the input of county auditors, agencies, and organizations of
35 county auditors and agencies.

36 (j) For the purposes of this section, a fiscal year shall be a year
37 that begins on July 1 and ends the following June 30.

38 62420.2. The county auditor shall, after deducting its
39 administrative costs for activities performed pursuant to this chapter
40 and Section 95.3 of the Revenue and Taxation Code, allocate the

1 funds deposited in a special trust fund established for a RISE
2 district pursuant to subdivision (f) of Section 62420.1 and shall
3 distribute those taxes in the same manner and at the same time or
4 times as the payment of taxes into the funds of the affected taxing
5 entities of the county. The amounts in the fund shall be transferred
6 to the RISE district and available to the RISE district for any
7 purpose authorized in the RISE development plan.

8 62421. (a) (1) At any time before or after the adoption of the
9 RISE development plan, a city, county, or city and county may
10 adopt a resolution to allocate tax revenues of that entity to the
11 district, including revenues derived from local sales and use taxes
12 imposed pursuant to the Bradley-Burns Uniform Local Sales and
13 Use Tax Law (Part 1.5 (commencing with Section 7200) of
14 Division 2 of the Revenue and Taxation Code) or transactions and
15 use taxes imposed in accordance with the Transactions and Use
16 Tax Law (Part 1.6 (commencing with Section 7251) of Division
17 2 of the Revenue and Taxation Code).

18 (2) If the RISE development plan proposes to allocate tax
19 revenues of that entity to the district that are derived from the local
20 sales and use taxes imposed pursuant to the Bradley-Burns Uniform
21 Local Sales and Use Tax Law (Part 1.5 (commencing with Section
22 7200) of Division 2 of the Revenue and Taxation Code), the city,
23 county, or city and county has received the consent of any impacted
24 transportation agency that receives tax revenues derived from that
25 any tax adopted pursuant to that law, and has ensured that existing
26 or planned transportation operations and capital projects will not
27 be negatively impacted.

28 (b) The RISE district shall ensure that the requirements of this
29 article are met every 15 years.

30 (c) The use of the revenues derived from the local sales and use
31 taxes imposed under the Bradley-Burns Uniform Local Sales and
32 Use Tax Law (Part 1.5 (commencing with Section 7200) of
33 Division 2 of the Revenue and Taxation Code) or transactions and
34 use taxes imposed in accordance with the Transactions and Use
35 Tax Law (Part 1.6 (commencing with Section 7251) of Division
36 2 of the Revenue and Taxation Code) pursuant to the RISE
37 development plan is consistent with the purposes for which that
38 tax is imposed.

39 (d) The RISE district shall require, by recorded covenants or
40 restrictions, that affordable housing units financed pursuant to this

1 section remain available at affordable housing costs to, and
2 occupied by, very low income households, persons and families
3 of low income, or persons and families of low or moderate income
4 for the following, as applicable:

5 (1) Fifty-five years for units that are rented, unless a local
6 ordinance or the terms of a federal, state, or local grant, tax credit,
7 or other project financing requires, as a condition of the
8 development of residential units, that the development include a
9 certain percentage of units that are affordable to, and occupied by,
10 low-income, lower income, very low income, or extremely low
11 income households for a term that exceeds 55 years for rental
12 housing units.

13 (2) Forty-five years for owner-occupied units.

14 (e) A RISE district shall not adopt an ordinance terminating a
15 RISE district created pursuant to this section if the district has not
16 complied with its affordable housing obligations.

17 CHAPTER 5. TAX INCREMENT BONDS

18
19
20 62425. A RISE district may, by majority vote, issue bonds
21 pursuant to this chapter by adopting a resolution that includes all
22 of the following:

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

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

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

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

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

36 (f) The issuance of the bonds in one or more series.

37 (g) The principal amount of the bonds that shall be consistent
38 with the amount specified in subdivision (b).

39 (h) The date the bonds will bear.

40 (i) The date of maturity of the bonds.

- 1 (j) The denomination of the bonds.
- 2 (k) The form of the bonds.
- 3 (l) The manner of execution of the bonds.
- 4 (m) The medium of payment in which the bonds are payable.
- 5 (n) The place or manner of payment and any requirements for
- 6 registration of the bonds.

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

8 62426. The RISE district may, by majority vote, provide for

9 refunding of bonds issued pursuant to this chapter. However,

10 refunding bonds shall not be issued if the total net interest cost to

11 maturity on the refunding bonds plus the principal amount of the

12 refunding bonds exceeds the total net interest cost to maturity on

13 the bonds to be refunded. The RISE district may not extend the

14 time to maturity of the bonds.

15 62427. The RISE district or any person executing the bonds

16 shall not be personally liable on the bonds by reason of their

17 issuance. The bonds and other obligations of a district issued

18 pursuant to this chapter are not a debt of the city, county, or state

19 or of any of its political subdivisions, other than the district, and

20 none of those entities, other than the district, shall be liable on the

21 bonds and the bonds or obligations shall be payable exclusively

22 from funds or properties of the district. The bonds shall contain a

23 statement to this effect on their face. The bonds do not constitute

24 an indebtedness within the meaning of any constitutional or

25 statutory debt limitation.

26 62428. The bonds may be sold at discount not to exceed 5

27 percent of par at public sale. At least five days prior to the sale,

28 notice shall be published, pursuant to Section 6061, in a newspaper

29 of general circulation and in a financial newspaper published in

30 the City and County of San Francisco and in the City of Los

31 Angeles. The bonds may be sold at not less than par to the federal

32 government at private sale without any public advertisement.

33 62429. If any member of the RISE district whose signature

34 appears on bonds ceases to be a member of the RISE district before

35 delivery of the bonds, their signature is as effective as if they had

36 remained in office. Bonds issued pursuant to this chapter are fully

37 negotiable.

38 62430. Upon the approval of its governing board, a city, county,

39 or special district that contains territory within the boundaries of

40 a district, may loan moneys to the district to fund those activities

described in the RISE development plan approved and adopted pursuant to Section 62410. 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 RISE district by a governmental entity shall be repaid fully unless agreed to otherwise between the district and the governmental entity.

62431. (a) Commencing in the calendar year in which a district has allocated a cumulative total of more than one million dollars (\$1,000,000) in property tax increment revenues under this division, including any proceeds of a debt issuance, and each year thereafter, the district shall contract for an independent audit conducted in accordance with generally accepted governmental auditing standards.

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

CHAPTER 6. LABOR STANDARDS

62435. Except as provided in Sections 62437 and 62438, a project financed with RISE district funds shall meet all of the following labor standards:

(a) The development proponent shall require in contracts with construction contractors, and shall certify to the RISE district, that the standards specified in this section will be met in project construction.

(b) A development that is not in its entirety a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and receives financing from a RISE district shall be subject to all of the following:

(1) All construction workers employed in the execution of the development shall be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that

1 apprentices registered in programs approved by the Chief of the
2 Division of Apprenticeship Standards may be paid at least the
3 applicable apprentice prevailing rate.

4 (2) The development proponent shall ensure that the prevailing
5 wage requirement is included in all contracts for the performance
6 of the work for those portions of the development that are not a
7 public work.

8 (3) All contractors and subcontractors for those portions of the
9 development that are not a public work shall comply with both of
10 the following:

11 (A) Pay to all construction workers employed in the execution
12 of the work at least the general prevailing rate of per diem wages,
13 except that apprentices registered in programs approved by the
14 Chief of the Division of Apprenticeship Standards may be paid at
15 least the applicable apprentice prevailing rate.

16 (B) Maintain and verify payroll records pursuant to Section
17 1776 of the Labor Code and make those records available for
18 inspection and copying as provided in that section. This
19 subparagraph does not apply if all contractors and subcontractors
20 performing work on the development are subject to a project labor
21 agreement that requires the payment of prevailing wages to all
22 construction workers employed in the execution of the development
23 and provides for enforcement of that obligation through an
24 arbitration procedure. For purposes of this subparagraph, “project
25 labor agreement” has the same meaning as set forth in paragraph
26 (1) of subdivision (b) of Section 2500 of the Public Contract Code.

27 (c) (1) The obligation of the contractors and subcontractors to
28 pay prevailing wages pursuant to this section may be enforced by
29 any of the following:

30 (A) The Labor Commissioner through the issuance of a civil
31 wage and penalty assessment pursuant to Section 1741 of the Labor
32 Code, which may be reviewed pursuant to Section 1742 of the
33 Labor Code, within 18 months after the completion of the
34 development.

35 (B) An underpaid worker through an administrative complaint
36 or civil action.

37 (C) A joint labor-management committee through a civil action
38 under Section 1771.2 of the Labor Code.

39 (2) If a civil wage and penalty assessment is issued pursuant to
40 this section, the contractor, subcontractor, and surety on a bond or

1 bonds issued to secure the payment of wages covered by the
2 assessment shall be liable for liquidated damages pursuant to
3 Section 1742.1 of the Labor Code.

4 (3) This subdivision does not apply if all contractors and
5 subcontractors performing work on the development are subject
6 to a project labor agreement that requires the payment of prevailing
7 wages to all construction workers employed in the execution of
8 the development and provides for enforcement of that obligation
9 through an arbitration procedure. For purposes of this subdivision,
10 “project labor agreement” has the same meaning as set forth in
11 paragraph (1) of subdivision (b) of Section 2500 of the Public
12 Contract Code.

13 (d) Notwithstanding subdivision (c) of Section 1773.1 of the
14 Labor Code, the requirement that employer payments not reduce
15 the obligation to pay the hourly straight time or overtime wages
16 found to be prevailing does not apply to those portions of
17 development that are not a public work if otherwise provided in a
18 bona fide collective bargaining agreement covering the worker.

19 (e) The requirement of this section to pay at least the general
20 prevailing rate of per diem wages does not preclude use of an
21 alternative workweek schedule adopted pursuant to Section 511
22 or 514 of the Labor Code.

23 62436. Except as provided in Sections 62437 and 62438, a
24 development of 50 or more housing units financed by a RISE
25 district shall, in addition to the requirements of Section 62435,
26 meet all of the following labor standards:

27 (a) The development proponent shall require in contracts with
28 construction contractors and shall certify to the RISE district that
29 each contractor of any tier who will employ construction craft
30 employees or will let subcontracts for at least 1,000 hours shall
31 satisfy the requirements in subdivisions (b) and (c). A construction
32 contractor is deemed in compliance with subdivisions (b) and (c)
33 if it is signatory to a valid collective bargaining agreement that
34 requires utilization of registered apprentices and expenditures on
35 health care for employees and dependents.

36 (b) A contractor with construction craft employees shall either
37 participate in an apprenticeship program approved by the State of
38 California Division of Apprenticeship Standards pursuant to
39 Section 3075 of the Labor Code, or request the dispatch of
40 apprentices from a state-approved apprenticeship program under

1 the terms and conditions set forth in Section 1777.5 of the Labor
2 Code. A contractor without construction craft employees shall
3 show a contractual obligation that its subcontractors comply with
4 this subdivision.

5 (c) Each contractor with construction craft employees shall
6 make health care expenditures for each employee in an amount
7 per hour worked on the development equivalent to at least the
8 hourly pro rata cost of a Covered California Platinum level plan
9 for two 40-year-old adults and two dependents 0 to 14 years of
10 age for the Covered California rating area in which the
11 development is located. A contractor without construction craft
12 employees shall show a contractual obligation that its
13 subcontractors comply with this subdivision. Qualifying
14 expenditures shall be credited toward compliance with prevailing
15 wage payment requirements set forth in Section 62435.

16 (d) (1) The development proponent shall provide to the RISE
17 district, on a monthly basis while its construction contracts on the
18 development are being performed, a report demonstrating
19 compliance with subdivisions (b) and (c). The reports shall be
20 considered public records under the California Public Records Act
21 (Division 10 (commencing with Section 7920.000) of Title 1), and
22 shall be open to public inspection.

23 (2) A development proponent that fails to provide the monthly
24 report shall be subject to a civil penalty for each month for which
25 the report has not been provided, in the amount of 10 percent of
26 the dollar value of construction work performed by that contractor
27 on the development in the month in question, up to a maximum
28 of ten thousand dollars (\$10,000). Any contractor or subcontractor
29 that fails to comply with subdivision (b) or (c) shall be subject to
30 a civil penalty of two hundred dollars (\$200) per day for each
31 worker employed in contravention of subdivision (b) or (c).

32 (3) Penalties may be assessed by the Labor Commissioner within
33 18 months of completion of the development using the procedures
34 for issuance of civil wage and penalty assessments specified in
35 Section 1741 of the Labor Code, and may be reviewed pursuant
36 to Section 1742 of the Labor Code. Penalties shall be deposited in
37 the State Public Works Enforcement Fund established pursuant to
38 Section 1771.3 of the Labor Code.

39 (e) Each construction contractor shall maintain and verify payroll
40 records pursuant to Section 1776 of the Labor Code. Each

1 construction contractor shall submit payroll records directly to the
2 Labor Commissioner at least monthly in a format prescribed by
3 the Labor Commissioner in accordance with subparagraph (A) of
4 paragraph (3) of subdivision (a) of Section 1771.4 of the Labor
5 Code. The records shall include a statement of fringe benefits.
6 Upon request by a joint labor-management cooperation committee
7 established pursuant to the Federal Labor Management Cooperation
8 Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided
9 pursuant to subdivision (e) of Section 1776 of the Labor Code.

10 (f) All construction contractors shall report any change in
11 apprenticeship program participation or health care expenditures
12 to the RISE district within 10 business days, and shall reflect those
13 changes on the monthly report. The reports shall be considered
14 public records pursuant to the California Public Records Act
15 (Division 10 (commencing with Section 7920.000) of Title 1) and
16 shall be open to public inspection.

17 (g) A joint labor-management cooperation committee established
18 pursuant to the Federal Labor Management Cooperation Act of
19 1978 (29 U.S.C. Sec. 175a) shall have standing to sue a
20 construction contractor for failure to make health care expenditures
21 pursuant to subdivision (c) in accordance with Section 218.7 or
22 218.8 of the Labor Code.

23 62437. Notwithstanding Sections 62435 and 62436, a proponent
24 of an infrastructure projects financed with RISE district funds shall
25 certify to the RISE district that either of the following is true:

26 (a) The entirety of the infrastructure project is a public work
27 for purposes of Chapter 1 (commencing with Section 1720) of Part
28 7 of Division 2 of the Labor Code.

29 (b) The infrastructure project is not in its entirety a public work
30 for which prevailing wages must be paid under Article 1
31 (commencing with Section 1720) of Chapter 1 of Part 7 of Division
32 2 of the Labor Code, but all construction workers employed on
33 construction of the development will be paid at least the general
34 prevailing rate of per diem wages for the type of work and
35 geographic area, as determined by the Director of Industrial
36 Relations pursuant to Sections 1773 and 1773.9 of the Labor Code,
37 except that apprentices registered in programs approved by the
38 Chief of the Division of Apprenticeship Standards may be paid at
39 least the applicable apprentice prevailing rate. If the infrastructure

1 project is subject to this paragraph, then for those portions of the
2 project that are not a public work all of the following shall apply:

3 (1) The prevailing wage requirement is included in all contracts
4 for the performance of all construction work.

5 (2) All contractors and subcontractors shall pay to all
6 construction workers employed in the execution of the work at
7 least the general prevailing rate of per diem wages, except that
8 apprentices registered in programs approved by the Chief of the
9 Division of Apprenticeship Standards may be paid at least the
10 applicable apprentice prevailing rate.

11 (3) Except as provided in paragraph (5), all contractors and
12 subcontractors shall maintain and verify payroll records pursuant
13 to Section 1776 of the Labor Code and make those records
14 available for inspection and copying as provided therein.

15 (4) Except as provided in paragraph (5), the obligation of the
16 contractors and subcontractors to pay prevailing wages may be
17 enforced by the Labor Commissioner through the issuance of a
18 civil wage and penalty assessment pursuant to Section 1741 of the
19 Labor Code, which may be reviewed pursuant to Section 1742 of
20 the Labor Code, within 18 months after the completion of the
21 development, or by an underpaid worker through an administrative
22 complaint or civil action, or by a joint labor-management
23 committee through a civil action under Section 1771.2 of the Labor
24 Code. If a civil wage and penalty assessment is issued, the
25 contractor, subcontractor, and surety on a bond or bonds issued to
26 secure the payment of wages covered by the assessment shall be
27 liable for liquidated damages pursuant to Section 1742.1 of the
28 Labor Code.

29 (5) Paragraphs (3) and (4) shall not apply if all contractors and
30 subcontractors performing work on the infrastructure are subject
31 to a project labor agreement that requires the payment of prevailing
32 wages to all construction workers employed in the execution of
33 the development and provides for enforcement of that obligation
34 through an arbitration procedure. For purposes of this clause,
35 “project labor agreement” has the same meaning as set forth in
36 paragraph (1) of subdivision (b) of Section 2500 of the Public
37 Contract Code.

38 (6) Notwithstanding subdivision (c) of Section 1773.1 of the
39 Labor Code, the requirement that employer payments not reduce
40 the obligation to pay the hourly straight time or overtime wages

1 found to be prevailing shall not apply if otherwise provided in a
2 bona fide collective bargaining agreement covering the worker.
3 The requirement to pay at least the general prevailing rate of per
4 diem wages does not preclude use of an alternative workweek
5 schedule adopted pursuant to Section 511 or 514 of the Labor
6 Code.

7 62438. (a) Notwithstanding Sections 62435 and 62436, the
8 proponent of an infrastructure project financed with RISE district
9 funds shall certify to the RISE district that a skilled and trained
10 workforce will be used to perform all construction work on the
11 infrastructure.

12 (1) For purposes of this subdivision, “skilled and trained
13 workforce” has the same meaning as provided in Chapter 2.9
14 (commencing with Section 2600) of Part 1 of Division 2 of the
15 Public Contract Code.

16 (2) If the developer has certified that a skilled and trained
17 workforce will be used to construct all work on infrastructure and
18 the application is approved, all of the following shall apply:

19 (A) The RISE district shall require in all contracts for the
20 performance of work that every contractor and subcontractor at
21 every tier will individually use a skilled and trained workforce to
22 construct the development.

23 (B) Every contractor and subcontractor shall use a skilled and
24 trained workforce to construct the development.

25 (C) Except as provided in subparagraph (D), the contractor shall
26 provide to the RISE district, on a monthly basis while the
27 infrastructure is being constructed, a report demonstrating
28 compliance with Chapter 2.9 (commencing with Section 2600) of
29 Part 1 of Division 2 of the Public Contract Code. A monthly report
30 provided to the RISE district pursuant to this subparagraph shall
31 be a public record under the California Public Records Act
32 (Division 10 (commencing with Section 7920.000) of Title 1), and
33 shall be open to public inspection. A developer that fails to provide
34 a monthly report demonstrating compliance with Chapter 2.9
35 (commencing with Section 2600) of Part 1 of Division 2 of the
36 Public Contract Code shall be subject to a civil penalty of ten
37 thousand dollars (\$10,000) per month for each month for which
38 the report has not been provided. Any contractor or subcontractor
39 that fails to use a skilled and trained workforce shall be subject to
40 a civil penalty of two hundred dollars (\$200) per day for each

1 worker employed in contravention of the skilled and trained
2 workforce requirement. Penalties may be assessed by the Labor
3 Commissioner within 18 months of completion of the development
4 using the same procedures for issuance of civil wage and penalty
5 assessments pursuant to Section 1741 of the Labor Code, and may
6 be reviewed pursuant to the same procedures in Section 1742 of
7 the Labor Code. Penalties shall be paid to the State Public Works
8 Enforcement Fund.

9 (D) Subparagraph (C) shall not apply if all contractors and
10 subcontractors performing work on the development are subject
11 to a project labor agreement that requires compliance with the
12 skilled and trained workforce requirement and provides for
13 enforcement of that obligation through an arbitration procedure.
14 For purposes of this subparagraph, “project labor agreement” has
15 the same meaning as set forth in paragraph (1) of subdivision (b)
16 of Section 2500 of the Public Contract Code.

17 (3) Notwithstanding subparagraph (B) of paragraph (2), a
18 contractor or subcontractor shall not be in violation of the
19 apprenticeship graduation requirements of subdivision (d) of
20 Section 2601 of the Public Contract Code to the extent that all of
21 the following requirements are satisfied:

22 (A) All contractors and subcontractors performing work on the
23 development are subject to a project labor agreement that includes
24 the local building and construction trades council as a party, that
25 requires compliance with the apprenticeship graduation
26 requirements, and that provides for enforcement of that obligation
27 through an arbitration procedure.

28 (B) The project labor agreement requires the contractor or
29 subcontractor to request the dispatch of workers for the project
30 through a hiring hall or referral procedure.

31 (C) The contractor or subcontractor is unable to obtain sufficient
32 workers to meet the apprenticeship graduation percentage
33 requirement within 48 hours of its request, Saturdays, Sundays,
34 and holidays excepted.

35 (b) Notwithstanding subdivision (a), a contract or subcontract
36 may be awarded without a requirement for the use of a skilled and
37 trained workforce to the extent that all of the following
38 requirements are satisfied:

39 (1) At least seven days before issuing any invitation to prequalify
40 or bid solicitation for the project, the developer sends a notice of

1 the invitation or solicitation that describes the project to the
2 following entities within the jurisdiction of the proposed project
3 site:

4 (A) Any bona fide labor organization representing workers in
5 the building and construction trades who may perform work
6 necessary to complete the project.

7 (B) Any organization representing contractors that may perform
8 work necessary to complete the project.

9 (2) The RISE district or developer seeks bids containing an
10 enforceable commitment that all contractors and subcontractors
11 at every tier will use a skilled and trained workforce to perform
12 work on the project that falls within an apprenticeable occupation
13 in the building and construction trades.

14 (3) For the purpose of establishing a bidder pool of eligible
15 contractors and subcontractors, the developer establishes a process
16 to prequalify prime contractors and subcontractors that agree to
17 meet skilled and trained workforce requirements.

18 (4) The bidding process for the project includes, but is not
19 limited to, all of the following requirements:

20 (A) The prime contractor shall be required to list all
21 subcontractors that will perform work in an amount in excess of
22 one-half of 1 percent of the prime contractor's total bid.

23 (B) The RISE district or developer shall only accept bids from
24 prime contractors that have been prequalified.

25 (C) If the RISE district or developer receives at least two bids
26 from prequalified prime contractors, a skilled and trained workforce
27 must be used by all contractors and subcontractors, except as
28 provided in subparagraph (D).

29 (D) If the RISE district or developer receives fewer than two
30 bids from prequalified prime contractors, the contract may be rebid
31 and awarded without the skilled and trained workforce requirement
32 applying to the prime contractor's scope of work.

33 (E) Prime contractors shall request bids from subcontractors on
34 the prequalified list and shall only accept bids and list
35 subcontractors from the prequalified list. If the prime contractor
36 receives bids from at least two subcontractors in each tier listed
37 on the prequalified list, the prime contractor shall require that the
38 contract for that tier or scope of work will require a skilled and
39 trained workforce.

1 (F) If the prime contractor fails to receive at least two bids from
2 subcontractors listed on the prequalified list in any tier, the prime
3 contractor may rebid that scope of work. The prime contractor
4 need not require that a skilled and trained workforce be used for
5 that scope of work and may list subcontractors for that scope of
6 work that do not appear on the prequalified list.

7 (5) The RISE district shall establish minimum requirements for
8 prequalification of prime contractors and subcontractors that are,
9 to the maximum extent possible, quantifiable and objective. Only
10 criterion, and minimum thresholds for any criterion, that are
11 reasonably necessary to ensure that any bidder awarded a project
12 can successfully complete the proposed scope shall be used by the
13 developer. The developer shall not impose any obstacles to
14 prequalification that go beyond what is commercially reasonable
15 and customary.

16 (6) The RISE district and or developer shall, within 24 hours
17 of a request by a labor organization that represents workers in the
18 geographic area of the project, provide all of the following
19 information to the labor organization:

20 (A) The names and Contractors State License Board numbers
21 of the prime contractors and subcontractors that have prequalified.

22 (B) The names and Contractors State License Board numbers
23 of the prime contractors that have submitted bids and their
24 respective listed subcontractors.

25 (C) The names and Contractors State License Board numbers
26 of the prime contractor that was awarded the work and its listed
27 subcontractors.

28 (7) An interested party, including a labor organization that
29 represents workers in the geographic area of the project, may bring
30 an action for injunctive relief against a developer or prime
31 contractor that is proceeding with a project in violation of the
32 bidding requirements of this subdivision applicable to developers
33 and prime contractors. The court in such an action may issue
34 injunctive relief to halt work on the project and to require
35 compliance with the requirements of this section. The prevailing
36 plaintiff in such an action shall be entitled to recover its reasonable
37 attorney's fees and costs.

38 62439. Notwithstanding any other provision of this chapter,
39 this chapter shall not apply to a project that is privately financed
40 in its entirety.

1 SEC. 4. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.