

AMENDED IN ASSEMBLY MAY 6, 2013

AMENDED IN ASSEMBLY APRIL 23, 2013

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 294**

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**Introduced by Assembly Member Holden**

February 11, 2013

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An act to add and repeal Article 5.5 (commencing with Section 63047.55) of Chapter 2 of Division 1 of Title 6.7 of the Government Code, relating to local government.

### LEGISLATIVE COUNSEL’S DIGEST

AB 294, as amended, Holden. Local-State Joint Investment Partnership Pilot Program.

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the Infrastructure and Economic Development Bank within the Governor’s Office of Business and Economic Development. The bank is authorized to, among other things, issue bonds, approve the issuance of certain bonds, invest moneys, and make loans, as specified.

This bill would, until January 1, 2020, establish a pilot program whereby certain local government entities, upon the approval and oversight of the bank, are authorized to reallocate their annual payments of property tax revenue directed to the Educational Revenue Augmentation Fund to instead finance certain kinds of public works that further state policy, as specified. This bill would require each local government entity operating a project under the pilot program and the

bank to submit annual reports, as specified, on the results of the pilot program.

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. The Legislature finds and declares that the purpose of this act is to create a pilot program whereby certain local government entities, upon the approval and oversight of the Infrastructure and Economic Development Bank, are authorized to reallocate their payments of property tax revenue directed to the Educational Revenue Augmentation Fund to instead finance certain kinds of public works.

SEC. 2. Article 5.5 (commencing with Section 63047.55) is added to Chapter 2 of Division 1 of Title 6.7 of the Government Code, to read:

Article 5.5. Local-State Joint Investment Partnership Pilot  
Program

63047.55. There is in state government the Local-State Joint Investment Partnership Pilot Program.

63047.60. Only a local government entity, including, but not limited to, an infrastructure financing district established pursuant to Chapter 2.8 (commencing with Section 53395) of Part 1 of Division 2 of Title 5 or any special district, but excluding a city, county, or city and county, may file an application for financing a public works project with, and for approval by, the bank pursuant to the program.

63047.65. Only the following public works that further state policy objectives shall be financed under the program:

(a) “City streets,” “county highways,” and “state highways,” as those terms are used in paragraphs (1), (2), and (15), respectively, of subdivision (q) of Section 63010.

(b) “Sewage collection and treatment,” as that term is used in paragraph (10) of subdivision (q) of Section 63010.

(c) “Water treatment and distribution,” as that term is used in paragraph (12) of subdivision (q) of Section 63010.

1 (d) Facilities for the collection and treatment of water for urban  
2 uses.

3 (e) “Drainage, water supply, and flood control,” as that term is  
4 used in paragraph (3) of subdivision (q) of Section 63010.

5 (f) “Educational facilities,” as that term is used in paragraph (4)  
6 of subdivision (q) of Section 63010.

7 (g) “Parks and recreational facilities,” as that term is used in  
8 paragraph (6) of subdivision (q) of Section 63010.

9 (h) “Solid waste collection and disposal,” as that term is used  
10 in paragraph (11) of subdivision (q) of Section 63010.

11 (i) “Public transit,” as that term is used in paragraph (9) of  
12 subdivision (q) of Section 63010.

13 (j) “Power and communications,” as that term is used in  
14 paragraph (8) of subdivision (q) of Section 63010.

15 (k) (1) Brownfield cleanup that promotes infill housing  
16 development and other related infill development consistent with  
17 regional and local plans.

18 (2) For purposes of this subdivision, “brownfield” has the same  
19 meaning as in paragraph (2) of subdivision (a) of Section 25395.20  
20 of the Health and Safety Code.

21 (l) “Economic development facilities” as that term is used in  
22 subdivision (g) of Section 63010.

23 (m) Development of affordable housing.

24 63047.70. (a) An application for financing approval filed with  
25 the bank pursuant to the program shall include all of the following  
26 information in a manner prescribed by the bank:

27 (1) An economic analysis of the project that includes a  
28 determination that the development to be financed would result in  
29 an amount of revenue to the General Fund with a net present value  
30 that is greater than the net present value of the amount of property  
31 tax increment revenues that would be diverted from the Educational  
32 ~~Augmentation Revenue~~ *Revenue Augmentation* Fund over a  
33 35-year period, taking into consideration all pertinent data.

34 (2) A description of how the project will further local and  
35 statewide policy objectives.

36 (3) A description of all local resources available to invest in the  
37 project and an analysis of the reduced scope or feasibility of the  
38 project based on the investment of only those local resources.

1 (4) A statement of the availability of matching funds from the  
2 applicant local government entity. The application shall not request  
3 funding greater than required to complete the project.

4 (5) The annual amount of property taxes otherwise allocated to  
5 the Educational ~~Augmentation Revenue~~ *Revenue Augmentation*  
6 Fund, from the tax rate areas within the territorial jurisdiction of  
7 the applicant, that the applicant proposes to reallocate to finance  
8 the project, and whether the applicant proposes to issue debt to  
9 fund the project.

10 (6) A demonstration, to a reasonable probability, that the project  
11 would result in an amount of tax revenue to the state General Fund  
12 with a net present value that is greater than the net present value  
13 of the amount of property tax increment revenues that would be  
14 reallocated from the Educational Revenue Augmentation Fund  
15 over the term of the project, taking into consideration all pertinent  
16 data.

17 (b) The bank may circulate an application for financing to other  
18 state agencies, including, but not limited to, the Department of  
19 Finance, the Department of Housing and Community Development,  
20 and the Office of Planning and Research.

21 (c) The bank may establish a process for the public to comment  
22 on an application for financing.

23 (d) The legislative body of the applicant shall reimburse the  
24 bank for the reasonable cost of the bank's review of its application  
25 for financing.

26 (e) For purposes of this article, "public works project" means  
27 the entire plan for developing the public works specified in Section  
28 63047.65, within a specified geographical area, as set forth by the  
29 applicant.

30 63047.75. (a) On and after January 1, 2015, the bank may  
31 approve up to a maximum of 15 applications for financing pursuant  
32 to the program or a total of fifty million dollars (\$50,000,000) in  
33 allocations for all approved projects, whichever comes first.

34 (b) The bank shall not approve an application for financing  
35 unless it determines that approving a public works project proposed  
36 in an application is necessary either to make the project financially  
37 feasible or to significantly enhance the scope and potential benefits  
38 of the project.

39 (c) In reviewing the economic analysis in an application for  
40 financing, the bank shall consider the increase in state General

1 Fund tax revenues that would occur because of the proposed  
2 economic activity. The bank shall not approve an application unless  
3 the bank determines that the development to be financed would  
4 result in an amount of revenue to the General Fund with a net  
5 present value that is greater than the net present value of the amount  
6 of property tax increment revenues that would be diverted from  
7 the Educational ~~Augmentation Revenue~~ *Revenue Augmentation*  
8 Fund over a 35-year period, taking into consideration all pertinent  
9 data.

10 (d) In making its decision to approve an application for  
11 financing, the bank may give weight to any established state policy  
12 objective or benefit identified by a state agency reviewing the  
13 application.

14 (e) The bank shall only approve a level of financing that  
15 reallocates tax revenue that would otherwise be allocated to the  
16 Educational Revenue Augmentation Fund from the tax rate areas  
17 within the territorial jurisdiction of the applicant, for which the  
18 bank has received verification from the county auditor that the  
19 level of financing approved by the bank would not prevent the  
20 county auditor from making all distributions to cities, counties,  
21 and special districts from the Educational Revenue Augmentation  
22 Fund as required by law. The local government agency shall only  
23 receive its share of the Educational ~~Augmentation Revenue~~  
24 *Revenue Augmentation* Fund funds for projects approved pursuant  
25 to the program.

26 (f) The bank may approve an amount less than the amount  
27 requested by the applicant. The bank shall not approve an  
28 application unless it finds that the local government will be able  
29 to provide matching funds in an amount equal to the approved  
30 funding.

31 63047.80. (a) To approve an application for financing under  
32 the program, the bank shall issue a written statement that  
33 establishes, but is not limited to, the total amount of tax revenue  
34 that would have been directed to the Educational Revenue  
35 Augmentation Fund that is reallocated to finance specific public  
36 works projects proposed in the application, the amount of each  
37 affected taxing ~~agency's~~ *entity's* payment to the Educational  
38 Revenue Augmentation Fund that is being reallocated, and the  
39 duration of those reallocations. The written statement shall include  
40 a statement that the maximum amount that may be diverted from

1 the Educational ~~Augmentation Revenue~~ *Revenue Augmentation*  
2 Fund shall not exceed the total amount of the Educational  
3 ~~Augmentation Revenue~~ *Revenue Augmentation* Fund contributions  
4 by each local agency participating in an infrastructure financing  
5 district, or in the case of a special district, that special district's  
6 the Educational ~~Augmentation Revenue~~ *Revenue Augmentation*  
7 Fund share. The statement shall additionally specify that the  
8 Educational ~~Augmentation Revenue~~ *Revenue Augmentation* Fund  
9 reallocations pursuant to the program shall only be used for projects  
10 of the applicant that are approved projects pursuant to this program.  
11 The bank shall transmit the statement to the county tax collector  
12 or the official responsible for the allocation of property tax  
13 revenues within the county.

14 (b) Upon receiving the bank's written statement described in  
15 subdivision (a), the county tax collector or the official responsible  
16 for the allocation of tax revenues within the county shall direct the  
17 tax revenues as prescribed in the bank's statement.

18 63047.83. Upon approval by the bank, the local government  
19 entity may issue bonds, including, but not limited to, general  
20 obligation bonds, against the Educational ~~Augmentation Revenue~~  
21 *Revenue Augmentation* Fund funds, the proceeds of which shall  
22 only be used for a project approved pursuant to this program.

23 63047.85. (a) On or before December 31, 2016, and annually  
24 thereafter, each applicant that has received financing pursuant to  
25 the program for any fiscal year shall provide a report to the bank  
26 that includes all of the following information for that fiscal year:

27 (1) The amount of money that the county auditor reallocated  
28 from the Educational Revenue Augmentation Fund for financing  
29 under the program.

30 (2) The purposes for which that allocated money was used.

31 (3) The actions taken during the fiscal year to implement the  
32 applicant's project.

33 (b) On or before March 1, 2017, and annually thereafter, the  
34 bank shall provide a report to the Joint Legislative Budget  
35 Committee that includes all of the following information for the  
36 preceding fiscal year:

37 (1) The name, location, and general description of each  
38 application for financing approved under the program.

1 (2) The total amount of money that county auditors reallocated  
2 from the Educational Revenue Augmentation Fund under the  
3 program.

4 (3) An evaluation of the extent to which the implementation of  
5 the approved financing has achieved the purposes and intent of  
6 the program. In preparing this evaluation, the bank may solicit  
7 advice and assistance from other state entities, including, but not  
8 limited to, the departments within the Transportation Agency, the  
9 Business, Consumer Services, and Housing Agency, and the  
10 Natural Resources Agency, the Department of Finance, and the  
11 Office of Planning and Research.

12 63047.90. This article shall remain in effect only until January  
13 1, 2020, and as of that date is repealed, unless a later enacted  
14 statute, that is enacted before January 1, 2020, deletes or extends  
15 that date. However, the repeal of this article shall not affect the  
16 continuing annual reallocation of property taxes for financing  
17 approved by the bank prior to the repeal of this article.