July 13, 2009
Agenda Item 6.3

METROPOLITAN
TRANSPORTATION
COMMISSION

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Memorandum

TO: Legislation Committee

DATE: June 5, 2009

FR: Executive Director

RE: AB 338 (Ma): Transit Village Developments/Tax-Increment Financing

Description
AB 338 (Ma) allows cities and counties to use tax increment financing to pay for public facilities and amenities within a transit village development plan by allowing the creation of an Infrastructure Financing District by a majority vote of the elected body. The bill would also expand the boundaries of a transit village development district from ¼ mile to ½ mile from the main entrance of a transit station. The bill would require local governments using tax increment bonds for transit district improvements use at least 20 percent of the property tax increment for affordable housing within the district.

Recommendation: Support and Seek Amendment

Discussion
MTC has long-supported finding new funding tools in support of Transit Oriented Development (TOD) improvements. AB 338 adds tax-increment financing (TIF) to that set of tools under the rationale that a TOD project will typically add value to the surrounding areas that often spurs new investment. This increased site value and investment creates additional taxable property that can increase incoming tax revenues to local communities. The increase in TIF would be used to finance the debt issued to pay for the project.

AB 338 is identical to other bills we have supported in the past, including AB 1221 (Ma) introduced in 2007, which was vetoed as part of Governor Schwarzenegger's blanket-veto message regarding the late passage of the state budget last year. MTC's Elderly & Disabled Advisory Committee has long sought to improve accessibility to transit for persons with disabilities who live in TODs, including townhomes. To aid in this effort, MTC staff has discussed with Assembly Member Ma's staff an amendment to add intent language to the bill that would declare legislative intent that at least 10 percent of the units in townhomes within a ½ mile of a transit station be habitable by persons with disabilities and provide an accessible route from within the housing units to the entrance and to the station for persons with disabilities.

Because the bill would provide a new source of funds to complement the region's ongoing efforts to promote TOD, we urge a "support and seek amendment" position on the bill, as outlined above.

Known Positions

Support

San Francisco Bay Area Rapid Transit District (sponsor)
American Federation of State, County, and Municipal Employees
CA Rural Legal Assistance Foundation
Western Center on Law & Poverty

Oppose

Howard Jarvis Taxpayers Association

Steve Heminger

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AMENDED IN SENATE JUNE 25, 2009

AMENDED IN ASSEMBLY MAY 11, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 338

Introduced by Assembly Member Ma

February 18, 2009

An act to amend Sections 53395.1, 65460.1, 65460.2, and 65460.4 of, and to add Sections 53395.7.5 and 65460.2.5 to, the Government Code, relating to transit facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 338, as amended, Ma. Transit village developments: infrastructure financing.

Existing law authorizes a city or county to create a transit village plan for a transit village development district. A transit village plan is required to include all land within not less than ¼ mile of the exterior boundary of the parcel on which is located a transit station, as defined. A legislative body is authorized to create an infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, for which only the district is liable, to finance specified public facilities, upon voter approval.

This bill would recast the area included in a transit village plan to include all land within not more than ½ mile of the main entrance of a transit station. The requirement of voter approval for the formation of an infrastructure financing district, adoption of an infrastructure financing plan, and an issuance of bonds for the purpose of ~~developing and financing~~ *implementing* a transit facility, as defined, would be eliminated. A transit village plan financed by these bonds would be

required to include specified demonstrable public benefits regarding housing, replacement dwelling units at an affordable housing cost when specified dwelling units are destroyed or removed, and a provision that at least 20% of all revenues derived from the property tax increment be dedicated to increase, improve, and preserve the transit village district's supply of affordable housing, as defined. The bill also would make technical, nonsubstantive changes.

This bill would incorporate additional changes in Section 65460.2 of the Government Code proposed by AB 1158, that would become operative only if AB 1158 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

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

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

1 SECTION 1. Section 53395.1 of the Government Code is
2 amended to read:
3 53395.1. Unless the context otherwise requires, the following
4 definitions ~~contained~~ shall govern the construction of this chapter:
5 (a) "Affected taxing entity" means any governmental taxing
6 agency that levied or had levied on its behalf a property tax on all
7 or a portion of the property located in the proposed district in the
8 fiscal year prior to the designation of the district, but not including
9 any county office of education, school district, or community
10 college district.
11 (b) "City" means a city, a county, or a city and county.
12 (c) "Debt" means any binding obligation to repay a sum of
13 money, including obligations in the form of bonds, certificates of
14 participation, long-term leases, loans from government agencies,
15 or loans from banks, other financial institutions, private businesses,
16 or individuals.
17 (d) "Designated official" means the city engineer or other
18 appropriate official designated pursuant to Section 53395.13.
19 (e) (1) "District" means an infrastructure financing district.
20 (2) An infrastructure financing district is a "district" within the
21 meaning of Section 1 of Article XIII A of the California
22 Constitution.

(f) "Infrastructure financing district" means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing public facilities.

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

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

(i) "Transit facility" includes, but is not limited to, any publicly owned facility and amenity necessary to implement a transit village plan adopted pursuant to Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7.

SEC. 2. Section 53395.7.5 is added to the Government Code, to read:

~~53395.7.5. Notwithstanding any other section of this chapter,~~

53395.7.5. With respect to an infrastructure financing district proposed to implement a transit village plan adopted pursuant to Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7, an election is not required to form an infrastructure financing district, adopt an infrastructure financing plan, or issue bonds pursuant to this chapter. Any other provision of this chapter applies to the formation of an infrastructure financing district and the adoption of an infrastructure financing plan.

SEC. 3. Section 65460.1 of the Government Code is amended to read:

65460.1. (a) The Legislature hereby finds and declares all of the following:

(1) Federal, state, and local governments in California are investing in new and expanded transit systems in areas throughout the state, including Los Angeles County, the San Francisco Bay area, San Diego County, Santa Clara County, and Sacramento County.

(2) This public investment in transit is unrivaled in the state's history and represents well over ten billion dollars ($10,000,000,000) in planned investment alone.

(3) Recent studies of transit ridership in California indicate that persons who live within a one-half mile radius of transit stations utilize the transit system in far greater numbers than does the general public living elsewhere.

(4) The greater use of public transit facilitated by the development of transit villages improves local street, road, and highway congestion concerns by providing viable alternatives to automobile use.

(5) The development of transit villages can improve environmental conditions by increasing the use of public transit, facilitating the creation of and improvement to walkable, mixed-use communities, and decreasing automobile use.

(6) Transit villages throughout the state should be developed in environmentally conscious and sustainable manners, and related construction should meet or exceed the requirements of the most recent edition of the California Green Building Code Standards.

(7) Only a few transit stations in California have any concentration of housing proximate to the station.

(8) Interest in clustering housing and commercial development around transit stations, called transit villages, has gained momentum in recent years.

(b) For purposes of this article, the following definitions shall apply:

(1) "Bus hub" means an intersection of three or more bus routes, with a minimum route headway of 10 minutes during peak hours.

(2) "Bus transfer station" means an arrival, departure, or transfer point for the area's intercity, intraregional, or interregional bus service having permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.

~~(2)~~

(3) "County" includes a city and county.

~~(3)~~

(4) "District" means a transit village development district as defined in Section 65460.4.

~~(4)~~

(5) "Peak hours" means the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday.

1 ~~(5)~~
2 *(6)* "Transit station" means a rail or light-rail station, ferry
3 terminal, bus hub, or bus transfer station.
4 SEC. 4. Section 65460.2 of the Government Code is amended
5 to read:
6 65460.2. A city or county may prepare a transit village plan
7 for a transit village development district that addresses the
8 following characteristics:
9 (a) A neighborhood centered around a transit station that is
10 planned and designed so that residents, workers, shoppers, and
11 others find it convenient and attractive to patronize transit.
12 (b) A mix of housing types, including apartments, within not
13 more than a one-half mile of the main entrance of the transit station.
14 (c) Other land uses, including a retail district oriented to the
15 transit station and civic uses, including day care centers and
16 libraries.
17 (d) Pedestrian and bicycle access to the transit station, with
18 attractively designed and landscaped pathways.
19 (e) A transit system that should encourage and facilitate
20 intermodal service, and access by modes other than single occupant
21 vehicles.
22 (f) Demonstrable public benefits beyond the increase in transit
23 usage, including any five of the following:
24 (1) Relief of traffic congestion.
25 (2) Improved air quality.
26 (3) Increased transit revenue yields.
27 (4) Increased stock of affordable housing.
28 (5) Redevelopment of depressed and marginal inner-city
29 neighborhoods.
30 (6) Live-travel options for transit-needy groups.
31 (7) Promotion of infill development and preservation of natural
32 resources.
33 (8) Promotion of a safe, attractive, pedestrian-friendly
34 environment around transit stations.
35 (9) Reduction of the need for additional travel by providing for
36 the sale of goods and services at transit stations.
37 (10) Promotion of job opportunities.
38 (11) Improved cost-effectiveness through the use of the existing
39 infrastructure.
40 (12) Increased sales and property tax revenue.

(13) Reduction in energy consumption.

(g) Sites where a density bonus of at least 25 percent may be granted pursuant to specified performance standards.

(h) Other provisions that may be necessary, based on the report prepared pursuant to subdivision (b) of former Section 14045, as enacted by Section 3 of Chapter 1304 of the Statutes of 1990.

SEC. 4.5. Section 65460.2 of the Government Code is amended to read:

65460.2. A city or county may prepare a transit village plan for a transit village development district that addresses the following characteristics:

(a) A neighborhood centered around a transit station that is planned and designed so that residents, workers, shoppers, and others find it convenient and attractive to patronize transit.

(b) A mix of housing types, including apartments, within not more than a ~~quarter~~ *one-half* mile of the ~~exterior boundary of the parcel on which~~ *main entrance of* the transit station ~~is located~~.

(c) Other land uses, including a retail district oriented to the transit station and civic uses, including day care centers and libraries.

(d) Pedestrian and bicycle access to the transit station, with attractively designed and landscaped pathways.

(e) A transit system that should encourage and facilitate intermodal service, and access by modes other than single occupant vehicles.

(f) Demonstrable public benefits beyond the increase in transit usage, including any five of the following:

(1) Relief of traffic congestion.

(2) Improved air quality.

(3) Increased transit revenue yields.

(4) Increased stock of affordable housing.

(5) Redevelopment of depressed and marginal inner-city neighborhoods.

(6) Live-travel options for transit-needy groups.

(7) Promotion of infill development and preservation of natural resources.

(8) Promotion of a safe, attractive, pedestrian-friendly environment around transit stations.

(9) Reduction of the need for additional travel by providing for the sale of goods and services at transit stations.

(10) Promotion of job opportunities.

(11) Improved cost-effectiveness through the use of the existing infrastructure.

(12) Increased sales and property tax revenue.

(13) Reduction in energy consumption.

(g) Sites where a density bonus of at least 25 percent may be granted pursuant to specified performance standards.

(h) Other land uses, including educational facilities, that provide direct linkages for people traveling to and from primary and secondary education schools, community colleges, and universities.

~~(h)~~

(i) Other provisions that may be necessary, based on the report prepared pursuant to subdivision (b) of former Section 14045, as enacted by Section 3 of Chapter 1304 of the Statutes of 1990.

SEC. 5. Section 65460.2.5 is added to the Government Code, to read:

65460.2.5. If a city, county, or city and county finances any portion of a district, as defined in this article, under the provisions of Chapter 2.8 (commencing with Section 53395) of Part 1 of Division 2 of Title 5, the city, county, or city and county shall do all of the following:

(a) Use at least 20 percent of all revenues derived from the property tax increment under Chapter 2.8 (commencing with Section 53395) of Part 1 of Division 2 of Title 5 for the purposes of increasing, improving, and preserving the supply of lower and moderate-income housing available in the district at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, and occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, lower income households, as defined in Section 50079.5 of the Health and Safety Code, very low income households, as defined in Section 50105 of the Health and Safety Code, and extremely low income households, as defined in Section 50106 of the Health and Safety Code. The amount of very low, low- and moderate-income housing shall be in compliance with the Community Redevelopment Law ~~(Article 1 (commencing with Section 33000) of Chapter 1 of Part 1~~ *(Part 1 (commencing with Section 33000)* of Division 24 of the Health and Safety Code) and any adopted policies of the city, county, or city and county that adopted the transit village plan.

(b) Require that housing units described in subdivision (a) remain available at affordable housing cost to, and occupied by, persons and families of low or moderate income and very low income and extremely low income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units. The covenants or restrictions implementing this requirement shall be in compliance with subdivision (f) of Section 33334.3 of the Health and Safety Code.

(c) Rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed for rental or sale to persons and families of low or moderate income an equal number of replacement dwelling units that have an equal or greater number of bedrooms as the destroyed or removed units, at affordable housing costs within the district, and within four years after the destruction or removal, whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of the development of a ~~transit~~ district that is subject to a written agreement with the city, county, or city and county, or when financial assistance has been provided by the city, county, or city and county. The replacement dwelling units shall be available at affordable housing cost to, and occupied by, persons and families in the same or a lower income category as the persons and families displaced from those destroyed or removed units.

(d) Include in the transit village plan both of the following:

(1) As one of the five demonstrable public benefits required by subdivision (f) of Section 65460.2, either an increased stock of affordable housing or live-travel options for transit-needy groups.

(2) Provisions to implement subdivisions (a) and (b) and paragraph (1).

SEC. 6. Section 65460.4 of the Government Code is amended to read:

65460.4. A transit village development district shall include all land within not more than a one-half mile of the main entrance of a transit station designated by the legislative body of a city, county, or city and county that has jurisdiction over the station area.

SEC. 7. Section 4.5 of this bill incorporates amendments to Section 65460.2 of the Government Code proposed by both this bill and AB 1158. It shall only become operative if (1) both bills

1 *are enacted and become effective on or before January 1, 2010,*
2 *(2) each bill amends Section 65460.2 of the Government Code,*
3 *and (3) this bill is enacted after AB 1158, in which case Section 4*
4 *of this bill shall not become operative.*

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