



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

Consent
May 15, 2007

Honorable Members of the
Law and Legislation Committee

Title: Legislation Position: Support SB 934 Relating to Infrastructure Investment Districts

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt a support position on SB 934.

Contact: Greg Sandlund, Assistant Planner, (916) 808-8931

Presenters: Greg Sandlund, Assistant Planner, Desmond Parrington, Infill Coordinator

Department: Planning Department

Division: Long Range Planning

Organization No: 4912

Description/Analysis

Issue: Senate Bill 934, authored by Senator Alan Lowenthal, Chair of the Senate Transportation and Housing Committee, creates a voluntary pilot-project with a local-state partnership to provide high density housing through the creation of 100 housing/infill infrastructure investment districts statewide. The projects must be consistent with regional planning objectives and allow construction of more than 500 units of housing with average net density of 25-40 units per acre, with 20% of the housing affordable to low and moderate income families.

The bill would authorize California Economic Development and Infrastructure Development Bank to issue bonds that would pay for infrastructure improvements related to high density housing. By creating a housing/infill infrastructure investment district, tax increment financing would pay for the bonds. These new districts could conceivably be formed in the subregional centers that are proposed in the General Plan Update.

Staff recommends that the City adopt a support position to this bill because it is the type of funding mechanism that will help the City address existing

infrastructure deficiencies as well as plan for the type of infill development envisioned under the new General Plan. The League of California Cities is also encouraging cities to support SB 934.

Policy Considerations: This bill is consistent with City’s Smart Growth principles, one of which is to “concentrate new development and target infrastructure investments within the urban core of the region to allow for efficient use of existing facilities, infill and reuse areas”.

Environmental Considerations: None.

Committee/Commission Action: None.

Rationale for Recommendation: Staff recommends support of SB 934 because it will encourage infill development by creating a new means of funding infrastructure improvements. As part of our General Plan update we will be conducting an infrastructure and finance study to identify the cost associated with the level of growth anticipated by 2030. We anticipate that infrastructure improvements will be a significant barrier to achieving greater infill development in Sacramento. SB 934 will help to provide a finance mechanism that will address a part of that need while encouraging development that is consistent with the City’s Smart Growth Principles.

Financial Considerations: None

Emerging Small Business Development (ESBD): None

Respectfully Submitted by: 
Greg Sandlund
Assistant Planner

Approved by: 
Thomas S. Pace
Long Range Planning Manager

Recommendation Approved:

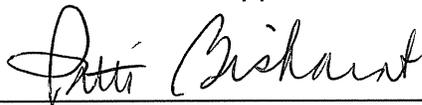
for 
GUSTAVO F. VINA
Assistant City Manager

Table of Contents:

Pg 1 Report

Attachments

1	4	Draft Letter of Support
2	6	California League of Cities Priority Focus Article
3	8	Bill Text
4	23	Bill Analysis

Attachment 1 - Draft Letter of Support

May 15, 2007

Senator Alan Lowenthal
State Capitol, Room 2032
Sacramento, CA 95814

**RE: SB 934 (Lowenthal) Housing / Infrastructure Investment Districts.
NOTICE OF SUPPORT**

Dear Senator Lowenthal:

The City of Sacramento is pleased to support SB 934.

Thank you for your leadership on looking at the longer-term on the important issue of infill development. SB 934 is the type of fiscal mechanism that must be in place over the long term if we wish to accommodate larger portions of our population growth in existing urban centers rather than the suburban fringe.

While both state and local governments welcome the historic investment in infrastructure contained in Propositions 1B through 1E and 84, it is clear that many of these funds will be consumed addressing existing infrastructure deficits. SB 934 is designed to complement the state's investment in transit and other infrastructure approved by the voters as Propositions 1B and 1C with an additional longer-term financing mechanism --that may be funded initially in 2011.

SB 934 creates a voluntary pilot-project with a local-state partnership to provide high density housing through the creation of 100 housing/infill infrastructure investment districts statewide. The projects must be consistent with regional planning objectives and allow construction of more than 500 units of housing with average net density of 25-40 units per acre, with 20% of the housing affordable to low and moderate income families.

The City of Sacramento, as part of our new General Plan, is projected to add 200,000 more residents over the next 25 years. We expect that a large part of that growth will occur in infill areas where financing new infrastructure is often a difficult challenge. SB 934 will serve as an important tool that will allow us to provide infrastructure and thus jobs and housing in infill areas rather than focusing all of our growth in greenfield areas where infrastructure is easier to finance.

Responding to California's growth challenges requires new thinking and new ideas. For local governments, financing infill development is difficult; local governments face fiscal limitations and two-thirds vote requirements on their ability to upgrade existing infrastructure in "infill" situations, where streets, sewers, water lines and community amenities such as parks and additional parking structures, must often be upgraded and

expanded to accommodate additional densities and assist with affordable housing subsidies.

Thank you for authoring this innovative approach that promotes additional infill and higher-density development in our urban cores through a collaborative partnership between local, regional, and state governments.

Sincerely,

Sandy Sheedy, Chair
Law and Legislation Committee

Cc: Mayor Fargo and Members of the City Council
Members and Consultant, Senate Local Government Committee
Members and Consultant, Senate Transportation and Housing Committee
Senator Dave Cox
Senator Darrell Steinberg
Assembly Member Dave Jones
Assembly Member Alan Nakanishi
Assembly Member Roger Niello
David Jones, Emanuels and Jones and Associates
Ted Morley, Principal Consultant, Senate Republican Caucus
Ryan Eisenberg, Consultant, Senate Republican Caucus
Lynn Jacobs, Director, Department of Housing and Community Development
Cynthia Bryant, Director, Governor's Office of Planning and Research
Barry Sedlik, Acting Secretary, Business, Transportation and Housing Agency
Mike Chrisman, Secretary, California Resources Agency
Chris Kahn, Legislative Secretary, Governor's Office

Attachment 2 – California League of Cities Priority Focus Article**SB 934 (Lowenthal) Improving Infill Infrastructure Finance Over the Long Term**

Responding to California's growth challenges requires new thinking and new ideas. While some may argue that the solution to housing needs is simply opening up more suburban land for development, it's not clear how that matches up with sustainable development principles and other state policy priorities. California continues to grow at a rate of over 500,000 new residents each year; yet when viewed from the perspective of traffic congestion, farmland and open space preservation, concerns about air quality and global warming, limited water supplies, endangered species, maximizing existing investments in infrastructure and other public policy issues, more must be done to alter the potential continuation of the traditional patterns of land use. The same old thing does not work for our future.

SB 934, a League-sponsored measure, authored by Senator Alan Lowenthal, Chair of the Senate Transportation and Housing Committee, is the type of fiscal mechanism that must be in place over the long term if larger portions of our population growth are to be accommodated within existing urban centers rather than the suburban fringe.

SB 934 creates a voluntary pilot-project with a local-state partnership to provide high density housing through the creation of 100 housing/infill infrastructure investment districts statewide. The projects must be consistent with regional planning objectives and allow construction of more than 500 units of housing with average net density of 25-40 units per acre, with 20% of the housing affordable to low and moderate income families.

For local governments, financing infill development is difficult; but funding sprawl is much easier. Local governments face fiscal limitations and two-thirds vote requirements on their ability to upgrade existing infrastructure in "infill" situations, where streets, sewers, water lines and community amenities such as parks and addition parking structures, must often be upgraded and expanded to accommodate additional densities and assist with affordable housing subsidies. Yet with "Greenfield" forms of development, infrastructure and amenities can be provided with Mello-Roos and other mechanisms where the two-thirds vote requirements are easily negotiated by a developer prior to the land being inhabited.

While both state and local governments welcome the historic investment in infrastructure contained in Propositions 1B through 1E and 84, it is clear that many of these funds will be consumed addressing existing infrastructure deficits. SB 934 is designed to complement the state's investment in transit and other infrastructure approved by the voters as Propositions 1B and 1C with an additional longer-term financing mechanism --that can be funded initially in 2011 -- that promotes the development of higher density development patterns and preserves important open space and farmland resources.

SB 934 also allows the state to pace the roll-out of this program in a manner that matches state budget priorities and revenue availability over the years. Specifically,

Section 64115(e) authorizes the State Infrastructure Bank that it “*may approve one or more applications for housing and infrastructure zones.*” This non-mandatory language is intended to provide the state program and budget flexibility.

Cities are encouraged to send letters supporting this legislation, and to thank Senator Lowenthal for trying to offer “carrots” instead of “sticks” to assist local governments develop infill housing.

SENATE BILL

No. 934

Introduced by Senator Lowenthal

February 23, 2007

An act to add Division 3 (commencing with Section 64100) to Title 6.7 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 934, as introduced, Lowenthal. Housing and infrastructure zones.
(1) The Community Services District Law identifies the procedures for district formation and specifies the services that a district may provide. Among those services are the acquisition, construction, improvement, maintenance, and operation of recreation facilities, including parks and open space, and community facilities, including libraries, and child care facilities; supplying water for any beneficial use; the collection, treatment, or disposal of sewage, wastewater, recycled water, stormwater, and solid waste; and the acquisition, construction, improvement, and maintenance of streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works.

The Community Redevelopment Law authorizes redevelopment agencies to pay the principal of, and interest on, indebtedness incurred to finance or refinance redevelopment, from a portion of property tax revenues diverted from other taxing agencies. The portion of taxes diverted is the amount attributable to increases in assessed valuation of property in the redevelopment project area subsequent to establishment thereof. This method of financing is commonly known as "tax increment" financing and is specifically authorized by Section 16 of Article XVI of the California Constitution.

Existing law requires a redevelopment agency to use at least 20% of its tax increment revenues to increase, improve, and preserve low- and

SB 934

— 2 —

moderate-income housing available at affordable cost to persons and families of low or moderate income and lower, very low, and extremely low income households, unless the agency makes certain findings. Under existing law, there are programs that provide assistance for, among other things, multifamily housing, emergency housing, farmworker housing, and homeownership for low- and very low income households, and that provide downpayment assistance for first-time homebuyers.

Existing law sets forth the duties of the California Economic Development and Infrastructure Development Bank generally in promoting economic development activities in the state.

This bill would establish a pilot project allowing for the formation, under criteria developed by specified councils of governments and the Secretary of Business, Transportation and Housing, of 100 housing and infrastructure zones in the state. A city or county would be eligible to apply to its council of governments or the agency, as applicable, in order to establish a housing and infrastructure zone, subject to approval by the bank, and specified reporting requirements. By requiring local governments to perform certain duties with respect to the selection and establishment of zones, the bill would impose a state-mandated local program.

The bill would authorize the bank to finance the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of real or other tangible property, for various purposes, including interchanges, ramps and bridges, arterial streets, parking facilities, transit facilities, sewage treatment and water reclamation plants and interceptor pipes, facilities for the collection and treatment of water for urban uses, child care facilities, libraries, parks, recreational facilities, open space, facilities for the transfer and disposal of solid waste, including transfer stations and vehicles, and housing. The bank would be authorized to issue bonds and to receive allocations of revenues resulting from a type of tax increment financing for these purposes. By requiring local agencies to conduct funding allocation activities, the bill would impose a state-mandated local program.

The pilot project would end on a specified date, but the bank would receive tax increment revenues for a period of 20 years after the date the district was established, plus an additional 10 years solely for the repayment of debt incurred prior to that date.

(2) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so 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) Local governments face significant fiscal impediments to
4 financing the development and upgrading of essential
5 infrastructure, including streets, parking facilities, water and sewer
6 systems, and parks, to serve new high-density housing.

7 (b) The existing pattern of residential development will continue
8 to absorb valuable farmland and open space and be located in areas
9 that are not served by adequate transportation and other essential
10 utilities and services, unless incentives are provided to locate
11 high-density residential development in a manner that is consistent
12 with protecting the state's most valuable natural resources and
13 encouraging efficient development patterns.

14 (c) It is therefore the intent of the Legislature in enacting this
15 act to support and contribute to the financing of this infrastructure
16 and to accomplish all of the following:

17 (1) Encourage the location of high-density housing so as to use
18 available land more efficiently by complementing and enhancing
19 regional transportation, air quality, and other regional investments,
20 priorities, and strategies.

21 (2) Preserve farmland by encouraging high-density housing
22 sited in accordance with regional growth plans.

23 (3) Provide incentives to ensure that development occurs where
24 it makes most sense through a partnership between the state, the
25 local agency, and the private developer.

SB 934

— 4 —

1 (4) Establish a voluntary pilot project to determine whether
2 providing resources to local governments for infrastructure and
3 services needed for the concentrated development of high-density
4 housing will lead to a higher level of housing constructed in
5 locations that match regionally determined growth principles.

6 (5) Recognize and protect the principle of local control of local
7 land use authority of individual cities and counties, while providing
8 additional resources to jurisdictions that are willing to approve the
9 development of high-density housing in locations where a more
10 intensified level of development will yield broader regional
11 benefits.

12 (6) Include reasonable accountability measures that will inform
13 the state of the progress of the pilot project, including how and
14 where the new financing mechanism adopted pursuant to this act
15 is used.

16 (7) Complement the state’s investment in transit and other
17 infrastructure approved by the voters as Propositions 1B and 1C
18 at the November 6, 2006, statewide general election, while also
19 providing a longer term financing plan that promotes the
20 development of higher density development patterns and preserves
21 important open space and farmland resources.

22 SEC. 2. Division 3 (commencing with Section 64100) is added
23 to Title 6.7 of the Government Code, to read:

24

25 DIVISION 3. HOUSING AND INFRASTRUCTURE
26 FINANCING ACT OF 2007

27

28 CHAPTER 1. GENERAL PROVISIONS

29

30 64100. For the purposes of this division, the following terms
31 shall have the following meanings:

32 (a) “Council of governments” means the Association of Bay
33 Area Governments, the Southern California Association of
34 Governments, the San Diego Association of Governments, or the
35 Sacramento Area Council of Governments.

36 (b) “Bank” means the California Infrastructure and Economic
37 Development Bank created pursuant to Section 63021.

38 (c) “County,” with respect to geographical area, means the
39 unincorporated area of the county only.

1 (d) "Housing and infrastructure zone" means an area within a
2 city or the unincorporated area of a county in which housing or
3 infrastructure is financed by the bank pursuant to a housing and
4 infrastructure plan adopted pursuant to Section 64120 and approved
5 pursuant to Section 64115.

6 (e) "Low-income families" has the same meaning as that set
7 forth for "lower income households" in Section 50079.5 of the
8 Health and Safety Code.

9 (f) "Moderate-income families" has the same meaning as that
10 set forth for "persons and families of low or moderate income" in
11 Section 50093 of the Health and Safety Code.

12 (g) "School entities" has the same meaning as that set forth in
13 subdivision (f) of Section 95 of the Revenue and Taxation Code.

14 (h) "Secretary" means the Secretary of Business, Transportation
15 and Housing.

16 (i) "Very low income families" has the same meaning as that
17 set forth for "very low income households" in Section 50105 of
18 the Health and Safety Code.

19 64101. (a) This division shall be known and may be cited as
20 the Housing and Infrastructure Financing Act of 2007.

21 (b) There is hereby established a pilot project allowing for no
22 more than 100 housing and infrastructure zones throughout the
23 state for the purpose of financing the construction of housing and
24 infrastructure within areas that have been planned to accept
25 high-density housing so as to preserve environmentally sensitive
26 open space, habitat, and farmland areas.

27 (c) It is the priority of the state in implementing this pilot project
28 to promote high-density housing development close to jobs and
29 transit and reduce vehicle miles traveled by promoting
30 pedestrian-oriented connections between residential and
31 commercial components of the district, in conjunction with the
32 implementation of voter-approved issuance of bonds to invest in
33 transit, housing, and other infrastructure.

34 64102. (a) This division shall become inoperative 20 years
35 after the date the last zone is authorized pursuant to Chapter 6
36 (commencing with Section 64150).

37 (b) Notwithstanding subdivision (a), the bank shall receive an
38 allocation of taxes pursuant to Section 64135 for the benefit of
39 each housing and infrastructure zone for a period of 20 years after
40 the first fiscal year in which the bank authorized the allocation of

SB 934

— 6 —

1 taxes pursuant to Section 64115, plus an additional period of 10
2 years solely for the repayment of debt incurred prior to that date.

3

4 CHAPTER 2. HOUSING AND INFRASTRUCTURE ZONES

5

6 64110. (a) Each council of governments may propose housing
7 and infrastructure zones within the region it represents, in response
8 to an application received pursuant to Section 64114 as follows:

9 (1) The Southern California Association of Governments may
10 propose up to 25 housing and infrastructure zones.

11 (2) The Association of Bay Area Governments may propose up
12 to 20 housing and infrastructure zones.

13 (3) The San Diego Association of Governments and the
14 Sacramento Area Council of Governments may each propose up
15 to 15 housing and infrastructure financing zones.

16 (b) The secretary may propose up to 25 housing and
17 infrastructure zones within those areas of the state that are not
18 included within the jurisdiction of a council of governments.

19 64112. (a) On or before September 1, 2008, each council of
20 governments and the secretary shall develop criteria for the
21 establishment and location of housing and infrastructure zones
22 within its region. The criteria shall be consistent with the state
23 planning priorities established by Section 65041.1. Criteria may
24 be developed, or be based upon, a collaborative regional growth
25 vision, blueprint, or other similar regional planning effort that
26 identifies areas and locations where additional job growth,
27 high-density housing, or other development is preferred to be
28 concentrated to complement and enhance regional transportation,
29 air quality, and other regional priorities and strategies, including,
30 but not limited to, reducing vehicle miles traveled and improving
31 the regional jobs-housing balance. A council of governments and
32 the secretary may elect to use previously adopted criteria that meet
33 the requirements of this subdivision.

34 (b) A housing and infrastructure zone shall not be located within
35 a redevelopment project area established pursuant to the
36 Community Redevelopment Law (Part 1 (commencing with
37 Section 33000) or the Community Redevelopment Disaster Project
38 Law (Part 1.5 (commencing with Section 34000) of Division 24
39 of the Health and Safety Code).

1 (c) Each council of governments and the secretary shall develop
2 a process that includes the development of draft criteria and the
3 opportunity for cities and counties within the region and the public
4 to review and offer comments, before adopting the final criteria.

5 (d) Each council of governments and the secretary shall present
6 the criteria developed pursuant to subdivision (a) to the bank and
7 shall consider the comments of the bank before adopting the final
8 regional criteria if those comments are received within 120 days
9 of the date the criteria were submitted to the bank. The final
10 regional criteria shall be adopted no later than March 1, 2009.

11 64114. (a) On or before January 1, 2010, and on or before
12 January 1 of each even-numbered year thereafter, a city or a county
13 may file an application requesting that the council of governments
14 for the region in which it is located, or the secretary, as applicable,
15 to establish one or more housing and infrastructure zones within
16 its jurisdictional boundaries.

17 (b) The application shall demonstrate how the location of the
18 zone conforms to the criteria established pursuant to Section 64112,
19 and shall include the draft housing and infrastructure plan described
20 in Section 64120.

21 64115. (a) (1) A council of governments and the secretary,
22 as applicable, shall evaluate each application submitted by a city
23 or county within its boundaries pursuant to Section 64114,
24 determine whether the location of the proposed zone is consistent
25 with the adopted criteria and the benefits that the region will
26 achieve from implementation of the housing and infrastructure
27 plan. The council of governments and the secretary, as applicable,
28 shall rank those applications that conform to the selection criteria.
29 Draft rankings shall be presented at one or more public hearings
30 and shall be modified as appropriate following the public review
31 and comment.

32 (2) On or before July 1, 2010, and on or before July 1 in each
33 even-numbered year thereafter, after the conclusion of the period
34 of public review and comment, the council of governments and
35 the secretary, as applicable, shall announce its proposed rankings.
36 An applicant city or county may appeal the proposed rankings to
37 the governing body of the council of governments or the secretary,
38 as applicable, if a ranking fails to conform to the selection criteria.

39 (3) On or before September 1, 2010, and on or before September
40 1 in each even-numbered year thereafter, after consideration of

SB 934

— 8 —

1 any information presented during the appeals process, the council
2 of governments and the secretary, as applicable, shall adopt its
3 final rankings and submit its recommendation of the location of
4 housing and infrastructure zones within its region to the bank.
5 (b) The bank shall evaluate the applications for the housing and
6 infrastructure zones that it receives from the councils of
7 government and the secretary to determine whether they are
8 consistent with the state planning priorities established by Section
9 65041.1. The bank may evaluate the applications for consistency
10 with other criteria that the bank has adopted pursuant to the
11 Bergeson-Peace Infrastructure and Economic Development Bank
12 Act (Title 6.7 (commencing with Section 63000)). Based on the
13 economic analysis in the housing and infrastructure plans prepared
14 pursuant to Section 64120, the bank shall determine the amount
15 of taxes proposed to be allocated pursuant to Section 64135 to the
16 benefit of each housing and infrastructure zone for the first 20
17 years of each zone's existence. The bank shall then rank the
18 applications and give a priority to those zones that propose to
19 achieve or exceed average residential densities of at least 40
20 dwelling units per acre. The bank shall not include an application
21 in its rankings if the zone's proposed average residential density
22 is less than 25 dwelling units per acre. In evaluating these
23 applications, the bank may solicit advice from and the assistance
24 of other state agencies, including, but not limited to, the
25 departments within the Business, Transportation and Housing
26 Agency, the departments within the Resources Agency, the
27 Department of Finance, and the Governor's Office of Planning
28 and Research.
29 (c) On or before December 1, 2010, and on or before December
30 1 in each even-numbered year thereafter, the bank shall announce
31 its proposed rankings, including the amount of taxes proposed to
32 be allocated pursuant to Section 64135 to the benefit of each
33 housing and infrastructure zone for the first 20 years of the zone's
34 existence. The bank shall notify the councils of government, the
35 secretary, and the cities and counties that submitted the
36 applications. After announcing its proposed rankings, the bank
37 shall provide opportunities for public review and comment.
38 (d) On or before February 1, 2011, and on or before February
39 1 in each odd-numbered year thereafter, the bank shall consider
40 any comments regarding its proposed rankings of the applications

1 for housing and infrastructure zones, and then adopt its final
2 rankings.

3 (e) On or before March 1, 2011, and on or before March 1 in
4 each odd-numbered year thereafter, the bank may approve one or
5 more applications for housing and infrastructure zones and
6 authorize the allocation of taxes pursuant to Section 64135 for the
7 benefit of those housing and infrastructure zones.

8 (f) The total amount of taxes that would be allocated from school
9 entities pursuant to Section 64135 to the benefit of all of the
10 housing and infrastructure zones approved by the bank pursuant
11 to this section for the first 20 years of the zones' existence shall
12 not exceed five hundred million dollars (\$500,000,000).

13

14 CHAPTER 3. HOUSING AND INFRASTRUCTURE PLAN

15

16 64120. (a) An application submitted pursuant to Section 64112
17 shall include a draft housing and infrastructure plan prepared by
18 the city or county submitting the application.

19 (b) The plan shall include text and a diagram or diagrams that
20 specify all of the following in detail:

21 (1) The distribution, location, and extent of residential uses, and
22 commercial or mixed uses, if any, within the zone. The plan shall
23 provide for the construction of at least 500 new dwelling units.
24 Commercial, retail, office space, and other uses compatible with
25 residential development may be included to serve the residents of
26 the zone and the surrounding community.

27 (2) The proposed densities of residential development in the
28 zone in terms of dwelling units per acre. The plan shall provide
29 for average residential densities of at least 25 dwelling units per
30 acre.

31 (3) The proposed distribution, location, and extent and intensity
32 of major components of public and private transportation, sewage,
33 water, drainage, solid waste disposal, energy, parks, and other
34 essential facilities proposed to be located within the zone covered
35 by the plan and needed to support the housing described in
36 paragraph (1). Infrastructure shall primarily support the residential
37 development financed by the district.

38 (4) A program of implementation measures, including, but not
39 limited to, regulations, programs, public works projects, residential

SB 934

— 10 —

1 development projects, and financing measures necessary to carry
2 out paragraphs (1) to (3), inclusive.

3 (5) A program to ensure that 20 percent of the housing within
4 the zone financed by the district is affordable for low- and
5 moderate-income families with not less than 5 percent affordable
6 to very low income, 10 percent affordable to low-income, and 5
7 percent affordable to moderate-income families. Housing made
8 affordable pursuant to this program shall remain available at
9 affordable housing cost to, and occupied by, persons and families
10 of very low, low, and moderate income for a period of time
11 consistent with subdivision (f) of Section 33334.3 of the Health
12 and Safety Code.

13 (6) A program of services and other measures required by the
14 residential, commercial, or mixed uses included within the zone.
15 These services and other measures may also benefit existing
16 residents and areas of the community affected by the development
17 and may include improvements and services for streets, parks,
18 libraries, environmental mitigation, schools, and other measures.

19 (c) The plan shall include a draft economic analysis that
20 calculates the annual difference between revenues estimated to be
21 generated from development within the zone and the amount of
22 revenue estimated to be necessary to service debt for capital costs
23 or to provide facilities and services, including the affordable
24 housing required pursuant to paragraph (5) of subdivision (b),
25 within the zone.

26 (d) The plan shall ensure that whenever dwelling units within
27 the area of the plan housing persons and families of very low, low,
28 or moderate income are destroyed or removed from the very low-,
29 low-, or moderate-income housing market, the city or county shall
30 rehabilitate, develop, or construct, or cause to be rehabilitated,
31 developed, or constructed, for rental or sale to persons and families
32 of very low, low, or moderate income, an equal number of
33 replacement dwelling units consistent with the requirements of
34 subdivisions (a) and (c) of Section 33413 of the Health and Safety
35 Code.

36 64123. Within 30 days after the date of approval of a housing
37 and infrastructure zone by the bank pursuant to Section 64115, the
38 city or county shall initiate preparation of any document required
39 by the California Environmental Quality Act (Division 13
40 (commencing with Section 21000) of the Public Resources Code)

1 to adopt the housing and infrastructure plan prepared pursuant to
2 Section 64120.
3 64124. (a) A city or county shall prepare, adopt, and amend
4 a housing and infrastructure plan in the same manner as a general
5 plan.
6 (b) Not more than 90 days after certifying the environmental
7 document completed under Section 64123, the city or county shall
8 do both of the following:
9 (1) Adopt the housing and infrastructure plan for the housing
10 and infrastructure zone.
11 (2) Amend its general plan, any specific plan, its zoning
12 ordinances, and any other applicable regulations to be consistent
13 with the housing and infrastructure plan.
14 (c) After the adoption or amendment of the housing and
15 infrastructure plan, the city or county shall send a copy of the plan
16 and the environmental document completed pursuant to Section
17 64123 to the bank and the council of governments or the secretary,
18 as applicable.
19 (d) The adopted or amended housing and infrastructure plan
20 shall be deemed to be substantially equivalent to the proposed
21 housing and infrastructure plan reviewed by the bank pursuant to
22 Section 64115, unless the bank finds to the contrary within 30 days
23 after receiving the adopted or amended housing and infrastructure
24 plan. If the adopted or amended housing and infrastructure plan
25 is deemed substantially equivalent to the proposed housing and
26 infrastructure plan reviewed by the bank under Section 64115, or
27 if the bank takes action determining that the plan is substantially
28 equivalent, the county auditor shall be directed to implement the
29 provisions of Section 64135 for the fiscal year immediately
30 succeeding the fiscal year in which the city or county approves
31 the first tentative map or other discretionary approval that approves
32 residential development within the zone.
33 (e) If the bank makes a finding that the adopted or amended
34 plan is not substantially equivalent to the draft housing and
35 infrastructure plan submitted to the bank pursuant to Section 64115,
36 then the applicant city or county shall have 90 days to amend the
37 housing and infrastructure plan. The amended plan shall be
38 submitted to the bank. If the bank finds, within 30 days after
39 receiving the amended plan that the amended plan, is still not

SB 934

— 12 —

1 substantially equivalent to the proposed housing and infrastructure
2 plan, the zone shall be deemed disapproved.

3
4 CHAPTER 4. FINANCING OF HOUSING AND PUBLIC FACILITIES

5
6 64130. (a) The revenues available to the bank pursuant to
7 Section 64135 may be used directly for any of the lawful purposes
8 of the housing and infrastructure zone, may be accumulated for a
9 period not to exceed five years to provide a fund for that work, or
10 may be pledged to pay the principal of, and interest on, bonds
11 issued pursuant to Section 64140.

12 (b) The city or county shall deposit into a separate account for
13 each housing and infrastructure zone not less than 20 percent of
14 all taxes that are allocated to the bank pursuant to Section 64135.
15 The funds in the account shall be used for the purposes of
16 increasing, improving, and preserving the community's supply of
17 housing available at affordable housing cost to, and occupied by,
18 persons and families of very low, low, or moderate income. Any
19 interest earned by the account and any repayments or other income
20 to the bank or the community for loans, advances, or grants of any
21 kind from the account shall accrue to and be deposited in the
22 account. Funds in the account may be used for any purpose
23 described in subdivision (e) of Section 33334.2 of the Health and
24 Safety Code and shall be used in a manner consistent with Sections
25 33334.3 and 33334.4 of the Health and Safety Code, except that
26 no more than 10 percent of the annual deposit of taxes to the
27 account may be used for planning and general administrative
28 activities.

29 64131. (a) Within a housing and infrastructure zone, the bank
30 may finance the purchase, construction, expansion, improvement,
31 seismic retrofit, or rehabilitation of any real or other tangible
32 property with an estimated useful life of 15 years or longer that
33 satisfies the requirements of subdivision (b), and may finance
34 planning and design work that is directly related to the purchase,
35 construction, expansion, or rehabilitation of that property.

36 (b) Within a housing and infrastructure zone, the bank may
37 finance housing and public facilities, including, but not limited to,
38 all of the following:

- 39 (1) Interchanges, ramps and bridges, arterial streets, parking
40 facilities, and transit facilities.

- 1 (2) Sewage treatment and water reclamation plants and
- 2 interceptor pipes.
- 3 (3) Facilities for the collection and treatment of water for urban
- 4 uses.
- 5 (4) Child care facilities.
- 6 (5) Libraries.
- 7 (6) Parks, recreational facilities, and open space.
- 8 (7) Facilities for the transfer and disposal of solid waste,
- 9 including transfer stations and vehicles.
- 10 (8) Housing.

11 64135. A housing and infrastructure plan adopted pursuant to
 12 Section 64124 may contain a provision that taxes, if any, levied
 13 upon taxable property in the area included within the plan each
 14 year by or for the benefit of school entities or the city or
 15 unincorporated area of the county in which the housing and
 16 infrastructure zone is located after the effective date of the
 17 resolution or ordinance approving the plan in an amount not to
 18 exceed the amount specified in the plan shall be divided as follows:

19 (a) (1) That portion of the taxes that would be produced by the
 20 rate upon which the tax is levied each year by or for each of the
 21 school entities and the local government upon the total sum of the
 22 assessed value of the taxable property in the housing and
 23 infrastructure zone as shown upon the assessment roll used in
 24 connection with the taxation of that property by the school entities
 25 and the local government, last equalized before the effective date
 26 of the ordinance or resolution, shall be allocated to and when
 27 collected shall be paid to the respective school entities and the
 28 local government as taxes by or for the school entities and the local
 29 government on all other property are paid.

30 (2) For the purpose of allocating taxes levied by or for any
 31 school entity that did not include the territory in a zone on the
 32 effective date of the ordinance or resolution, but to which that
 33 territory has been annexed or otherwise included after that effective
 34 date, the assessment roll of the county last equalized on the
 35 effective date of the ordinance or resolution shall be used in
 36 determining the assessed valuation of the taxable property in the
 37 project on the effective date.

38 (b) That portion of the levied taxes each year in excess of the
 39 amount identified in subdivision (a), shall be allocated to and when
 40 collected shall be paid into a special fund of the bank to pay the

SB 934

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1 principal of, and interest on, loans, moneys advanced to, or
 2 indebtedness, whether funded, refunded, assumed, or otherwise,
 3 incurred by the bank or other payments authorized by Section
 4 64130 to finance or refinance, in whole or in part, the plan adopted
 5 pursuant to Section 64124. Unless and until the total assessed
 6 valuation of the taxable property in a housing and infrastructure
 7 zone exceeds the total assessed value of the taxable property in
 8 that zone as shown by the last equalized assessment roll referred
 9 to in subdivision (a), all of the taxes levied and collected upon the
 10 taxable property in the zone shall be paid to the respective school
 11 entities. When the loans, payments, advances, and indebtedness,
 12 if any, and interest thereon, have been paid, all moneys thereafter
 13 received from taxes upon the taxable property in the zone shall be
 14 paid to the respective school entities as taxes on all other property
 15 are paid.

16 (c) That portion of the taxes in excess of the amount identified
 17 in subdivision (a) that is attributable to a tax rate levied by a school
 18 entity for the purpose of producing revenues in an amount sufficient
 19 to make annual repayments of the principal of, and the interest on,
 20 any bonded indebtedness for the acquisition or improvement of
 21 real property shall be allocated to, and when collected shall be
 22 paid into, the fund of that school entity.

23

CHAPTER 5. BONDS

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26 64140. The bank may issue bonds for the purposes of this
 27 division pursuant to the procedures established under Chapter 5
 28 (commencing with Section 63070) of Division 1.

29

CHAPTER 6. REPORTS AND OVERSIGHT

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32 64150. On or before December 31, 2011, and annually
 33 thereafter, each city and county in which a housing and
 34 infrastructure zone exists shall provide a report to the bank that
 35 includes all of the following information for the preceding fiscal
 36 year:

37 (a) The amount of money that the county auditor allocated
 38 pursuant to Section 64135.

39 (b) The purposes for which that money was used.

1 (c) The number of residential building permits issued by the
2 city or county within the zone.

3 (d) The value of all building permits issued by the city or county
4 within the zone.

5 64151. On or before March 1, 2012, and on or before March
6 31 annually thereafter, the bank shall provide a report to the Joint
7 Legislative Budget Committee and the relevant housing policy
8 committees of each house of the Legislature that includes all of
9 the following for the preceding fiscal year:

10 (a) The information for each housing and infrastructure zone
11 reported to the bank pursuant to Section 64150.

12 (b) The total amount of money that county auditors allocated
13 pursuant to Section 64135.

14 (c) An evaluation of the extent to which the implementation of
15 the housing and infrastructure plans has achieved the purposes and
16 intent of this division. In preparing this evaluation, the bank may
17 solicit advice from and the assistance of other state agencies,
18 including, but not limited to, the departments within the Business,
19 Transportation and Housing Agency, the departments within the
20 Resources Agency, the Department of Finance, and the Governor's
21 Office of Planning and Research.

22 SEC. 3. (a) No reimbursement is required by this act pursuant
23 to Section 6 of Article XIII B of the California Constitution because
24 a local agency or school district has the authority to levy service
25 charges, fees, or assessments sufficient to pay for the program or
26 level of service mandated by this act, within the meaning of Section
27 17556 of the Government Code.

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

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SENATE TRANSPORTATION & HOUSING COMMITTEE

SENATOR ALAN LOWENTHAL, CHAIRMAN

BILL NO: SB 934
AUTHOR: LOWENTHAL
VERSION: 02/23/07Analysis by: Carolina Urueta Salazar
FISCAL: YES
Hearing date: April 24, 2007

SUBJECT:

Housing and infrastructure zones

DESCRIPTION:

This bill allows for the creation of up to 100 "housing and infrastructure zones" within which school-share and city-share (or county-share in unincorporated areas) property tax increment funds will be used to provide road, water, sewer, and community amenities to support new residential development, as well as to provide housing directly.

ANALYSIS:

Under current law, if a redevelopment agency of a city or county finds "blight," it may establish a redevelopment project area and collect all property tax increment within the area for a period of up to 45 years. Tax increment represents the growth in property taxes generated from the area from the date of adoption. These funds may be used for a variety of purposes, including the provision of infrastructure and the support of residential and commercial development. As a result of being diverted to the redevelopment agency, these tax increment funds do not go to the schools, cities, counties, and special districts that would otherwise receive them. Roughly half of the current \$4 billion annual allocation to redevelopment agencies comes from the school share of the property tax increment. The state government backfills school districts for this loss, which impacts the state General Fund.

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In an effort to prevent gentrification, the Legislature has established a number of affordable housing requirements for redevelopment agencies. First, agencies must expend at least 20% of the gross tax increment on increasing, improving, and preserving the community's supply of very low-, low-, and moderate-income housing. These housing funds are often referred to as the housing set-aside or as low- and moderate-income (L&M) funds. L&M funds must be spent to assist housing for persons of very low- and low-income in at least the same proportion as these categories represent to the total number of housing units needed for very low-, low-, and moderate-income households as determined by the regional housing needs assessment for housing element purposes. Housing set-aside funds need not be spent exclusively within the project area, however. They may be used in any part of the territorial jurisdiction of the agency, meaning anywhere within the city or unincorporated portions of the county the agency represents. Second, agencies must ensure that at least 15% of all housing and 30% of agency-developed housing is affordable to very low-, low- and moderate-income households. This is referred to as the inclusionary requirement. Lastly, whenever dwelling units housing low- or moderate-income households are destroyed or removed from the market, an agency must ensure the replacement of all the units within four years at the same affordability level. This is referred to as the replacement requirement.

This bill allows for the establishment of a new type of tax-increment financing district to be known as a housing and infrastructure zone. Within each zone, the school-share and city-share (or county-share in unincorporated areas) property tax increment funds will be used to provide infrastructure improvements in roads, water, sewer, and community amenities and to support new infill residential development, as well as provide housing directly. The zones will not have access to the property tax shares of other local governments or special districts. Within the boundaries of each zone, plans must provide for at least 500 new housing units at average densities of 25-40 units per acre. Specifically, the bill:

Requires regional council of governments (COGs) to develop criteria for the location of districts within their respective regions. These criteria will generally be based on regional land use planning blueprints where they exist. The COG will then rank applications from local governments and submit these rankings to the state's Infrastructure Bank that has the ultimate authority to establish a zone.

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SB 934 (LOWENTHAL)

Page 3

Requires the four largest COGs in the state (the Southern California Association of Governments, the Association of Bay

Area Governments, the San Diego Association of Governments, and the Sacramento Area Council of Governments) and the Secretary of the Business, Transportation and Housing Agency (BT&H Secretary) to develop criteria for establishing infrastructure zones within their regions or the remainder of the state, respectively. These entities shall also establish a process that allows cities, counties, and the public to comment on the draft criteria by September 1, 2008. The COGs and the Secretary must present their criteria to the California Infrastructure and Economic Development Bank (Infrastructure Bank) and consider the Infrastructure Bank's comments. They must also give cities and counties within the regions and the public the opportunity to review the criteria and offer comments. The COGs and the Secretary must adopt their final criteria by March 1, 2009.

Allows cities and counties to apply to the COGs and the BT&H Secretary to establish infrastructure zones by January 1, 2010 (and every two years thereafter). The applications must demonstrate how the infrastructure zones meet the selection criteria and they must include a housing and infrastructure plan. The application shall include a draft housing and infrastructure plan that includes: 1) the location and extent, including densities, of proposed residential and commercial development within the zone; 2) the need for infrastructure to support the proposed development; 3) a program of implementation measures necessary to facilitate and provide for the level of proposed development; 4) a program of services and mitigation measures required by the proposed development; 5) a program to ensure that 20% of the housing to be development in the zone will be affordable to very low- (5%); low- (10%) and moderate-income (5%) households; and 6) an economic analysis that calculates the annual difference between revenues generated by development in the zone and the revenue necessary to provide the services and facilities proposed in the plan.

Provides that a housing and infrastructure zone may be up to 100 acres in size. Within the boundaries of each zone, plans must provide for at least 500 new housing units with average densities of at least 25-40 units per acre. A housing and infrastructure zone may not overlap with a redevelopment

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SB 934 (LOWENTHAL)

Page 4

project area.

Requires COGs and the BT&H Secretary to evaluate these applications and, after receiving public comments, announce their proposed rankings by July 1, 2010 (and every two years thereafter). Cities and counties can appeal the rankings to the COGs or the Secretary if they fail to conform with the established ranking criteria. By September 1, 2010 (and every

two years thereafter), the COGs and the Secretary must consider any appeals and then adopt their final rankings. They must send their recommendations to the I-Bank.

Allows the regions to propose and rank up to the following number of zones:

- ? Southern California Association of Governments: 25 zones
- ? Association of Bay Area Governments: 20 zones
- ? San Diego Association of Governments: 15 zones
- ? Sacramento Area Council of Governments: 15 zones
- ? Zones not included in these COGs: 25 zones

Requires the Infrastructure Bank to evaluate the proposed zones for consistency with existing state planning priorities and rank the proposed zones from the various regions. Priority goes to those zones that propose average residential densities of at least 40 units per acre.

Requires the Infrastructure Bank to announce its proposed rankings by December 1, 2010 (and every two years thereafter). The Infrastructure Bank's rankings must include the amount of property tax increment revenues that each infrastructure zones would receive for the first 20 years of the infrastructure zones existence. The Infrastructure Bank must notify the COGs and the BT&H Secretary of its initial rankings and provide for public comments. By February 1, 2011 (and every two years thereafter), the Infrastructure Bank must consider any comments and adopt its final rankings.

Authorizes the Infrastructure Bank to approve applications for housing and infrastructure zones by March 1, 2011 (and every two years thereafter). The number of zones is capped at a \$500 million impact to schools (and in turn to the state General Fund) over 20 years, based on the economic analyses provided in the draft housing and infrastructure plans, or 100

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zones, whichever comes first.

Requires the applicant city or county, within 30 days of approval of a zone by the Infrastructure Bank, to initiate the environmental review for the housing and infrastructure plan. Within 90 days of certifying the environmental review, the jurisdiction shall adopt the plan and amend its general plan, zoning ordinance, and applicable regulations to be consistent with the housing and infrastructure plan. The local government shall send a copy of the adopted plan to the Infrastructure Bank. The plan is deemed consistent with the draft plan unless the Infrastructure Bank makes a finding to the contrary within 30 days.

Upon adoption of the housing and infrastructure plan, allocates the growth in property taxes attributable to school entities and the applicant local government, up to the needed amount established pursuant to the economic analysis in the plan, to a zone-specific special fund at the Infrastructure Bank for up to 30 years. The bank may then make these funds available to the local government for the purchase, construction, expansion, improvement, retrofit, or rehabilitation of any real or other tangible property that has a useful life of at least 15 years, including but not limited to, road, parking, and transit facilities; water and sewer piping and plants; child care facilities; libraries; parks, recreational facilities, and open space; solid waste disposal facilities and vehicles; and housing. The bank may also accumulate the tax increment for up to five years and/or issue bonds backed by future tax increment. No debt may be incurred for the zone after 20 years.

Requires a local government to set aside 20% of the tax increment that accrues to the zone for the purpose of increasing, improving, and preserving the community's supply of housing affordable to very low-, low-, and moderate-income households. The bill also requires that 20% of new housing developed in the zone be affordable (5% for very low-income households, 10% for low-income households, and 5% for moderate-income households) and that the local government ensure the replacement at a comparable affordability level of any affordable housing units that are demolished or removed from the market within the zone.

Requires each city and county with a housing and infrastructure zone, beginning in 2010, to report to the

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SB 934 (LOWENTHAL)

Page 6

Infrastructure Bank the amount of tax increment received by the zone, the purposes for which the money was used, the number of residential building permits issued within the zone, and the value of all building permits issued within the zone. Beginning in 2011, the bank shall report annually to the Legislature the information received from cities and counties and the total amount of tax increment allocated in the previous fiscal year to housing and infrastructure zones statewide. The bank shall also provide an evaluation of the extent to which the implementation of the various housing and infrastructure plans has achieved the purposes and intent of the program.

COMMENTS:

1. Purpose of the bill . According to the author, the state has determined in statute three planning priorities: the promotion of infill development, the protection of environmental and

agricultural resources, and efficient development patterns. In addition, most of the large metropolitan transportation planning agencies in California have decided that they cannot meet housing needs, transportation needs, and air quality standards under current growth trends. Achieving these objectives requires altering current land use patterns in a way that results in higher-density housing in closer proximity to job centers.

Building infill housing in existing communities, however, often comes with serious infrastructure challenges. Existing sewer and water lines, roads, and other infrastructure may need replacement or expansion to handle the increased level of development. In addition, local school, parks, and other community amenities may not be able to serve new families.

Local governments have very few tools at their disposal to address these challenges. They face high vote thresholds to pass local bonds. They can and do impose development fees, but such fees are naturally limited by the development community's ability to pay them. Moreover, it is unfair to ask developers to pay the entire cost of replacing outdated infrastructure when not all of it is related solely to new development. Without the ability to address the community's infrastructure needs, infill housing does not get built, and both the state and its regions are unable to achieve their housing, transportation, and air quality goals. By allocating resources to build the infrastructure needed to support infill

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SB 934 (LOWENTHAL)

Page 7

development, this bill provides the means to help accomplish these goals and is in line with the state's recent investments in infrastructure through Proposition 1B and 1C.

2. Building on the success of Proposition 1C . The general intent of this bill is identical to the stated purposes for the \$850 million infill infrastructure program included in Proposition 1C. Both programs provide funding for infrastructure that supports higher-density residential development in infill areas. The main difference is that Prop 1C funds are one-time in nature and will likely be fully exhausted within four or five years. This bill provides tax increment financing for as long as 30 years, thereby providing an on-going revenue stream to achieve the goal of increasing the supply of infill housing.

3. Housing obligations of housing and infrastructure zones . The program created by this bill is distinct from redevelopment. It does not rely on redevelopment agencies or a definition of blight. It does, however, use a portion of the property tax increment within a zone to provide infrastructure improvements that will support higher-density residential development. As a result, it raises issues of potential gentrification that

are similar to those raised by redevelopment. As new development supported by public investment replaces older housing stock, will low- and moderate-income residents be displaced?

In an attempt to address this issue, the bill requires the applicant local government to ensure that 20% of the new housing developed in the zone will be affordable to low- and moderate-income households, that 20% of the tax increment from the zone be set aside for low- and moderate-income housing, and that the local government replace any lost affordable units. The setaside and replacement requirements mirror redevelopment law, and the inclusionary requirement exceeds redevelopment law by five percent.

4.No by-right development required . Last year, this committee approved a very similar bill, SB 1754, by the same author. The one significant difference between the two bills is that SB 1754 required the local government to allow residential development within the zone that is consistent with the general plan, zoning ordinance, and housing and infrastructure plan "by right." By-right development means that the type of housing permitted by the zoning ordinance is a permitted use

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SB 934 (LOWENTHAL)

Page 8

not subject to a conditional use permit or other type of discretionary local action. For example, an application proposing multifamily housing within a multifamily zone would not require a discretionary permit. This requirement streamlines the development process and helps ensure that housing plan for the zone can be implemented. It also ensures that local governments are providing regulatory relief in exchange for state funds. Some environmentalists oppose the concept of by-right development because it is a discretionary action that triggers further environmental review over and above what has already been conducted when the zone and implementation plan were adopted. This year's bill does not include a by-right requirement. The committee may want to consider whether a by-right requirement should be included in the bill.

5.Arguments in opposition . Opponents point out that the housing and infrastructure zones proposed by the bill are very similar in nature to redevelopment project areas. As a result, they want to ensure that the new zones are subject to the same housing obligations, purposes, and protections as redevelopment agencies. They have suggested amendments, among others, to:

Require 30% of the tax increment to be set aside for low- and moderate-income housing.

Require that affordable housing units constructed in the zone be more deeply targeted, reaching extremely low-income

households as well.

1.Double Referral . This bill was previously heard in the Senate Local Government Committee, which has primary jurisdiction. The bill was double-referred to the Transportation and Housing Committee in order to review the housing requirements associated with the new housing and infrastructure zones.

PREVIOUS ACTIONS:

Senate Local Government Committee: 3-1

RELATED LEGISLATION:

SB 46 (Perata) provides the statutory framework for expenditure of the \$850 in Proposition 1C's Regional Planning, Housing, and Infill Incentive Account. This bill is in the Senate Appropriations Committee.

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SB 934 (LOWENTHAL)

Page 9

PREVIOUS LEGISLATION

SB 1754 (Lowenthal) of 2006 allows for the creation of up to 100 "housing and infrastructure zones." This bill was held on the Senate Appropriations Committee suspense file.

POSITIONS: (Communicated to the Committee before noon on
Wednesday, April 18,
2007)

SUPPORT: League of California Cities (Sponsor)
American Planning Association
City of Lomita
City of Salinas
City of San Luis Obispo
City of Santa Barbara
City of Signal Hill
City of Vista
League of California Cities- Latino Caucus
Planning and Conservation League

OPPOSED: California Rural Legal Assistance Foundation
Western Center on Law & Poverty