

Annexation Development Plans

A Tool to Address Infrastructure and Service Issues Associated With the Annexation of a “Disadvantaged Unincorporated Community”

SB 614 (Wolk)

Chapter 784, Statutes of 2014

Summary

SB 614 (Wolk) offers a new tool which enables tax increment financing to be used, upon the agreement of the consenting affected city, county and special districts, to fund infrastructure and service upgrades within a “disadvantaged unincorporated community” when a city, county or special district initiates an application to LAFCO for a “change in organization” or “reorganization.”

Important Terms

Disadvantaged unincorporated community: A “disadvantaged unincorporated community” is a community with 12 or more registered voters with an annual median household income that is less than 80% of the statewide annual median household income. The median household income for California in 2014 was \$61,489.¹ 80% of the 2014 median household income is \$49,191.20.

Annexation development plan: A plan to provide services to a disadvantaged unincorporated community using the funding tool provided by SB 614 (Wolk).²

Change in organization: A “change in organization” includes, among other things, an annexation to a city, an annexation to a district, a consolidation of special districts, or establishment of a subsidiary district.³ This new law applies to changes of organization that propose to improve or upgrade services provided to an unincorporated disadvantaged community.

Reorganization: A “reorganization” is two or more “changes in organization” contained within a single proposal to LAFCO.⁴

LAFCO: The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides for a Local Agency Formation Commission (LAFCO) in each county with the powers and duties set forth in the Act including the power to approve or disapprove proposals for changes of organization and reorganization. LAFCOs are charged with

¹ United States Census Bureau.

² Rev & Tax § 99.3.

³ Gov’t Code § 56021.

⁴ Gov’t Code § 56073.

carrying out the policy of the state to encourage orderly growth and development.⁵

A Plan for Services to a Disadvantaged Unincorporated Community

When a proposal for a change of organization or reorganization is submitted to LAFCO, the applicant is required to submit a plan for providing services within the affected territory. The plan for providing services must include a description of the services to be provided; an indication of when those services will be provided; and information about how those services will be financed.⁶

SB 614 (Wolk) allows a local agency to include an Annexation Development Plan⁷ within its plan for providing services to a disadvantaged unincorporated community.

The Annexation Development Plan (ADP)

An annexation development plan explains how services will be provided to a disadvantaged unincorporated community by a new or reorganized special district with property tax increment funding from consenting local agencies. The services that can be funded with this tool are infrastructure improvements including water; wastewater; stormwater systems; and local streets, roads, and sidewalks, serving a disadvantaged community.⁸

Adoption of the plan: A plan for providing services to an unincorporated disadvantaged community is adopted by the local agency that files the application with LAFCO and one or more other consenting local agencies that wish to see services to an unincorporated disadvantaged community improved or upgraded.⁹ The plan will describe the services to be funded and will specify a date upon which property tax increment funding will end.¹⁰

Elements of the plan: The ADP must include the following information:

- The necessary financial resources will be available to provide the services;
- The local entity responsible for the delivery and maintenance of the services;
- The timeframe for constructing and delivering the services; and
- The governance, oversight and long-term maintenance of the services after tax increment financing terminates.¹¹

⁵ Gov't Code § 56001.

⁶ Gov't Code 56653(a) and (b).

⁷ This new tool may not be used in any area that was part of a redevelopment project area (Revenue & Taxation Code § 99.3(g)).

⁸ Revenue & Taxation Code § 99.3(d)(2).

⁹ Revenue & Taxation Code § 99.3(c).

¹⁰ Revenue & Taxation Code § 99.3(e).

¹¹ Gov't Code § 56653(c)(2)

Funding for the services: The ADP may propose funding services with property tax increment, including a provision for the issuance of indebtedness. Property tax increment funding was created for redevelopment agencies, and subsequently adopted for infrastructure financing districts (IFDs),¹² enhanced infrastructure financing districts (EIFDs),¹³ and community revitalization investment authorities (CRIAs).¹⁴

Property tax increment financing is a tool that allows consenting local agencies to earmark property tax revenue from increases in assessed values within a defined geographic area for specified purposes. In this case, the specified purposes would be to improve or upgrade services to an unincorporated disadvantaged community.

Property tax increment is the difference between the amount of property tax revenue generated before the designation of the district and the amount of property tax revenue generated after the designation. Property tax increment would be reserved for the exclusive use of providing services to the disadvantaged unincorporated community.

Under SB 614 (Wolk), **only** the property tax increment of consenting local agencies would be used to provide services to the disadvantaged unincorporated community. School districts may not consent.

Funding the Services: New or Reorganized Special District

If an ADP is included with a local agency's application to LAFCO, then the LAFCO may include in its approval of the application the formation of a special district or reorganization of a special district with the special district's consent, to provide services to the disadvantaged unincorporated community. The property tax increment from those local agencies that consented to the ADP will be allocated to the special district formed or reorganized by LAFCO to fund the identified services through pay as you go or the issuance of bonds.¹⁵

Advantages of an ADP Compared to Other Financing Options

There are several potential advantages for local agencies considering using SB 614, compared to other recently enacted tax increment tools:

- More focused: SB 614 is solely focused on addressing some of the significant infrastructure and service challenges often present in a disadvantaged unincorporated community. Addressing these issues is a common impediment to annexing the area.

¹² Gov't Code §§ 53395 and following.

¹³ Gov't Code §§ 53398.50 and following

¹⁴ Gov't Code §§ 62000 and following

¹⁵ Revenue & Taxation Code § 99.3(d)(2); Gov't Code § 56653(c).

- Streamlined and Flexible: SB 614 is designed to provide maximum flexibility to the city, county and special districts. These entities separately negotiate the details, then LAFCO can adopt the ADP as part of its process.
- Debt issuance: Once LAFCO's process is complete, bonds can be issued based on tax increment to accomplish the objectives of the ADP.

Other Infrastructure Financing Tools using Property Tax Increment

Community Revitalization and Investment Authority (CRIA)¹⁶

A CRIA is established by a city, county, special district (or any combination of them) as an "agency" under Article XVI, section 16 of the Constitution to provide public infrastructure and services, brownfield remediation, low and moderate-income housing; or seismic retrofitting.

Similarities to SB 614 (Wolk):

- A separate governmental entity (CRIA) provides services and facilities within a defined Plan Area.
- Plan Area must meet certain criteria relating to annual median household income and other conditions relating to unemployment, crime rates, deteriorated infrastructure or deteriorated structures.
- Services and facilities may be financed with property tax increment from consenting local agencies (not including schools). Bonds may be issued.

Differences from SB 614 (Wolk):

- The Plan area must meet specific requirements, which may or may not match the disadvantaged unincorporated community. The area may also be within a former redevelopment agency project area if certain redevelopment dissolution milestones have been completed.
- Plan adoption requires public hearings; terminates if there is a majority protest; and requires voter approval with 25-50% protest.
- At least 25% of property tax increment funding must be used for affordable housing.
- Replacement and relocation housing requirements apply.
- Additional property acquisition powers are available and other reporting obligations apply.

Enhanced Infrastructure Financing District (EIFD)¹⁷

Similarities to SB 614 (Wolk):

- A separate governmental entity (EIFD) provides services and facilities within a defined area
- Services and facilities may be financed with property tax increment from

¹⁶ Gov't Code §§ 62000 and following.

¹⁷ Gov't Code §§ 53398.50 and following

consenting local agencies (not including schools). Bonds may be issued.

Differences from SB 614 (Wolk):

- Area affected: No restrictions on where the EIFD may be created.
- Services/Facilities: Public infrastructure and services; brownfield remediation; very low, low and moderate income housing; transit priority projects; projects that implement a sustainable communities strategy, etc.
- Issuance of indebtedness bonds by EIFD requires 55% voter approval, but EIFD can also receive funds or borrow from other sources using its tax increment stream.
- The District may be within former redevelopment agency project area if certain redevelopment dissolution milestones have been completed.
- Replacement and relocation housing requirements apply.
- EIFD may utilize property tax revenues derived from the proceeds of former redevelopment project areas, or received in lieu of former vehicle license fees, that may be dedicated to it by a city, county or special district. An EIFD may also receive money from various Assessment District Acts and the Mello-Roos Community Facilities Act.¹⁸

¹⁸ AB 2492(Alejo) proposes to make these funding sources available to a CRIA.