An act to add Part 4 (commencing with Section 55900) to Division 2 of Title 5 of the Government Code, and to add Section 97.68.1 to the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

SB 5, as introduced, Beall. Local-State Sustainable Investment Incentive Program.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, subject to certain modifications. Existing law requires an annual reallocation of property tax revenue from local agencies in each county to the Educational Revenue Augmentation Fund (ERAF) in that county for allocation to specified educational entities.

Existing law authorizes certain local agencies to form an enhanced infrastructure financing district, affordable housing authority, transit village development district, or community revitalization and investment authority for purposes of, among other things, infrastructure, affordable housing, and economic revitalization.

This bill would establish in state government the Local-State Sustainable Investment Incentive Program, which would be administered by the Sustainable Investment Incentive Committee. The bill would authorize a city, county, city and county, joint powers agency, enhanced infrastructure financing district, affordable housing authority, community revitalization and investment authority or transit village development district to apply to the Sustainable Investment Incentive Committee to
participate in the program and would authorize the committee to approve or deny applications for projects meeting specific criteria.

The bill would require the Sustainable Investment Incentive Committee to adopt guidelines for applications and approve no more than $200,000,000 per year from July 1, 2020, to June 30, 2025, and $250,000,000 per year from July 1, 2025, to June 30, 2029, in reductions in annual ERAF contributions for applicants for projects approved pursuant to this program. This bill would provide that eligible projects include, among other things, construction of workforce and affordable housing, certain transit oriented development, and projects promoting strong neighborhoods.

The bill would require the Sustainable Investment Incentive Committee, upon approval of a project application, to issue an order directing the county auditor to reduce the total amount of ad valorem property tax revenue otherwise required to be contributed to the county’s ERAF from the applicant by the annual reduction amount approved. The bill would require a county auditor, if the applicant is an enhanced infrastructure financing district, affordable housing authority, transit village development district, or community revitalization investment authority, to transfer to the district or authority an amount of property tax revenue equal to the reduction amount approved by the Sustainable Investment Incentive Committee. By imposing additional duties on local officials, the bill would impose a state-mandated local program. The bill would authorize applicants to use approved amounts to incur debt or issue bonds or other financing to support an approved project.

The bill also would require each applicant that has received funding to submit annual reports, as specified, and would require the Sustainable Investment Incentive Committee to provide a report to the Joint Legislative Budget Committee that includes certain project information.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) In recent years the Legislature has created several new opportunities to use tax increment financing, which include the formation of enhanced infrastructure financing districts, affordable housing authorities, and community revitalization investment authorities. While these new tools can be useful to local agencies, they are widely viewed as lacking sufficient financial capacity compared to what existed under the former tax increment financing tool utilized by community redevelopment agencies.

(1) Under redevelopment, all of the growth in property tax (tax increment) within a project area over a base year, net of mandatory pass-through payments, that would otherwise be allocated to cities, counties, special districts and school districts was dedicated to redevelopment purposes. Under the new tax increment tools, however, property tax increment from affected taxing agencies other than the initiating city or county can only be dedicated with the approval of the affected local agencies.

(2) While potential local partnerships between cities, counties, and special districts involving new tax increment tools continue to be explored by cities, a reality is that counties and special districts often have other policy and budget priorities, and lack incentives to participate.

(3) The language in the new tax increment laws currently prohibit school districts from participating, largely reflecting state concerns over potential backfill requirements for school funding under the requirements of Proposition 98 of 1988.

(b) The state has many policy priorities that can be advanced by a restoration of a more robust form of tax increment financing than currently exists, which include:

(1) Increasing the production of affordable housing available to very low, low-, and moderate-income families.

(2) Expanding transit-oriented development at higher densities.

(3) Reducing jobs-housing imbalances in areas with high job growth.

(4) Increasing the availability of high-quality jobs through the rehabilitation, construction, and maintenance of housing and infrastructure.
(5) Improving the quality of life in neighborhoods and disadvantaged communities.

(6) Incentivizing growth in urban areas, thereby preserving, and enhancing the state’s most valuable natural resources

(7) Reducing poverty and caseloads of state and county safety net support programs by incentivizing the training and hiring of affected individuals to jobs where they can be self-supporting.

(c) The Legislature has declared that the policy priorities listed in subdivision (b) are matters of statewide concern. It is therefore appropriate that the state contribute financially to the realization of these priorities.

(d) By dedicating a portion of the school share of property taxes to support and incentivize partnerships using property tax increment, the state can advance its policy priorities while also protecting funding for schools and limiting effects on the state budget. The state’s interests can be ensured and protected in the following manner:

(1) Requiring approval of the newly-created State Sustainable Investment Incentive Committee, to ensure that the investment of property taxes otherwise allocated to schools through a county’s educational revenue augmentation fund are used only for projects that maximize state policy benefits while ensuring that an economic analysis projects increased property tax revenues for schools in the affected territory upon project completion.

(3) Offering additional incentives to participating counties and special districts.

(4) Establishing an annual cap on the total local-state sustainable investment amount that may be approved to be allocated by the State Sustainable Investment Incentive Committee, as follows:

(A) Not to exceed an annual cap of $1 billion beginning July 1, 2025.

(B) Not to exceed an annual cap of $2 billion beginning July 1, 2029.

(5) Requiring annual reports to the Legislature on the status of all projects funded through this program.

SEC. 2. Part 4 (commencing with Section 55900) is added to Division 2 of Title 5 of the Government Code, to read:
PART 4. LOCAL-STATE SUSTAINABLE INVESTMENT INCENTIVE PROGRAM

55900. This part is known and may be cited as the Local-State Sustainable Investment Incentive Program.

55901. The Local-State Sustainable Investment Incentive Program is hereby established to create a local-state partnership to reduce poverty and advance other state priorities financed, in part, by property tax increment.

55902. As used in this part, the following terms have the following meanings:

(a) “Applicant” means any entity identified in paragraph (a) of Section 55905 that has submitted an application to the committee pursuant to that section.

(b) “Committee” means the Sustainable Investment Incentive Committee established by Section 55904.

(c) “Local-State sustainable investment amount” is the amount of property tax revenue allocated pursuant to section 97.68.1 of the Revenue and Taxation Code.

(d) “Program” means the Local-Sustainable Investment Incentive Program established by this part.

(e) “Project” shall include:

(1) A project undertaken by a city, county, city or county, joint powers authority, enhanced infrastructure financing district, affordable housing authority, community revitalization and investment authority, or a transit village development district.

(2) A transit priority project that meets the requirements of subdivision (d) of section 65470.

(f) “Transit Priority Project Program” has the same meaning as contained in Section 65470.

55903. (a) Funding allocated to the program shall be used to support projects that include affordable housing. Eligible uses of this funding include:

(1) Construction of workforce and affordable housing. Priorities shall be provided for communities that adopt plans that streamline development including those adopted through a Workforce Housing Opportunity Zone (Article 10.10 (commencing with Section 65620) of Chapter 3 of Division 1 of Title 7), a Housing Sustainability District (Chapter 11 (commencing with Section 66200) of Division 1 of Title 7), or plans to streamline development funded by the
Building Homes and Jobs Act (Chapter 2.5 (commencing with Section 50470) of Part 2 of Division 31 of the Health and Safety Code).

(2) Transit-oriented development in priority locations that maximize density and transit use, and contribute to the reduction of vehicle miles traveled and greenhouse gas emissions. Fiscal incentives shall be offered to offset local community impacts associated with greater densities.

(3) Infill development and equity by rehabilitating, maintaining, and improving existing infrastructure that supports infill development and appropriate reuse and redevelopment of previously developed, underutilized land that is presently served by transit, street, water, sewer, and other essential services, particularly in underserved areas, and to preserving cultural and historic resources.

(4) Promoting strong neighborhoods through supporting of local community planning and engagement efforts to revitalize and restore neighborhoods, including repairing infrastructure and parks, rehabilitating and building housing, promoting public-private partnerships, supporting small businesses and job growth for affected residents.

(5) Protecting communities dealing with the effects of sea-level rise, which is one of the most significant threats of climate change, including the construction, repair, replacement, and maintenance infrastructure related to protecting communities from sea-level rise.

(b) At least 50 percent of the funding provided pursuant to the program shall be allocated according to paragraph (1) of subdivision (a).

(c) For any project approved pursuant to the program, at least 50 percent of the housing units constructed shall be affordable housing units.

(d) The local-state sustainable investment amount shall not be used to subsidize the construction of market rate units. It is the intent of the Legislature to preserve the incentives for affordable housing provided by existing density bonus law.

(e) At least 20 percent of the overall funding for the program shall be set aside for counties with populations of less than 200,000.

55904. (a) The Sustainable Investment Incentive Committee is hereby established and shall be comprised of the following:
1. (1) The Chair of the Strategic Growth Council, or his or her designee.
2. (2) The Chair of the California Infrastructure and Economic Development Bank, or his or her designee.
3. (3) The Chair of California Workforce Investment Board, or his or her designee.
4. (4) Director of Housing and Community Development, or his or her designee.
5. (5) Two people appointed by the Speaker of the Assembly.
6. (6) Two people appointed by the Senate Rules Committee.
7. (7) One public member appointed by the Governor that has a background in land use planning, local government, or community development or revitalization.
8. (b) The committee shall review and approve or deny applications received pursuant to Section 55905.
9. (c) The ____ shall provide the technical assistance and administrative support necessary for the committee to consider applications.
10. 55905. (a) An application for the local-state sustainable investment amount may be submitted by any of the following:
11. (1) A city, county, or city and county.
12. (2) A joint powers authority formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.
13. (2) An enhanced infrastructure financing district established pursuant to Chapter 2.99 (commencing with Section 53398.50) of Part 1 of Division 2 of Title 5.
14. (3) An affordable housing authority established pursuant to Division 5 (commencing with Section 62250) of Title 6.
15. (4) A community revitalization and investment authority established pursuant to Division 4 (commencing with Section 62000) of Title 6.
16. (5) A transit village development district established pursuant to Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7.
17. (b) An application to participate in the program may be submitted to the committee and shall include all of the following information:
18. (1) A description of the proposed project to be completed by the applicant and the funding amount necessary for each year the project is to receive funding pursuant to the program.
19. 99
(2) Information necessary to demonstrate that the project complies with all of the statutory requirements of any statutory authorization pursuant to which the project is proposed.

(3) Certification that any low- and moderate-income housing or other projects or portions of other projects that receive funding from the program will comply with paragraph (8) of subdivision (a) of Section 65193.4.

(4) A plan for outreach to, and retention of, women, minority, disadvantaged youth, formerly incarcerated, and other under represented subgroups in coordination with the California Workforce Investment Board and local boards, to increase their representation and employment opportunities in the building and construction trades.

(5) A requirement that no eviction has been made on project site within the last 10 years, and protections to avoid displacement of individuals affected by the project.

(6) An economic and fiscal analysis, paid for by the applicant and prepared by the applicant or an individual or entity approved by the committee that includes the following information as it pertains to the application:

(A) The estimated cost of providing services or facilities by the project.

(B) The estimated revenue available to provide services or facilities by the project.

(C) Identification of the taxing entities that are participating in the financing of the project through the pledge of an amount equal to the entity’s incremental share of the property tax or other means.

(D) Identification of the property tax, sales tax, and other public funding available to invest in the project or the services or facilities needed by the project, as proposed.

(E) Identification of the funding and financing methods that will be used by the project including whether the applicant intends to issue bonds that will be repaid from property tax increment.

(F) The local-state sustainable investment amount requested by the applicant to complete the project or the services or facilities needed by the project, as proposed, and the proposed date on which the annual allocation of the local-state sustainable investment amount will terminate.
(c) Within 30 days of receipt of an application pursuant to this section, the committee shall provide the applicant with a written statement identifying any questions about the application.

(d) If the committee denies the application, the committee shall, not more than 30 days following the date the committee has issued a decision, provide the applicant with a written statement explaining the reasons why the application was denied.

55906. (a) The committee shall adopt annual priorities consistent with the objectives set forth in Section 55903 and shall adhere to the following funding schedule:

(1) For the five-year period commencing July 1, 2020, and ending June 30, 2025, the committee may approve two hundred million dollars ($200,000,000) in funding annually for projects pursuant to the program, to reach an annual amount not to exceed one billion dollars ($1,000,000,000) beginning July 1, 2025.

(2) For the four-year period commencing July 1, 2025, and ending June 30, 2029, the committee may authorize two hundred fifty million dollars ($250,000,000) in funding annually for projects pursuant to this program to reach an annual amount not to exceed two billion dollars ($2,000,000,000) beginning July 1, 2029.

(3) The Legislature may direct the committee to suspend consideration of applications submitted pursuant to Section 55903 in any fiscal year in which the Legislature passes a bill described in Section 22 of Article XVI of the California Constitution. Nothing in this paragraph shall affect or have any financial impact upon previously approved funding pursuant to this program.

(b) The annual amounts dedicated to individual approved projects shall be allocated based on the schedule of funding including in the project’s application, unless the committee decides to allocate a different level of funding or change the number of years that the project is to receive funding pursuant to the program in accordance with the application approved pursuant to subdivision (d).

(c) The committee shall adopt guidelines to explain how geographic equity will be maintained in the approval of applications for projects pursuant to this program.

(d) (1) The committee shall approve or deny an application submitted pursuant to Section 55905 upon both of the following:

(A) Receipt of the information required to be submitted pursuant to paragraphs (1) through (4) of subdivision (b) of Section 55905.
(B) A determination that the local-state sustainable investment amount requested is consistent with the guidelines adopted pursuant to subdivision (b).

(2) The approval shall state the amount of the local-state sustainable investment amount approved and the date upon which the local-state sustainable investment amount terminates.

(e) The committee may require the applicant to reimburse it for the reasonable cost incurred to review the application to participate in the program.

55907. (a) Upon approval of an application pursuant to subdivision (d) of Section 55906, the committee shall issue an order directing the county auditor to reduce the amount of ad valorem property tax revenue pursuant to Section 97.68.1 of the Revenue and Taxation Code by the annual local-state sustainable investment amount approved by the committee.

(b) The revenues allocated to an applicant pursuant to Section 97.68.1 of the Revenue and Taxation Code may be used for the purposes set forth in Section 55903.

(c) The applicant may use the additional revenue received pursuant to Section 97.68.1 of the Revenue and Taxation Code to incur debt or issue bonds or other financing to support the project.

55908. (a) On or before July 1, 2021, and annually thereafter, each applicant that has received financing pursuant to the program for any fiscal year shall provide a report to the committee that includes all of the following information for the previous fiscal year:

(1) The local-state sustainable investment amount that the county auditor reallocated to the applicant pursuant to Section 97.68.1 of the Revenue and Taxation Code.

(2) The purposes for which that reallocated money was used, including the number of housing units constructed and at which income level.

(3) The actions taken during the prior fiscal year to implement the project.

(b) Notwithstanding Section 10231.5, on or before March 1, 2020, and annually thereafter, the committee shall provide a report to the Joint Legislative Budget Committee that includes all of the following information for the preceding fiscal year:

(1) The name, location, and general description, including the number of housing units constructed and at which income level,
of each project that received a local-state sustainable investment amount pursuant to this program.

(2) The total amount of money that county auditors reallocated from local-state sustainable investment funds pursuant to the program in the previous fiscal year.

(3) An evaluation of the value of the state’s investment through the funding provided by this program as measured by a net revenue increase to the General Fund and progress towards achieving the purposes and intent of the program.

(c) The committee shall develop a corrective action plan for noncompliance with the requirement of this part.

SEC. 3. Section 97.68.1 is added to the Revenue and Taxation Code, to read:

97.68.1. Notwithstanding any other provision of law, in allocating ad valorem property tax revenue all of the following shall apply:

(a) (1) The auditor shall reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to a county’s Educational Revenue Augmentation Fund by the countywide local-state sustainable investment amount.

(2) In the case of an application that includes an enhanced infrastructure financing district, affordable housing authority, transit village development district, or community revitalization investment authority, the auditor shall reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to a county’s Educational Revenue Augmentation Fund from the city or county that created the authority or district in an amount proportional to the local government’s contribution to that district or authority by the countywide local-state sustainable investment amount.

(b) The auditor shall allocate the funds as directed by the committee pursuant to Part 4 (commencing with Section 55900) of Division 2 of Title 5 of the Government Code.

(c) For purposes of this section, all of the following shall apply:

(1) “Local-state sustainable investment amount” for a particular city, county, or city and county means the amount approved by the Local-State Sustainable Investment Incentive Committee pursuant to Part 4 (commencing with Section 55900) of Division 2 of Title 5 of the Government Code.
(2) “Countywide local-state sustainable investment amount” means, for any fiscal year, the total sum of the amounts described in paragraph (1) for a county or a city and county, and each city and county.

(d) This section shall not be construed to do any of the following:

(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to county superintendents of schools, cities, counties, and cities and counties pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Sections 97.2 and 97.3 or Article 4 (commencing with Section 98) had this section not been enacted. The allocations required by this section shall be adjusted to comply with this paragraph.

(2) Require an increased ad valorem property tax revenue allocation or increased tax increment allocation to a community redevelopment agency.

(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is otherwise determined or allocated in a county.

(4) Reduce ad valorem property tax revenue allocations required under Article 4 (commencing with Section 98).

(e) If, for the fiscal year, after complying with Section 97.68, there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county Educational Revenue Augmentation Fund for the auditor to complete the allocation reduction required by subdivision (a), the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts and community college districts in the county for that fiscal year by an amount equal to the difference between the countywide local-state sustainable investment amount and the amount of ad valorem property tax revenue that is otherwise required to be allocated to the county Educational Revenue Augmentation Fund for that fiscal year. This reduction for each school district and community college district in the county shall be the percentage share of the total reduction that is equal to the proportion that the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the school district or community college district bears to the total amount of ad valorem property tax revenue
that is otherwise required to be allocated to all school districts and community college districts in a county. For purposes of this subdivision, “school districts” and “community college districts” do not include any districts that are excess tax school entities, as defined in Section 95.

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