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CALIFORNIA STATE SENATE
COMMITTEE ON BUDGET AND FISCAL REVIEW
STATE CAPITOL – ROOM 5019
SACRAMENTO, CA 95814



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COMMITTEE ASSISTANT
MARY TEABO
(916) 651-4103
FAX (916) 668-7004

Agenda

July 13, 2015

11:00 a.m. - Room 112

BILL

A.B. 113

AUTHOR

Committee on Budget

SUBJECT

Local Government

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW

Senator Mark Leno, Chair

2015 - 2016 Regular

Bill No:	AB 113	Hearing Date:	July 13, 2015
Author:	Committee on Budget		
Version:	July 9, 2015 Amended		
Urgency:	Yes	Fiscal:	Yes
Consultant:	Mark Ibele		

Subject: Local government.

Summary: This bill contains additional provisions and provides specificity to existing law governing the dissolution of redevelopment agencies (RDAs) and the wind-down of their existing activities and obligations. In addition, the measure addresses several ongoing issues relating to state-local fiscal situations. The bill is related to the implementation of the Budget Act of 2015.

Background: AB 26 X1 (Blumenfield), Chapter 5, Statutes of 2011, First Extraordinary Session, eliminated the state's approximately 400 RDAs, replacing them with locally-organized successor agencies (SAs) assigned with the task of retiring the outstanding debts and addressing other legal obligations of RDAs. The process of winding-down redevelopment agencies was not expected to be a straightforward process without uncertainty and controversy; however, the extreme complexity of dissolving the program and the time required to accomplish this was unexpected. The process has somewhat delayed the receipt of property taxes by school districts and often resulted in a lack of clarity for local governments. Most, but not all, of these issues have been resolved over the last year, and the Administration is continuing the ongoing workload involved with winding down the state's former RDAs.

In terms of additional property tax increment, from 2011-12 to 2014-15, approximately \$1.3 billion in property tax revenue has gone to cities, \$1.6 billion to counties, and \$531 million to special districts. The budget anticipates that in 2014-15 and 2015-16 combined, cities will receive an additional \$580 million, counties \$660 million, and special districts \$200 million. For the period through 2018-19, the Administration expects cities to receive \$2.9 billion, counties \$3.5 billion and special districts \$1.1 billion. From 2011-12 through 2014-15, approximately \$4.4 billion will be returned to K-14 schools. The budget anticipates Proposition 98 General Fund savings resulting from the dissolution of RDAs will be \$964 million in 2014-15 and \$1.1 billion in 2015-16. On an ongoing basis, Proposition 98 General Fund savings stemming from RDA dissolution are estimated to be well over \$1.0 billion annually.

Proposed Law: The measure includes numerous provisions which represent an approach to clarifying and simplifying the RDA dissolution process and addressing local fiscal situations. Specifically, the bill would:

1. Clarify that the Department of Finance's (DOF's) actions with respect to the dissolution and reconciliation process for RDAs are exempt from the Administrative Procedures Act (APA).

2. Redefine and clarify the definition of administrative cost allowance as the maximum amount of administrative costs that may be paid by an SA from the Redevelopment Property Tax Trust Fund (RPTTF) in a fiscal year, and the sole funding source for any legal expenses related to civil actions regarding the RDA dissolution process.
3. Add the following new calculations for administrative costs:
 - a. Five percent of the property tax allocated to the SA on the Recognized Obligation Payment Schedule (ROPS) through June 30, 2016, and up to three percent of the property tax allocated to the Redevelopment Obligation Retirement Fund (RORF) thereafter through June 30, 2016.
 - b. From July 1, 2016, and thereafter, up to three percent of the actual property tax distributed to the SA for payment of approved enforceable obligations (EOs), not to exceed 50 percent of the total RPTTF distributed to pay for EOs in the preceding year, whether or not administrative costs are paid within the administrative cost allowance or not, with the limitation inapplicable if these costs are paid from sources other than the property tax.
 - c. From January 1, 2012, and thereafter, not less than \$250,000 in any fiscal year unless reduced by the oversight board (OB) or by agreement with the SA.
4. Allow sponsoring entities to provide funds to an SA for purposes of paying legal expenses related to civil actions contesting the RDA dissolution and reconciliation process and allow these funds to be an EO for repayment, only in the event that judicial relief is granted to the SA.
5. Make certain clarifications that the following are EOs:
 - a. Written agreements entered into no later than June 27, 2011, for the purposes of refunding of bonds that were issued prior to January 1, 2011.
 - b. Agreements entered into by a former RDA prior to June 28, 2011, if the agreement relates to state highway infrastructure improvements.
6. Create an annual, rather than biannual, process for ROPS beginning with the July 1, 2016 period.
7. Allow for expenditure of the entire indebtedness obligation proceeds associated with low- and moderate-income housing purposes. Clarify annual reporting requirements for the low- and moderate-income housing funds.
8. Establish that the local governments that authorized the creation of a RDA may loan funds to the RDA for costs or for EOs, only to the extent that the SA receives an insufficient distribution from the RPTTF, and:

- a. The loan shall be repaid from the source of funds originally approved for payment of the underlying EO.
 - b. The interest payable will be calculated at a rate not to exceed the Local Agency Investment Fund (LAIF) interest rate earned.
 - c. Repayment will be made to the extent property tax revenue allocated to the SA is available after EOs on the ROPS are fulfilled.
9. Allow the county auditor-controller, as well as DOF, to have the authority to require any documents associated with EOs to be provided to them.
 10. Prescribe that ROPS items that are subject to active litigation are not required to be disputed in a meet and confer with DOF on other disputed items.
 11. Indicate that all agreements entered or re-entered between an SA and the city or county that formed the RDA, and executed after June 27, 2012, are not EOs, unless they are related to the RDA wind-down process. Disallows funding for any item reduced or eliminated by DO and clarify that OB are not allowed to approve post June 27, 2012 re-entered agreements.
 12. Specify that RDA wind-down activities do not include planning, design, redesign, development, demolition, alteration, construction, construction financing, site remediation, site development or improvement, land clearance, seismic retrofits, or other similar work, unless such work is undertaken pursuant to an EO.
 13. State that SAs may not create EOs to repay loans entered into between the RDA and the city or county that formed it except as expressly provided for in law.
 14. Establish that for a final and conclusive determination regarding an EO, the SA must provide a copy of the request to the county auditor-controller and to DOF, which will have 100 days from the date of the request for a final and conclusive determination for denial or approval of the request. Specify that for a final and conclusive determination request submitted prior to June 30, 2015, DOF shall have until September 30, 2015 to approve or deny.
 15. Facilitate the issuance of bonds or other indebtedness for the purposes of low- and moderate-income housing and various infrastructure in the City and County of San Francisco, by allowing the pledge of revenues available in the RPTTF that are not otherwise pledged, subject to the approval of the OB.
 16. Address administrative aspects of OBs, including establishing, clarifying or specifying that:
 - a. Alternate representatives can be appointed to serve on OBs when members of the OB must be absent.
 - b. Resolutions, minutes, agendas, changes in membership and certain other administrative documents or actions to be considered by the OB do not need to be submitted to DOF for approval.

- c. County-wide OB shall be staffed by the county auditor-controller, another county entity, or by a city chosen by the county auditor-controller after consultation with DOF, with associated costs to be recovered from the RPTTF.
 - d. For counties with more than one OB (except counties with more than 40 OBs), there will be only one OB beginning July 1, 2017 (instead of July 1, 2016).
 - e. For counties with more than 40 OBs, commencing July 1, 2017, there shall be five OBs, with their respective jurisdictions generally coterminous with the respective borders of the 1st through 5th supervisorial districts.
 - f. An OB will cease to exist when its SA (or for county-wide OB, all the SAs within the county) has been dissolved.
17. Clarify and institute certain new provisions regarding issuances of a finding of completion (FOC) by DOF, specifically:
- a. In addition to other options, allow an SA to receive a FOC upon entering into a written installment payment plan with DOF for payment of the amounts due pursuant to the due diligence review.
 - b. Stipulate that an SA may not receive a FOC unless it enters into a written payment plan with DOF by December 31, 2015.
 - c. Allow the creation of an EO with the SA if amounts due pursuant to the written payment plan are reduced pursuant to a final judicial determination.
 - d. Provide that failure by an SA to pay amounts due under the written agreement will result in: permanent ineligibility for an FOC; invalidation of OB actions, including EO loan agreements; disallowance of any long-range property management plan; and potential recalibration of the last and final ROPS.
 - e. Allow for an amendment to the written installment payment plan if DOF determines the necessity based on SA's fiscal condition.
18. Clarify the legal obligation of sponsoring entities to return RDA assets when ordered to do so, provided the assets were not transferred pursuant to an EO.
19. Expand the ability of the OB to direct the SA to transfer ownership of assets with a governmental purpose to an appropriate public jurisdiction, to include parking facilities and lots dedicated solely to public parking. Also allow a revision to the Long-Range Property Management Plan (LRPMP) to include public parking lots and facilities as a government purpose asset.

20. Allow pension and State Water Project overrides that are not pledged to RDA-related debt service to go entirely to the levying entity for the payment due on such obligations. Provide that pledged overrides not needed for RDA debt service return in their entirety to the levying entity.
21. Define the process and timelines for the submission, review and reconciliation for adjustments during the annual ROPS process, and provide for the review by the county auditor-controller and notification of DOF.
22. Define the process of final dissolution of the SA and the required actions of various parties, including the retirement of all EOs and the disposal of all assets, and specify that an RDA that failed to generate any tax increment is considered dissolved.
23. Clarify the application of tax increment caps and plan expiration dates and provide that qualifying loan repayments to cities or counties are exempt from the caps.
24. Clarify and specify that loan agreements are defined as loans for money entered into between the sponsoring city or county and the former RDA, with such loans to be repaid with interest calculated at a rate not to exceed simple interest rate of three percent, recalculated quarterly, and payment applied first to principal and then to interest. Specify that this provision would not have an impact on loans previously approved or affect legal judgments in either *City of Watsonville v. Department of Finance* or *City of Glendale v. Department of Finance*.
25. Stipulate that proceeds of bonds issued by RDAs prior to December 31, 2010 should be used as expeditiously as possible with any proceeds that cannot be used in a manner consistent with the bond covenants applied to the defeasance of the bonds.
26. Provide for a tiered structure regarding the use of proceeds of bonds issued by RDAs between January 1, 2011 and June 30, 2011, with the incremental percentage of proceeds that may be expended equal to:
 - a. Fifteen percent upon a FOC.
 - b. Fifteen percent with an approved last and final ROPS.
 - c. Twenty-five percent for bonds issued between January 1, 2011 and January 31, 2011, inclusive.
 - d. Twenty percent for bonds issued between February 1, 2011 and February 28, 2011, inclusive.
 - e. Fifteen percent for bonds issued between March 1, 2011 and March 31, 2011, inclusive.
 - f. Ten percent for bonds issued between April 1, 2011 and April 30, 2011, inclusive.

the loss of the enhanced VLF rate redirected in 2011 to fund public safety realignment.

32. Terminate, over a five-year period, the requirement of four cities in Santa Clara County to reimburse the county for the loss of ERAF due to Tax Equity Allocations (TEA), a program that provides property tax to cities that levied little or no property tax prior to Proposition 13 by shifting property taxes from the county.
33. Allow the County of San Benito to participate in an Educational Revenue Augmentation Fund (ERAF) repayment program (for which they are currently ineligible), in order to pay amounts owed to the ERAF, resulting state forgiveness of approximately \$3.4 million of the \$4 million owed by the county.
34. Provide for an appropriation, identifying the measure as a budget bill.

Fiscal Effect: The bill would result in additional General Fund costs of approximately \$100 million in 2015-16, due to Proposition 98 guarantee requirements and direct payments to local governments.

Support: None on file

Opposed: None on file

Comments: The measure represents a reasonable attempt to implement a final resolution for the dissolution of RDAs, as well as resolve several long standing issues related to state-local fiscal relations. The bill allows for a number of broad-based benefits for local governments including the use of bond proceeds, allowance of certain re-entered agreements, use of proceeds of bonds issued for low- and moderate-income housing, as well as other benefits related to specific communities. The bill also addresses the definition of loan agreements and, in aggregate, is likely to reduce the amount of uncertainty and litigation moving forward.

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