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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2019 - 2020 Regular Session

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### **SB 1300 (Skinner) - Redevelopment agency dissolution: finding of completion: City of Hercules**

**Version:** May 22, 2020

**Urgency:** No

**Hearing Date:** June 9, 2020

**Policy Vote:** GOV. & F. 5 - 0

**Mandate:** No

**Consultant:** Mark McKenzie

**Bill Summary:** SB 1300 would make the redevelopment (RDA) successor agency in the City of Hercules eligible to receive a finding of completion with the approval of the Department of Finance (DOF) if the successor agency has entered into and complies with a specified written installment payment plan.

**Fiscal Impact:** Estimated increased General Fund expenditures of approximately \$4.9 million over a period of years, assuming this bill results in the classification of an \$8.3 million loan between the City of Hercules and the former RDA as an enforceable obligation. The General Fund impact could be higher to the extent other loans qualify as enforceable obligations, or if the successor agency expends bond proceeds for purposes beyond the satisfaction of enforceable obligations.

Staff notes that approximately 59% of property tax revenues in Contra Costa County are allocated to school entities. Repayment of loans and/or spending additional bond proceeds would encumber property tax increment that would otherwise be redistributed to taxing entities, including schools. The General Fund must generally backfill any amounts that would otherwise go to schools under Proposition 98's minimum funding guarantees.

**Background:** Historically, the Community Redevelopment Law has allowed a local government to establish redevelopment agencies (RDAs) and capture all of the increase in property taxes that is generated within the project area beyond the base year value (referred to as "tax increment") over a period of decades. Prior to their dissolution pursuant to ABx1 26 (Blumenfield) Chap 5/2011, RDAs used tax increment financing, oftentimes issuing long-term debt in the form of tax allocation bonds, to address issues of blight, construct affordable housing, rehabilitate existing buildings, and finance development and infrastructure projects. When RDAs were abruptly dissolved pursuant to ABx1 26, many held balances of unencumbered bond proceeds that were intended to fund future redevelopment activities, but were not needed to meet those RDAs' existing obligations.

Existing law establishes procedures for winding down RDA activity, including a requirement that successor agencies dispose of former RDAs' assets under direction of an oversight board. Successor agencies are required to make any payments related to enforceable obligations, as specified in an adopted biannual recognized obligation payment schedule (ROPS), and remit unencumbered balances of RDA funds to the county auditor-controller for distribution to local taxing entities in the county. The DOF reviews each ROPS to determine if the listed payments meet the statutory criteria for

repayment, and has the authority to disallow any payments that do not meet those criteria. Successor agencies must use bond proceeds derived from bonds issued prior to January 1, 2011 for the purposes for which the bonds were sold. If those purposes cannot be achieved, the proceeds can be used to defease the bonds. Successor agencies cannot enter into new enforceable obligations.

Existing law, AB 1484 (Budget Committee), Chap 26/2012, requires DOF to provide a successor agency with a “finding of completion” after the agency remits specified RDA property tax allocations and unencumbered cash assets to the county auditor-controller through a due diligence process. Once the successor agency receives a finding of completion, the agency is authorized to:

- Transfer former RDA properties to the city or county, or otherwise dispose of the property in accordance with a DOF-approved long-range property management plan (LRPMP). Prior to disposal of property pursuant to an LRPMP, an agency must enter into compensation agreements with other local entities for equitable distribution of property proceeds.
- Repay loans made by the city or county to the RDA, if the loan is deemed to have been made for legitimate redevelopment purposes, as specified.
- Expend bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations in a manner consistent with the original bond covenants.

If a successor agency fails to pay specified amounts, or enter into a payment plan with DOF to pay those amounts, by December 31, 2015, existing law prohibits a successor agency from ever receiving a finding of completion. Nine successor agencies, including the City of Hercules, did not receive a finding of completion by the deadline.

**Proposed Law:** SB 1300 would make the City of Hercules successor agency eligible to receive a finding of completion with the approval of DOF, regardless of the December 31, 2015 deadline, if the successor agency has entered into an agreed-upon written installment payment plan and is in compliance with the plan.

**Related Legislation:** SB 532 (Portantino), which was vetoed by Governor Brown last year, would have authorized the City of Glendale’s RDA successor agency to use specified bond proceeds for specified affordable housing purposes, rather than using those proceeds to defease the bonds, as specified.

AB 411 (Stone), which was vetoed by Governor Newsom last year, would have authorized the City of Santa Cruz to use the proceeds of bonds issued by former RDAs for affordable housing purposes and facilities for homeless persons rather than using the proceeds to defease or cancel the bonds, as specified.

The Governor issued the following joint veto message for both SB 532 and AB 411:

*These bills authorize certain cities' redevelopment successor agencies to spend stranded bond assets on affordable housing rather than repaying and cancelling the bonds as required under current law. The bills will result in a General Fund cost of millions of dollars. While I appreciate the intent of the Legislature to increase the production of affordable housing, I do not support the proposed exemptions to redevelopment agency dissolution requirements, which will which will reduce funding available for education.*

**Staff Comments:** The Senate Governance and Finance Committee's analysis of this bill states the following:

The City of Hercules estimates that it has \$233.5 million in outstanding RDA obligations, including:

- \$151 million in outstanding bonds;
- \$58.7 million agreement with Catellus, a private company who agreed to clean up a former refinery and convert the property into housing, where the RDA promised a portion of future tax increment; and
- \$8.3 million in loan agreements between the City and its RDA for various projects, including infrastructure, park improvements, and debt service payments. The City does not anticipate that DOF would consider the remaining \$41.7 million in similar loans as enforceable obligations.

While the annual bond payments and the agreement with Catellus have previously been considered enforceable obligations and must be paid before other obligations, the loan agreements with the City cannot become enforceable obligations, and be repaid with property tax revenue, without a Finding of Completion. On March 19, 2020, DOF and Hercules settled their remaining lawsuit. As part of the settlement, the City entered into a written payment plan that requires them to pay the State \$3.6 million in four payments over a three-year period. The City has already made one of these payments, and the next payment is due May 1, 2021.

To the extent DOF approves a Finding of Completion for the City of Hercules as a result of this bill, the City would have access to certain benefits, including classification of certain loans between the City and the RDA as enforceable obligation, or spending bond proceeds for other authorized purposes. The City has indicated that it does not plan to change how it spends bond proceeds, but it does anticipate classifying the \$8.3 million in loans noted above as enforceable obligations, which would reserve a portion of the property tax increment for loan repayment. By authorizing this action, SB 1300 reduces the amount of property tax revenues available for distribution to other local governments, including school districts, than they would receive under current law. As such, this bill would reduce the amount of funding available to offset General Fund education spending.

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