
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair
2021 - 2022 Regular

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Author: Laird
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Consultant: Peterson

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Tax Levy: No
Fiscal: Yes

REDEVELOPMENT: ENFORCEABLE OBLIGATIONS: CITY OF ATASCADERO

Makes specified loan agreements between the City of Atascadero and its former redevelopment agency enforceable obligations.

Background

Redevelopment agencies. From the early 1950s until the state dissolved them in 2011, California redevelopment agencies (RDAs) used property tax increment financing to pay for economic development projects in blighted areas. Generally, property tax increment financing involves a city or county forming a tax increment financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues generated when projects financed by the bonds increase assessed property values within the project area. To calculate the increased property tax revenues captured by the district, the amount of property tax revenues obtained by any local agency that receives a share of property tax revenues from property within a project area is “frozen” at the amount it received from that property prior to the project area’s formation. In future years, as the project area’s assessed valuation grows above the frozen base, the resulting additional property tax revenues—the increment—flows to the tax increment financing district instead of other local agencies. After the bonds have been fully repaid, the district is dissolved, ending the diversion of tax increment revenues from participating local agencies. Property tax revenues then flow back to each local agency that receives a share of the property tax.

Citing a significant State General Fund deficit, Governor Brown’s 2011-12 budget proposed eliminating RDAs and returning billions of dollars of property tax revenues to schools, cities, and counties to fund core services. Among the statutory changes that the Legislature adopted to implement the 2011-12 budget, AB X1 26 (Blumenfield, 2011) dissolved all RDAs. The California Supreme Court’s 2011 ruling in *California Redevelopment Association v. Matosantos* upheld AB X1 26, but invalidated AB X1 27 (Blumenfield, 2011), which would have allowed most RDAs to avoid dissolution. In response, the California Redevelopment Association (CRA) challenged the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to AB X1 26, but granted it with respect to AB X1 27. As a result, all RDAs dissolved as of February 1, 2012. At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over \$5.6 billion yearly.

RDAs’ dissolution deprived many local agencies of the primary tool they used to eliminate physical and economic blight, finance new construction, improve public infrastructure, rehabilitate existing buildings, and increase the supply of affordable housing. Until their

dissolution, state law required RDAs to set aside 20% of funding generated in a project area to increase the supply of low- and moderate-income housing. At the time the state dissolved RDAs, the Controller estimated that statewide, this requirement obligated RDAs to spend \$1 billion on affordable housing.

RDA dissolution. AB X1 26 (2011) established successor agencies to manage the process of unwinding former RDA affairs. With the exception of seven cities, the city or county that created each former RDA now serves as that RDA's successor agency.

One of a successor agency's primary responsibilities is to make payments for the enforceable obligations RDAs entered into. These payments are supported by property tax revenues that would have gone to RDAs, but are instead deposited in a Redevelopment Property Tax Trust Fund (RPTTF). Enforceable obligations include bonds, bond-related payments, some loans, payments required by the federal government, obligations to the state or imposed by state law, payments to RDA employees, judgments or settlements, and other legally binding and enforceable agreements or contracts. Any remaining property tax revenues that exceed these enforceable obligations return to cities, counties, special districts, and school and community college districts to support core services. The amount that these taxing entities receive increases as the successor agency pays off these enforceable obligations. If a successor agency adds additional enforceable obligations, the slower this stream of property tax revenue returns to these taxing entities.

Each successor agency has an oversight board responsible for supervising and approving its actions. The oversight board includes one member of the legislative body from each type of taxing entity, including the county, city, special districts, schools, and community colleges. Additionally, the county board of supervisors appoints a public member, and the mayor or board of supervisors appoints one member to represent RDA employees.

The Department of Finance (DOF) can review and request reconsideration of an oversight board's decision. Once a successor agency takes over for an RDA, it reviews the RDA's outstanding assets and obligations, and develops a plan to resolve those obligations, also known as a Recognized Obligation Payment Schedule (ROPS). To obtain required DOF approval, a successor agency submits a series of ROPS to the department. If DOF agrees with the plan, it issues a Finding of Completion acknowledging their progress towards paying off their obligations. DOF continues to review every ROPS twice per year, and approves the payment amounts for each item listed on the ROPS. If the successor agency and DOF disagree, they can enter a meet and confer process to resolve any disputes.

RDA dissolution's impact on schools. Unlike non-school taxing entities without a minimum funding guarantee, school districts receive both local property tax revenue and state General Fund, if necessary, to meet their minimum funding guarantee under Proposition 98 (1988). The state calculates the minimum guarantee by comparing three main formulas or "tests." Which test is used depends on certain inputs, such as State General Fund revenue, per capita personal income, and K-12 student attendance. In Test 1 years, where schools receive a set percentage of State General Revenue, decreased property tax revenues, which could occur because a higher level of RPTTF revenue goes to pay off enforceable obligations, would not be backfilled by the State General Fund. Test 1 is expected to be the operative test for the foreseeable future. If economic circumstances change, and Test 2 or Test 3 becomes the operative test, which guarantee funding based on prior year funding levels (including local property tax revenue) and other economic factors, the State General Fund would backfill decreased property tax revenues

for nonbasic aid districts, which need both local property tax revenue and State General Fund revenue to meet their minimum funding guarantee.

Loans between RDA and local agencies. While most agreements between the RDA and the local agency that created it dissolved because of dissolution, if a successor agency receives a Finding of Completion, some loan agreements between the RDA and the local agency that created it can become enforceable obligations and be repaid with RPTTF revenue. For example, loans entered into within the first two years of the RDA's creation can become enforceable obligations. Additionally, loans that the oversight board determines were for legitimate redevelopment purposes can also become enforceable obligations if they were a loan of money, a transfer of a real property interest, or involved contract with a third party. To qualify for repayment, the loan must have a defined repayment schedule. Upon oversight board approval, loans that meet these qualifications can be repaid provided that any interest on the remaining principal amount of the loan must be recalculated at a 3% interest rate according to a defined schedule over a reasonable term of years. The entity that created the RDA must use 20% of the repayment for affordable housing.

City of Atascadero. The City of Atascadero, a city of over 30,000 people in San Luis Obispo County, created its RDA in 1986. The RDA did not start receiving property tax increment until 2011 to revitalize its downtown. The City made three loans to its RDA between 1998 and 2002 to (1) start-up the RDA, (2) provide a revolving loan fund, and (3) purchase the building of an adult store and the adjacent abandoned gas station, totaling \$1.4 million. These loans did not include a payment plan for the RDA to repay the City. While the RDA intended to repay the loans from the City over the next few years, the 2003 San Simeon earthquake concentrated the focus of the RDA on repairing the heavily damaged downtown city hall and other disaster relief, and the Great Recession further delayed plans to repay these loans. The RDA did not repay these loans before RDAs dissolved in 2011. In 2013, the City was able to reoccupy City Hall and received a finding of completion for its RDA. Since these loans did not have payment terms, state law prevented them from becoming enforceable obligations repayable with RPTTF revenue. Despite these statutory constraints, its oversight board approved these loans as enforceable obligations on June 7, 2018. However, DOF never approved repayment of the loans because it did not have the statutory authority to approve their repayment because they did not include repayment terms. After accruing interest, the total outstanding obligation for these loans is \$2.3 million.

The City wants to make these loans enforceable obligations despite statutory limitations on loans without payment plans.

Proposed Law

Senate Bill 438 would make loans between the City of Atascadero and its RDA made between January 1, 1999, and January 1, 2003, enforceable obligations.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, “SB 438 would require that a loan agreement entered into between a redevelopment agency and the City of Atascadero between January 1, 1999, and January 1, 2003, will be enforceable. The City of Atascadero is being denied authority to obtain repayment of three loans made to its redevelopment agency. These loans were made in good faith and have been invested productively for the intended purpose of reducing blight, improving infrastructure, and expanding the city’s tax base. Since the inception of the redevelopment dissolution, the City has worked constructively and cooperatively with the Department of Finance (DOF) to ensure these loans could be repaid. Unfortunately, current statute precludes both the City and DOF from resolving their outstanding loans, absent the statutory authority. As California works toward recovering from negative economic impacts caused in the wake of the COVID-19 pandemic, ensuring the fiscal health of our local governments must be a top priority.”

2. No free lunch. AB X1 26 created successor agencies to unwind RDA obligations so that property tax revenues previously going to RDAs flow back to the local agencies generating the revenue. Repaying these loans could deprive other taxing entities of future property tax revenue because those revenues will instead flow to the successor agency for a longer duration, which adds to the ongoing costs of winding down redevelopment that the state and local agencies must already bear. Importantly, school districts and community college districts are also affected because the state expects to be in Test 1 when determining the Proposition 98 minimum funding guarantee for the next several years, meaning the State will not backfill this lost property tax revenue without further action. Using \$1.4 million to pay off the loan principal with the City diverts roughly \$800,000 from the schools’ share of property tax revenue in San Luis Obispo County, whose share of property tax revenue is 57%, and \$600,000 from other affected taxing entities. The Committee may wish to consider whether other taxing entities should support loans that do not meet statutory requirements because they did not include repayment terms.

3. Precedent. Cities made loans with RDAs for many reasons. Many cities loaned moneys to the RDAs they created to launch projects faster than waiting for property tax increment growth. RDA dissolution statutes prohibited repayment of loans without such key components as payment terms. SB 438 makes loans between the City of Atascadero and its RDA enforceable obligations even though they did not include all the required components, a benefit denied to other cities and their RDAs. Other cities may have similar loans with their RDA that have never been repaid. The Committee may wish to consider whether Atascadero should enjoy this benefit not shared by other cities and set a precedent for others to follow.

4. Process. SB 438 makes the loan agreements between the City of Atascadero and its RDA enforceable obligations regardless of the fact that they do not qualify under existing dissolution law. This circumvents the role that the oversight board and DOF traditionally played in determining which loans meet statutory requirements to become enforceable obligations. While the oversight board for Atascadero’s RDA previously approved these loans as enforceable obligations, the bill does not require the oversight board to revisit this decision if the bill passes. Additionally, SB 438 bypasses DOF’s role in deciding whether loans meet statutory requirements necessary to become enforceable obligations. While the bill avoids this part of DOF’s approval process, it does not make changes to the department’s role in approving the actual repayment terms on the semi-annual ROPS. The Committee may wish to consider whether further detail on DOF’s role in approving these loans’ repayment is necessary.

5. Special legislation. The California Constitution prohibits special legislation when a general law can apply (Article IV, §16). SB 438 contains findings and declarations explaining the need for legislation that applies only in the City of Atascadero.

Support and Opposition (3/22/21)

Support: Bruce Gibson, District Two Supervisor, County of San Luis Obispo Board of Supervisors; Dawn Ortiz-Legg, District Three Supervisor, County of San Luis Obispo Board of Supervisors; Debbie Arnold, District Five Supervisor, County of San Luis Obispo Board of Supervisors; John Peschong, District One Supervisor, County of San Luis; Lynn Compton, District Four Supervisor, County of San Luis Obispo Board of Supervisors; Atascadero Chamber of Commerce; Atascadero Unified School District; City of Atascadero; San Luis Obispo County Community College District / Cuesta College; San Luis Obispo County Office of Education.

Opposition: None listed.

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