SENATE RULES COMMITTEE SB 438

Office of Senate Floor Analyses

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THIRD READING

Bill No: SB 438

Author: Laird (D), et al.

Introduced: 2/16/21

Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 3/25/21

AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/20/21

AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

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SUBJECT: Redevelopment: enforceable obligations: City of Atascadero

SOURCE: City of Atascadero

DIGEST: This bill makes specified loan agreements between the City of Atascadero and its former redevelopment agency (RDA) enforceable obligations.

ANALYSIS:

Existing law:

1) Establishes successor agencies to manage the process of unwinding former RDAs' affairs, and oversight boards to approve successor agency decisions.

2) Allows the Department of Finance (DOF) to review and request reconsideration of an oversight board's decision.

3) Requires the successor agency to submit specified information on its outstanding assets and obligations, also known as a Recognized Obligation Payment Schedule (ROPS).

4) Allows DOF to issue a Finding of Completion to a successor agency acknowledging their progress towards paying off their obligations provided that its Final ROPS contains specified information.

5) Allows loan agreements made between the RDA and the local agency that created it to become enforceable obligations provided the successor agency has a Finding of Completion. 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.

6) Requires DOF to review every ROPS twice per year, and approve 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.

This bill makes loans between the City of Atascadero and its RDA made between January 1, 1999, and January 1, 2003, enforceable obligations.

Background

RDA dissolution. 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, judgements 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.

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.

Comments

1) *Purpose of this 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) *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. Should Atascadero enjoy this benefit not shared by other cities and set a precedent for others to follow?

3) *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 this 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- Estimated increased General Fund expenditures of up to $1.3 million over a period of years, as a result of the designation of $2.3 million in outstanding loan balances between the City of Atascadero and the former RDA as enforceable obligations.

- Approximately 57% to 59% of residual property tax increment revenues in the City of Atascadero RDA project area are allocated to K-14 school entities. Repayment of loans to the City of Atascadero 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, if Test 2 or 3 are operative. If Test 1 is operative, as is the case currently, reductions in property tax allocations to local taxing entities would not be backfilled by the General Fund.

SUPPORT: (Verified 5/21/21)

City of Atascadero (source)
Atascadero Chamber of Commerce
Atascadero Unified School District
San Luis Obispo County Community College District / Cuesta College

San Luis Obispo County Office of Education.
Supervisor Bruce Gibson, District Two, County of San Luis Obispo
Supervisor Dawn Ortiz-Legg, District Three, County of San Luis Obispo
Supervisor Debbie Arnold, District Five, County of San Luis Obispo
Supervisor John Peschong, District One, County of San Luis Obispo
Supervisor Lynn Compton, District Four, County of San Luis Obispo

OPPOSITION: (Verified 5/21/21)

None received

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