

Date of Hearing: June 9, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 438 (Laird) – As Introduced February 16, 2021

SENATE VOTE: 40-0

SUBJECT: Redevelopment: enforceable obligations: City of Atascadero.

SUMMARY: Makes specified loan agreements between the City of Atascadero and its former redevelopment agency (RDA) enforceable obligations. Specifically, **this bill:**

- 1) Specifies that a loan agreement entered into between a RDA and the City of Atascadero between January 1, 1999, and January 1, 2003, inclusive, shall be deemed to be an enforceable obligation and shall bind the successor agency.
- 2) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique fiscal circumstance in the City of Atascadero relating to loans made by the city to its former RDA.

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.
- 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.

FISCAL EFFECT: 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.

"Staff notes that 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."

COMMENTS:

- 1) **Redevelopment.** Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of RDAs to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Generally, property tax increment financing involves a local government 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 that are 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 received by any local government participating in the district is "frozen" at the amount it received from property within a project area 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 so-called property tax "increment" revenues — flow to the tax increment financing district instead of other local governments. After the bonds have been fully repaid using the incremental property tax revenues, the district is dissolved, ending the diversion of tax increment revenues from participating local governments.

Prior to Proposition 13 very few RDAs existed; however, after its passage, RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set-aside 20% of funding generated in a project area to increase the supply of low and moderate income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend \$1 billion on affordable housing. At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over \$5.6 billion yearly. In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved and the Governor signed two measures, ABX1 26 (Blumenfield), Chapter 5 and ABX1 27 (Blumenfield), Chapter 6 that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. As a result, all RDAs were required to dissolve as of February 1, 2012.

- 2) **Dissolution.** To oversee the dissolution of RDAs, the Legislature established successor agencies. The successor agencies were tasked with managing the RDA's assets and enforceable obligations, which include outstanding bonds, contracts, and loans, among others. The property tax revenue that would have gone to the RDA is deposited into the Redevelopment Property Tax Trust Fund (RPTTF) and are prioritized to first pay off any of

these enforceable obligations. Any remaining property tax revenue that is not spent on meeting the enforceable obligations is returned to cities, counties, special districts, and school districts.

Each successor agency was required to review the RDA's outstanding assets and obligations and develop a plan to meet those obligations. This plan, which is submitted to the DOF, is known as a ROPS. The DOF must review and agree to the successor agency's plan, and, if approved, issues a finding of completion.

- 3) **RDA Loans.** While most agreements between the RDA and the local agency that created it dissolved, 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 to 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 a 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.
- 4) **City of Atascadero.** Incorporated in 1979, the City of Atascadero, a city of over 30,000 people in San Luis Obispo County, created its RDA in 1986. 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 approximately \$1.4 million. 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. In 2013, the City was able to reoccupy City Hall and received a finding of completion for its RDA. The RDA oversight board approved these loans as enforceable obligations on June 7, 2018. However, DOF never approved repayment of the loans because it concluded it did not have the statutory authority to approve their repayment.
- 5) **Bill Summary and Author's Statement.** This bill makes certain loan agreements between the City of Atascadero and its RDA enforceable obligations. The City of Atascadero is the sponsor 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.”

- 6) **Policy Consideration.** RDA dissolution created a system for RDAs to unwind any enforceable obligations. As these obligations are paid over time, property tax revenues previously diverted to RDAs return to the local agencies that would otherwise receive the taxes. As more property tax is diverted to pay these new enforceable obligations, other taxing entities could see an overall decrease in revenue until the loans are ultimately paid down. In light of the potential impact on property taxes, the Committee may wish to consider if the unique local circumstances warrant further diversion of the taxes from other local agencies.
- 7) **Arguments in Support.** The City of Atascadero argues that, “Since the inception of redevelopment dissolution, the City of Atascadero has worked constructively, cooperatively and successfully with the Department of Finance (DOF) and we sincerely appreciate their partnership. Unfortunately, current law precludes both the City and DOF from resolving our outstanding loan matters absent the enactment of SB 438.

“SB 438 will enable the DOF to deem the City’s outstanding loans as enforceable obligations and will enable the repayment of 3 loans totaling \$1,375,175 that the City issued to their former RDA in good faith in 1999-2002. At the time of issuance, the funds were invested productively for the intended purpose of reducing blight and expanding the city’s tax base. Atascadero’s expectations of payment were clearly document in the original loan papers and confirmed in (a) resolutions, (b), loan agreements, (c) adopted budgets, (d) annual audits, (e) Statements of Indebtedness, (f) City financial planning documents and (g) at least 110 cash payments on each of the three loans.

“The City of Atascadero has complied in good faith with the intent and spirit of both the authorization of RDA and the legislation dissolving them. The funds loaned by the City to its RDA were being repaid with redevelopment tax increments prior to the state-mandated dissolution. These funds were invested in successful redevelopment projects that transformed downtown, generated substantial tax increment for the RDA’s taxing entities and preserved growth potential of its tax base following major earthquake damage, to the benefit of all parties concerned. The Oversight Board voted that the loans were for redevelopment purposes and voted unanimously to support the City’s proposed repayment schedule.”

- 8) **Arguments in Opposition.** None on file.
- 9) **Double Referral.** This bill is double-referred to the Housing and Community Development Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Atascadero [SPONSOR]

Atascadero Chamber of Commerce

Atascadero Unified School District

Bruce Gibson, District Two Supervisor, San Luis Obispo County

Dawn-Ortiz-Legg, District Three Supervisor, San Luis Obispo County

Debbi Arnold, District Five Supervisor, San Luis Obispo County

John Peschong, District One Supervisor, San Luis Obispo County
Lynn Compton, District Four Supervisor, San Luis Obispo County
San Luis Obispo County Community College District/Cuesta College
San Luis Obispo County Office of Education

Opposition

None on file

Analysis Prepared by: Jimmy MacDonald / L. GOV. / (916) 319-3958