Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Ed Chau, Chair
AB 974 (Bloom) – As Amended March 26, 2015

SUBJECT: Redevelopment dissolution: housing projects: bond proceeds

SUMMARY: Allows successor agencies of former redevelopment agencies (RDAs) greater flexibility for bond obligation proceeds issued between January 1, 2011, and June 28, 2011, under specified conditions. Specifically, **this bill**:

1) Extends, from January 1, 2011, to June 28, 2011, the date by which a housing successor can designate the use of, and commit, indebtedness obligation proceeds that were issued for affordable housing purposes.

2) Extends, from December 31, 2010, to June 28, 2011, the date in existing law that provides that bond proceeds derived from bonds issued on or before that date must be used for the purposes for which the bonds were sold.

3) Requires bond proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, to only be used for projects which meet the following criteria, as determined by a resolution issued by the oversight board:

   a) The project shall be consistent with the applicable regional sustainable communities strategy or alternative planning strategy adopted, as specified, that the State Air Resources Board (Board) has determined would, if implemented, achieve the greenhouse gas emission reduction targets established by the Board or, if a sustainable communities strategy is not required for a region by law, a regional transportation plan that includes programs and policies to reduce greenhouse gas emissions;

   b) Two or more significant planning or implementation actions shall have occurred on or before December 31, 2010. The term" significant planning or implementation actions" means any of the following:

      i) An action approved by the governing body of the city, county, city and county, the board of the former RDA, or the planning commission directly related to the planning or implementation of the project;

      ii) The project is included within an approved city, county, city and county, or RDA planning document, including, but not limited to, an RDA five-year implementation plan, capital improvement plan, master plan, or other planning document; or,

      iii) The expenditure by the city, county, city and county, or project sponsor, of more than $25,000 on planning-related activities for the project within one fiscal year, of $50,000 in total, over multiple years.

   c) Documentation dated on or before December 31, 2010, shall be provided indicating the intention to finance all or a portion of the project with the future issuance of long-term debt, or documentation showing that the issuance of long-term RDA debt was being planned on or before December 31, 2010;

d) Each construction contract over $100,000 shall include a provision that prevailing wage will be paid by the contractor and all of that contractor's subcontractors; and,

e) For each construction contract over $250,000, the successor agency shall require prospective contractors to submit a standardized questionnaire and financial statements as part of their bid package, to establish the contractor's financial ability and experience in performing large construction projects.

4) Provides that any city, county, or city and county that funded an eligible project, meeting the criteria listed above in 3a) through 3c), inclusive, with funds other than redevelopment funds, between June 28, 2011, and the effective date of this bill, shall be eligible to be reimbursed utilizing 2011 bond proceeds, if the project meets the purpose for which the bonds were issued.

5) Requires any successor agency requesting the use of bond proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, in accordance with 3) and 4), above, shall place that request on its Recognized Obligation Payment Schedule (ROPS).

6) Requires the successor agency to place each project on a separate ROPS line item.

7) Requires the successor agency to detail in the resolution adopting the ROPS how each project will meet the requirements in 3) and 4), above, and all documentation showing how the project meets those shall be attached to the resolution.

8) Requires the resolution adopting the ROPS, including the supporting documentation, to be forwarded to the Department of Finance (DOF) for review and approval or denial.

9) Provides that if remaining bond proceeds derived from bonds issued on or before December 31, 2010, cannot be spent in a manner consistent with the bond covenants in existing law, or if bond proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, cannot be used for projects that meet the requirements in 3) and 4), above, the proceeds shall be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

10) Requires, if only a portion of the bond proceeds will be used, the successor agency to defease or purchase bonds for cancellation in a manner that maximizes fiscal savings.

11) Requires, if bond proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, can be used for projects that meet the requirements of 3) and 4), above, the corresponding bonds to be refinanced, when refinancing is allowed according to the bond's indenture, to reduce debt service costs by lowering interest rates according to the provisions set forth in existing law.

EXISTING LAW:

1) Dissolves RDAs and institutes a process for winding down their activities.

2) Allows a city or county that authorized the creation of an RDA to elect to retain the housing assets and functions previously performed by the RDA.

3) Required the entity assuming the housing functions of the former RDA to submit to DOF by August 1, 2012, a list of all housing assets, as specified.

4) Allows the entity that assumed the housing functions to designate the use of and commit indebtedness obligation proceeds that remain after the satisfaction of enforceable obligations that have been approved in a ROPS and that are consistent with the indebtedness obligation covenants.

5) Requires the proceeds to be derived from indebtedness obligations that were issued for the purposes of affordable housing prior to January 1, 2011, and were backed by the Low- and Moderate-Income Housing Fund.

6) Requires DOF to issue a finding of completion to the successor agency, within five business days, once the following conditions have been met and verified:

   a) The successor agency has paid the full amount as determined during the due diligence reviews and the county auditor-controller has reported those payments to DOF; and,

   b) The successor agency has paid the full amount as determined during the July True-up process; or,

   c) The successor agency has paid the full amount upon a final judicial determination of the amounts due and confirmation that those amounts have been paid by the county auditor-controller.

7) Allows the successor agency, upon receiving the finding of completion, to:

   a) Retain dissolved RDA assets;

   b) Place loan agreements between the former RDA and sponsoring entity on the ROPS, as an enforceable obligation, provided the oversight board makes a finding that the loan was for legitimate redevelopment purposes; and,

   c) Utilize proceeds derived from bonds issued prior to January 1, 2011, in a manner consistent with the original bond covenants.

8) Requires, after DOF issues a finding of completion, the successor agency to prepare a long-range property management plan that addresses the disposition and use of the real properties of the former RDA, and requires the report to be submitted to the oversight board and DOF for approval no later than six months following the issuance to the successor agency of the finding of completion.

FISCAL EFFECT: Unknown.

COMMENTS:

Background: In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Redevelopment redirected 12% of property taxes statewide away from schools and other local taxing entities and into community development and affordable housing. Ultimately, the Legislature approved and the Governor signed two measures, AB 26 X1 (Blumenfield), Chapter 5, Statutes of 2011-12 First Extraordinary Session, and AB 27 X1 (Blumenfield), Chapter 6, Statutes of 2011-12 First Extraordinary Session, 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 AB 26 X1. However, the Court did grant the petition with respect to AB 27 X1. As a result, all RDAs were required to dissolve as of February 1, 2012.

As part of the winding down of redevelopment agencies, AB 1484 (Blumenfield), Chapter 26, Statutes of 2012, made various statutory changes associated with the dissolution of RDAs and addressed a number of substantive issues related to administrative processes, affordable housing activities, repayment of loans from communities, use of existing bond proceeds and the disposition or retention of former RDA assets.

One of the provisions in AB 1484 allowed successor agencies that have received a "finding of completion" from DOF to have additional discretion regarding former agency real property assets, loan repayments to the local government community that formed the agency, and use of proceeds from bonds issued by the former RDA. In order to receive the finding of completion, the successor agency must undergo specified due diligence reviews and make the required payments to DOF. Current law requires redevelopment bonds issued between January 1, 2011, and June 28, 2011 to be defeased, or used to purchase the bonds on the open market for cancellation.

This bill allows successor agencies to use bond proceeds issued by RDAs between January 1, 2011, and June 28, 2011, as long as the criteria in the bill are met, and gives DOF the ability to review and either approve or deny the request by the successor agency to use bond proceeds. Criteria for allowing bond proceeds to be used include a requirement that the project be consistent with the applicable sustainable communities strategy or alternative planning strategy, pursuant to SB 375 (Steinberg), Chapter 728, Statutes of 2008, a requirement that two or more significant planning or implementation actions must have occurred on or before December 31, 2010, as the bill defines, and that documentation dated on or before December 31, 2010, must be provided indicating the intention to finance all or a portion of the project with the future issuance of long-term debt, or documentation showing that the issuance of long-term RDA debt was being planned on or before December 31, 2010.

This bill also specifies that prevailing wage must be included for each construction contract over $100,000, and requires a standardized questionnaire and financial statements as part of the bid package for construction contracts over $250,000. The bill contains several other provisions to clarify when 2011 bond proceeds need to be defeased, if the criteria in the bill are not met, and requires the defeasing of bonds to be done in a manner that maximizes fiscal savings.

The author has introduced similar legislation in the past including AB 2493 (Bloom) (2013) which was vetoed. To address the veto, this bill would require a successor agency to refinance their 2011 bonds to lower interest rates when refinancing is allowed by the bond's indenture. The intent of this change is to reduce the fiscal impact to the state and other taxing entities due to the use of the 2011 bond proceeds.

Purpose of this bill: According to the author, "It is estimated that approximately $750 million in 2011 RDA bond proceeds are currently sitting idle and cannot be used. If these proceeds were spent on their intended projects, it is estimated that 19,000 high wage construction and related jobs would be generated. The State has asserted that the vast majority of the 2011 RDA bonds must be defeased and their proceeds not spent on projects; however, over 90% of these bonds cannot be defeased for 10 years. During this ten year period nearly $1 billion will be spent on the debt service payments for these bonds, and the bond proceeds will continue to go unused. The vast majority of these bonds were issued for public works projects such as infrastructure construction and repair, new public facilities, and affordable housing. Bondholders who purchased tax-exempt bonds (approximately 70% of the bonds in question) for specific public works projects were promised tax-free returns. Per Federal Tax Law, tax-exempt bond proceeds must be used for their intended purpose, or the bonds could be subject to losing their tax-exempt status."

Related Legislation:

AB 981 (Bloom) of 2013: Would have allowed successor agencies to use proceeds of bonds issued by a RDA between January 1, 2011, and June 28, 2011, for projects of the former RDA, upon the issuance of a finding of completion by DOF. That bill was held in the Assembly Appropriations Committee.

AB 2493 (Bloom) of 2014: Would have allowed successor agencies to use proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, if the project was consistent with a sustainable communities strategy or reduced greenhouse gas emissions. AB 2493 was vetoed by Governor Brown, with the following veto message:

> "I applaud the author's efforts to craft legislation to target specific projects for funding from 2011 bond proceeds. Funding for this measure, however, would come at the expense of lost property tax dollars to cities and counties that chose not to incur debt during this period, as well as special districts and schools. The cost to the general fund to backfill schools could be significant, to the tune of $500 million, at a time when the state is still recovering from deep recession.
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> "I recognize that the cost to local governments to defease these high interest rate bonds is significant. Therefore, I am directing DOF to develop a plan to address the outstanding bond debt of these agencies."

Double-referred: This bill was double-referred to the Committee on Local Government, where it passed 5-1 on April 15, 2015.

REGISTERED SUPPORT / OPPOSITION:

Support

City of West Hollywood (sponsor)
City of Santa Monica

Opposition

California Professional Firefighters
California Special Districts Association (CSDA)
California State Association of Counties (CSAC)
Santa Clara County Board of Supervisors

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