

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Ed Chau, Chair

AB 654 (Brown) – As Amended April 22, 2015

SUBJECT: Redevelopment: revenues from property tax override rates

SUMMARY: Enacts provisions that would allow revenues from a voter-approved property tax in support of a State Water Project to be allocated to the city or county whose voters approved the tax, in specified conditions. Specifically, **this bill:**

1) Finds and declares all of the following:

- a) The California Constitution limits property-based tax levies, with exceptions to these limits only when a local jurisdiction obtains the approval of its voting electorate to use additional property-based tax levies for specific purposes approved by the voting electorate, in accordance with applicable constitutional and statutory provisions.
- b) With the enactment of AB 26 X1 (Blumenfield), Chapter 5, Statutes of 2011-12 First Extraordinary Session, the Legislature intended that, upon dissolution of redevelopment agency (RDAs) in the State of California, property taxes that would have been allocated to RDAs are no longer deemed tax increment.
- c) It is the intent of the Legislature in enacting this act to do all of the following:
 - i) If an RDA had previously pledged revenues derived from the imposition of a property tax rate, approved by the voters of a city, county, or city and county to make payments in support of a State Water Project and levied in addition to the property tax rate limited by the California Constitution, to pay a portion of the debt service due on indebtedness incurred by the former RDA on an approved Recognized Obligation Payment Schedule (ROPS), then the successor agency shall continue to pledge those revenues, in a commensurate rate going forward. For example, if revenues derived from a State Water Project approved by the voters of a city, county, or city and county were pledged to pay up to 25% of the annual debt service for the indebtedness approved in a ROPS, the successor agency shall continue to pay up to 25% of the annual debt service on the indebtedness until maturity. Any and all excess pledged revenues derived from the State Water Project that are not necessary to pay the debt service on the indebtedness shall be allocated and paid to the city, county, or city and county whose voters approved the State Water Project property tax rate;
 - ii) Ensure that the use of revenues derived from the imposition of a property tax rate approved by the voters of a city, county, or city and county, to make payments in support of State Water Projects and levied in addition to the property tax rate limited by the California Constitution, is consistent with the use approved by the voters of a city, county, or city and county, once revenues from such property tax rates are not needed to pay approved indebtedness of a former RDA;

- iii) Implement the allocation and distribution of voter-approved, property-based tax revenues for State Water Projects under the RDA dissolution process in a manner that would have been consistent with the allocation and distribution of those revenues had RDAs not been dissolved, in accordance with applicable constitutional provisions; and,
 - iv) It is the intent of the Legislature that this act not affect any property tax allocations that occurred prior to an unspecified date.
- 2) Requires the county auditor-controller, prior to allocating moneys in each Redevelopment Property Tax Trust Fund (RPTTF) pursuant to the specified formula in existing law, to additionally deduct the revenues allocated as follows:
- a) On January 2, 2016, and each January 2 and June 1 thereafter, to a city or county that levies a property tax rate, approved by the voters of a city or county to make payments in support of a State Water Project and levied in addition to the property tax rate limited by the California Constitution, an amount of property tax revenues equal to the amount of revenues derived from the imposition of that tax rate that were allocated to the RPTTF for that fiscal period. Provides that this paragraph shall not apply to the extent that revenues derived from the imposition of a property tax rate are not deposited into a RPTTF as provided by 3) through 6) below.
- 3) Allows a city or county that levies a property tax rate, approved by the voters of a city or county to make payments in support of a State Water Project and levied in addition to the property tax rate limited by the California Constitution, to make a request to an oversight board to prohibit revenues derived from the imposition of that property tax rate from being deposited into an RPTTF.
- 4) Provides, based on substantial evidence that a former RDA made a pledge of revenues that specifically included revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of a State Water Project and levied in addition to the property tax rate limited by the California Constitution, that an oversight board may deny a request pursuant to 3), above, in an amount not to exceed the amount of revenues pledged by the former RDA.
- 5) Provides, notwithstanding any other law, for the 2015-16 fiscal year and each fiscal year thereafter, except to the extent an oversight board denies a request as provided in 4), above, that any revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of a State Water Project and levied in addition to the property tax rate limited by the California Constitution, shall not be allocated to an RPTTF, and shall instead, be allocated to, and when collected shall be paid into, the fund of the city or county whose voters approved the tax.
- 6) Provides, notwithstanding any other law, all allocations of revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of a State Water Project and levied in addition to the property tax rate limited by the California Constitution, made by any county auditor-controller prior to July 1, 2015, shall be deemed correct and shall not be affected by this bill. Provides that a city, county, county auditor-controller, successor agency, or affected taxing entity shall not be

subject to any claim for money, damages, or reallocated revenues based on any allocation of such revenues prior to an unspecified date.

- 7) Provides that reimbursement to local agencies and school districts shall be made, if the Commission on State Mandates determines that this act contains costs mandated by the state.

EXISTING LAW:

- 1) Dissolves RDAs and institutes a process for winding down their activities.
- 2) Defines "enforceable obligations."
- 3) Requires successor agencies to make payments due on enforceable obligations, as specified.
- 4) Requires successor agencies to prepare a ROPS, before each six-month fiscal period, in accordance with specified requirements, and requires the schedule to identify one or more of the following sources of payment:
 - a) Low- and Moderate-Income Housing Fund;
 - b) Bond proceeds;
 - c) Reserve balances;
 - d) Administrative cost allowance;
 - e) The RPTTF, as specified; and,
 - f) Other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the former redevelopment agency, as approved by the oversight board.
- 5) Requires each successor agency to have an oversight board of seven members to approve certain actions of the successor agency.
- 6) Requires the Department of Finance (DOF) to review the actions of an oversight board.
- 7) 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;
 - 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.
- 8) 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.
- 9) 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 redevelopment agency, 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.
- 10) Limits property tax to 1% except for specific bonded debt, pursuant to the California Constitution.

FISCAL EFFECT: Unknown.

COMMENTS:

Background: Under redevelopment law, RDAs created project areas that captured incremental property tax growth within the project areas. RDAs collected the increase in property tax that would otherwise have gone to cities, counties, special districts, and schools. To alleviate the fiscal burden of redevelopment, RDAs entered into pass through payments with other local taxing entities out of tax increment it collected. Under RDA dissolution, RDAs no longer pass on the tax increment growth to pay pass through agreements. This is because property tax increment is no longer allocated to RDAs. Instead, a county auditor-controller deposits former RDA property tax increment, including tax increment into a trust fund. After deducting a share of the tax increment for its administrative cost, the auditor-controller uses the revenues deposited into the trust fund to pay the following 1) pass through payments, 2) enforceable obligations of the RDA, and 3) successor agencies administrative costs. Remaining revenues are then distributed to the other local governments whose jurisdiction overlaps with the former RDA based on each local government's share of the 1% property tax.

In the 1960s, the voters of San Bernardino County approved a tax increase to fund State Water Projects in the county. After the creation of redevelopment, the Valley Municipal Water District (Valley District) entered into pass through agreements with the RDAs to receive in some cases a portion and in other cases all the property taxes they would have received pre-redevelopment.

According to the sponsor, Valley District had 23 negotiated agreements with ten RDAs for project areas throughout its service area. Although Valley District is receiving a portion of the payment, Valley District indicates that it is not receiving its entire pass through payment and is entitled to an additional \$10 million which is being distributed by the San Bernardino county-auditor to other taxing entities out of the residual balance remaining after all the obligations of the RDA are paid.

This bill would authorize a city or county that levies a property tax rate, approved by the voters of a city or county to make payments in support of a State Water Project and levied in addition to the general property tax rate, to make a request to an oversight board to prohibit revenues derived from that property tax rate from being deposited into a Redevelopment Property Tax Fund. This bill would authorize an oversight board to deny this request based on substantial evidence that a former RDA made a pledge of revenues that specifically included revenues derived from the imposition of that property tax rate. This bill, for the 2015-16 fiscal year and each fiscal year thereafter, except to the extent an oversight board denies a request, would prohibit any revenues derived from the imposition of that property tax rate from being allocated to an RPTTF, and would, instead, require these revenues to be allocated to, and when collected to be paid into, the fund of the city or county whose voters approved the tax.

This bill would require all allocations of revenues derived from the imposition of that property tax rate made by any county auditor-controller prior to an unspecified date to be deemed correct, and would prohibit any city, county, county auditor-controller, successor agency, or affected taxing entity from being subject to any claim, as specified. This bill would require, to the extent that revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of State Water Projects and levied in addition to the general property tax rate, are deposited into an RPTTF, the county-auditor controller to allocate moneys from each RPTTF to a city or county that levies a property tax as so described after certain other allocations have been made.

Purpose of this bill: According to the author, "AB 654 would remedy the situation in which the revenues derived from the voter-approved property tax overrides are being misallocated in the course of the RDA dissolution process in the County of San Bernardino. Currently, the San Bernardino County auditor-controller is allocating the residual balances from each former RPTTF to taxing agencies based on each agency's share of the 1% county general tax levy without taking into account any specific debt service override tax including Valley District. This results in Valley District debt service tax override proceeds that are not needed for payment of approved former RDA expenses to be allocated out to all taxing entities ignoring that a certain portion of that residual balance was derived directly from Valley District's tax override rate.

Staff comments: Committee staff is not clear how many State Water Projects there are in the state that have pass through agreements with former RDAs and could qualify for additional tax revenues under this bill. The sponsor has indicated that the pass through agreements it had with RDAs in San Bernardino County are unique. The committee also may wish to consider that by prioritizing Valley District and potentially other unknown State Water Projects to receive more property taxes from a RPTTF than is specified by their pass through agreements, other taxing entities will not be receiving as much in residual receipts. Those property taxes could go toward the city and county to pay for services and in some cases cities have set up "boomerang funds" to direct property taxes toward affordable housing activities.

Future amendments: The author needs to add a date by which a county auditor-controller must deem as correct the allocation of revenues derived from the imposition of the State Water Project property tax rate. The author is aware this needs to be addressed and plans to amend the bill to add the date July 1, 2015 in the next committee.

Double-referred: This bill was double referred to the Committee on Local Government, where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

San Bernardino Valley Municipal Water District (sponsor)
East Valley Water District

Opposition

None on file.

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