

oversight board must approve any action to remove an enforceable obligation from a ROPS for a successor agency that has received a finding of completion.

Senate Bill 1129 allows a successor agency that has received a finding of completion to enter into, or amend existing, contracts and agreements or otherwise administer

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projects in connection with long-term enforceable obligations, if the contract, agreement, or project will not commit new tax funds, or will not otherwise adversely affect the flow of tax increment to taxing agencies. The bill specifies that this provision applies to the substitution of private developer capital in a disposition and development agreement that has been deemed an enforceable obligation.

II. Long Range Property Management Plans and Compensation Agreements

. State law allows a successor agency that has received a finding of completion to retain a former redevelopment agency's real property and interests in real property, with specified exceptions. A successor agency must prepare a long-range property management plan (LRPMP) that addresses the disposition and use of a former redevelopment agency's real property. Current law specifies elements that must be included in LRPMPs and prohibits the transfer of property to a successor agency, city, county, or city and county unless a successor agency's oversight board and DOF approve a LRPMP. To date, DOF has approved more than 90 plans submitted by successor agencies. A city, county, or city and county that wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to state law, for the value of the property retained. Senate Bill 1129:

Declares that the requirement to reach a compensation agreement does not apply to the disposition of properties pursuant to a LRPMP.

Prohibits DOF from requiring a compensation agreement or agreements as part of the approval of a LRPMP.

Specifies that DOF must only consider whether a LRPMP makes a good faith effort to address the requirements set forth in state law.

Requires DOF to approve LRPMPs as expeditiously as possible.

Deletes a requirement that successor agencies must dispose of former redevelopment agencies' properties if DOF does not approve the agency's LRPMP by January 1, 2015.

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III. Bond proceeds . State law allows a successor agency that receives a finding of completion to use bond proceeds derived from bonds issued on or before December 31, 2010, for the purposes for which the bonds were sold. Bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations must be expended in a manner consistent with the original bond covenants. If remaining bond proceeds cannot be spent in a manner consistent with the bond covenants, the proceeds must be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation. Defeasing bonds is a method of retiring bond debt by buying and holding risk-free U.S. Treasury securities in an amount that is sufficient to cover all principal and interest payments on the outstanding bonds. Senate Bill 1129 allows a successor agency to use proceeds of bonds issued by a former redevelopment agency in 2011, upon approval of the oversight board, if:

The proceeds are used in a manner that is consistent with the purposes for which the bonds were sold, and

The oversight board, in consultation with the appropriate metropolitan planning organization, determines that the use of the bond proceeds is consistent with the sustainable communities strategy adopted by the metropolitan planning organization.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill . Local officials have identified ambiguities and obstacles in current law which prevent them from completing vital economic development projects that began before redevelopment agencies were dissolved. Because state law doesn't provide successor agencies any flexibility to adjust contracts for enforceable obligations in ways that don't affect tax increment, successor agencies may be unable to finance or complete long-term phased development projects that are already underway. State law offers successor agencies no good options for disposing of billions of dollars of unspent RDA bond proceeds. If the

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interest rates that a successor agency earns on securities it buys to defease bonds are significantly lower than the interest payments on the bonds, the agency will lose money on the transaction. As a result, successor agencies may choose to retain hundreds of millions of dollars of bond proceeds for extended periods of time, while paying debt service, without producing any new infrastructure or economic development. Some local officials see the requirement to enter into compensation agreements with other taxing entities for real property retained by a successor agency as an impediment to their ability to use these publicly owned properties for economic development purposes. By eliminating these types of ambiguities and obstacles, SB 1129 will support the completion of numerous development projects that have already received millions of dollars of public investments, support state policy goals, and benefit residents throughout California.

2. Forgiving Mardi Gras sins . In what has been called a "Mardi Gras" reaction, some redevelopment officials responded to Governor Brown's January 2011 proposal to eliminate redevelopment agencies by accelerating their RDAs' tax allocation bond sales. According to the Legislative Analyst's Office, in the first six months of 2011, RDAs issued about \$1.5 billion in tax allocation bonds, a level of debt issuance greater than during all 12 months of 2010 (\$1.3 billion). About two-thirds of the bond issuances in 2011 had interest rates greater than 7 percent-compared with less than one-quarter of bond issuances in 2010. In fact, RDAs issued more tax allocation bonds with interest rates exceeding 8 percent during the first six months of 2011 than they had in the previous ten years. Because some of these atypical bond sales were efforts to preempt the Governor's proposal by establishing debt obligations that would tie up property tax increment revenues well into the future, state law does not allow successor agencies to use unencumbered proceeds from bonds sold in 2011. The Committee may wish to consider whether local officials should now be allowed to use bond proceeds that were generated in an ill-conceived rush to confound the Governor's RDA proposal.

3. Setting limits . SB 1129 would allow a successor agency to use 2011 bond proceeds regardless of whether the agency receives a finding of completion. The bill also would allow a successor agency to spend 2011 bond proceeds

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without comparing the relative costs of retiring the bonds and obtaining other financing with the cost of paying debt service over the full term of the bonds. In some cases, it may not make fiscal sense to allow local officials to finance projects with bonds issued at 9% interest, even after accounting for the costs of retiring those bonds. The Committee may wish to consider amending SB 1129 to require that before a successor agency uses 2011 bond proceeds it must receive:

A finding of completion from the DOF; and,
A finding from its oversight board, based on substantial evidence in the record, that using the 2011 bond proceeds for specified purposes will be less costly than retiring the 2011 bonds and using other financing mechanisms to finance the proposed projects.

4. Compensation agreements and LRPMPs . SB 1129 eliminates a requirement that a city, county, or city and county must negotiate a compensation agreement with other taxing

entities for former RDA properties that it retains pursuant to a long-range property management plan. The bill's proponents argue that the Legislature never intended for compensation agreements to be a condition of the LRPMP process and that such agreements unnecessarily restrict local officials' ability to manage and develop former RDA properties. The bill's opponents argue that compensation agreements are important tools that allow local governments to protect the collective investment of the local governments that funded the acquisition of former RDA property. Nothing in current law requires that a successor agency or city must provide compensation at fair market value - or provide any compensation at all - for property that is retained for governmental use. But, the requirement to negotiate a compensation agreement can help ensure that properties acquired with property taxes diverted from many local governments don't produce a windfall only for a few local governments if those properties are used for economic development purposes. The Committee may wish to consider whether SB 1129 should eliminate the requirement to negotiate compensation agreements for former RDA properties.

5. Recognized obligation payment schedules . DOF sometimes disallows an item that appears on a successor agency's ROPS even though that item has appeared on a previous ROPS that the DOF approved. Local officials object that this

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practice is confusing, unpredictable, and unfair. Current law allows a successor agency to apply for a "final and conclusive" determination from DOF to definitively confirm an enforceable obligation. Alternatively, SB 1129 requires an oversight board to grant approval before any item is removed from a ROPS submitted by a successor agency that has received a finding of completion. This language is ambiguous and could be misinterpreted as requiring oversight board approval before a successor agency submits a ROPS that doesn't contain an item listed on a previous ROPS. However, the intent of the requirement is to prevent the DOF from reversing its approval of ROPS items that it has previously reviewed and approved. The Committee may wish to consider whether the process for obtaining a "final and conclusive" determination under current law provides a local officials with sufficient certainty regarding DOF's enforceable obligation decisions. If not, the Committee may wish to provide more clarity by amending SB 1129 to require DOF to specifically identify each item on a ROPS that it has reviewed and approved.

6. Next in line ? SB 1129's provision don't address the full range of concerns that local officials have regarding the redevelopment dissolution process. Changing state law to address some local concerns with redevelopment dissolution may invite a long line of similar proposals from other local governments. For example, officials in communities throughout the state have objections to DOF decisions rejecting hundreds of requests from successor agencies to recognize loan agreements, cooperative development agreements, and other covenants between a former RDA and the city or county that created it as enforceable obligations. SB 1129 may lay the groundwork for expanding the statutory definition of an enforceable obligation to include other types of local government-RDA agreements.

7. Zero-sum game . Allocating former RDAs' property tax increment revenues is a zero-sum game; every reallocation creates winners and losers. A successor agency that, under SB 1129's provisions, finances projects using proceeds from bonds issued in 2011 will receive larger allocations of former property tax increment revenues in some fiscal years than it would under current law. Other local governments - including school districts - will receive smaller allocations than they would under current law. One fiscal

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loser will be the State General Fund, which must backfill the revenues that the schools won't get. Similarly, by allowing successor agencies to retain some former RDA properties without providing any compensation to other taxing entities, SB 1129 may reduce revenues that would have gone to schools and other local governments through compensation agreements that are required under current law.

8. Technical amendments . On February 18, 2014, Governor Brown signed Assembly Bill 471 (Atkins), which amended several statutes that would also be amended if SB 1129 is enacted. Because AB 471 was an urgency statute, approved by a two-thirds vote in both houses of the Legislature, that bill's changes to state law took effect immediately. Because SB 1129's language does not reflect the changes that AB 471 made to state law, enacting SB 1129 in its current form would have the unintended effect of repealing, or "chaptering out," some of AB 471's provisions. The Committee may wish to consider amending SB 1129 to include the changes made to state law by AB 471. Also, to clarify the bill's language, the Committee may wish to consider replacing the word "capitol" with the word "capital" on page 18, line 27.

Support and Opposition (4/3/14)

Support : BRIDGE Housing; California Infill Builders Federation; California Rural Legal Assistance Foundation; City of Folsom; City of Santa Cruz Mayor Lynn Robinson; Glendale City Employees Association; San Bernardino Public Employees Association; San Luis Obispo County Employees Association; Western Center on Law and Poverty; David Ashton; Rachel Bradley; Brian Foster; Michael Kusiak; Steve Ontiveros; Peter Rosen; Carey Sanchez Para; Scott San Filippo; Rebecca Stanek-Rykoff; Dorothy Theodore; Mark Yin.

Opposition : Santa Clara County; California Special Districts Association.