Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 1270 (Dixon) – As Amended March 23, 2023

SUBJECT: Redevelopment: successor agency: City of Lake Forest.

SUMMARY: Requires the Orange County Auditor Controller to allocate property tax revenues attributable to the El Toro Project Area to the Redevelopment Property Tax Trust Fund (RPTTF) established for the former Lake Forest Redevelopment Agency (RDA), as specified. Specifically, **this bill**:

1) Provides that the Orange County Auditor shall allocate property tax revenues attributable to the El Toro Project Area between the Redevelopment Property Tax Fund established for the former Orange County Development Agency and the Redevelopment Property Tax Fund established for the former Lake Forest RDA, as specified, until a final resolution of dissolution for the successor agency to the former Orange County Development Agency has been submitted to the Orange County Auditor Controller.

2) Specifies that, upon receipt of the final resolution of dissolution for the successor agency to the former Orange County Development Agency submitted pursuant to existing law, the Orange County Auditor Controller shall allocate property tax revenues attributable to the El Toro Project Area to the RPTTF for the former Lake Forest RDA and allocate money in this fund, as specified.

3) Specifies that Health and Safety Code 34182.1, as proposed to be amended by this bill, is intended to implement the transfer agreement, as specified, and the dissolution of the successor agency to the former Orange Development Agency. The allocation of revenues into the RPTTF established for the former Lake Forest RDA pursuant to the transfer agreement and the listing of those payments by the successor agency to the Orange County Development Agency on its Recognized Obligation Payment Schedule (ROPS) shall not preclude the approval of a request for dissolution of the successor agency to the Orange County Development Agency, as specified.

4) Removes specified declaratory language.

5) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique financial circumstances in the City of Lake Forest relating to the repayment of its redevelopment obligations.

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

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

1) **Bill Summary and Author's Statement.** This bill would require the Orange County Auditor Controller, upon receipt of the final resolution of dissolution for the successor agency to the former Orange County Development Agency, to allocate property tax revenues attributable to the El Toro Project Area to the fund established for the former Lake Forest RDA. Orange County is the sponsor of this bill.

   According to the author, "Prior to the incorporation of the City of Lake Forest, the El Toro Redevelopment Project Area was under jurisdictional control of the County of Orange. When the City of Lake Forest established the Lake Forest RDA and control over the Project Area was subsequently transferred to Lake Forest, the City, County and Agency entered into a Transfer Agreement. The purpose of the Transfer Agreement was to allow the transfer of tax increment from the Project Area to the Lake Forest RDA and ensure the protection of the County's pre-existing bond obligations. With the County's successor agency retiring its debt in September of 2023, and no longer being eligible to receive redevelopment property tax dollars, this calls into question the City's ability to still receive said funds, as approved by the State Department of Finance. AB 1270 will allow the Lake Forest successor agency to receive redevelopment property tax revenues directly from the County Auditor-Controller; like other successor agencies.

2) **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.

3) **RDA Dissolution.** AB X1 26 (2011) established successor agencies to manage the process of unwinding former RDA affairs. With the exception of seven cities, the city or county that created each former RDA now serves as that RDA's successor agency. 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.

   Each successor agency has an oversight board responsible for supervising and approving its actions. DOF can review and request reconsideration of an oversight board's decision. Once a successor agency takes over for an RDA, it reviews the RDA's outstanding assets and obligations, and develops a plan to resolve those obligations, also known as a Recognized Obligation Payment Schedule (ROPS). To obtain required DOF approval, a successor agency submits a series of ROPS to DOF. If DOF agrees with the plan, it issues a Finding of Completion acknowledging their progress towards paying off their obligations. Successor agencies issued a Finding of Completion can submit a Last and Final ROPS, meaning that (1) the remaining debt is limited to administrative costs and payments pursuant to enforceable obligations with defined payment schedules, (2) all remaining obligations have been previously listed on the ROPS and approved by DOF, and (3) the agency is not a party to outstanding or unresolved litigation. Successor agencies had until December 31, 2015 to receive their Finding of Completion from DOF.

4) **Lake Forest RDA.** The Neighborhood Preservation and Development Project, established by Orange County's former RDA, was a single redevelopment project area that consisted of 14 separate, non-contiguous subareas. When the City of Lake Forest incorporated in 1991, the City's boundaries encompassed almost all of the subarea known as the El Toro Project Area. After the City of Lake Forest created its RDA, the Legislature specified terms under which Orange County's RDA could transfer, to a city's RDA, jurisdiction over the portion of the Neighborhood Preservation and Development Project's area that fell within a city's boundaries [AB 1502 (Campbell), Chapter 53, Statutes of 1997]. Pursuant to that statute, in 1998, Orange County's RDA transferred territorial jurisdiction over the portion of the El Toro Project Area located in the City of Lake Forest to the city's RDA. In 1999, the county and the city entered into a transfer agreement that formalized the terms of the transfer.

Orange County's RDA had committed tax increment revenue from the El Toro Project area to repay indebtedness it incurred before it entered into the transfer agreement with Lake Forest. To preserve the Orange County RDA's ability to repay its indebtedness, the transfer agreement specified the manner in which the county's RDA and Lake Forest's RDA were to receive tax increment revenues from the part of the El Toro Project Area that was subject to the transfer agreement. Specifically, the agreement directed the Orange County Auditor-Controller to make, to the City of Lake Forest, a single annual payment of the property tax increment revenues that remained after the Auditor-Controller allocated property tax increment revenues to Orange County's RDA, pursuant to specified formulas, in an amount sufficient to repay or refinance the County RDA's existing indebtedness related to the El Toro Project Area.

5) **AB 2647 of 2014.** The state laws governing RDAs' dissolution complicated efforts to properly allocate property tax increment revenues among the various affected taxing entities. After the dissolution of RDA's, the City of Lake Forest sponsored AB 2647 (Wagner), Chapter 826, Statutes of 2014. The author of AB 2674 stated, "Some local officials are concerned that, without legislative action to clarify this process and mitigate the confusion, payments due to the affected tax agencies, including school districts and public agencies could be delayed or missed altogether. AB 2647 provides this clarity by conforming the method for allocating property taxes from the El Toro Project Area more closely to the allocation method that applies to most other redevelopment-related property taxes."

6) **Arguments in Support.** According to Orange County, "Before the City of Lake Forest was incorporated, the El Toro Sub Area was under the jurisdiction of the County. When the City of Lake Forest established the Lake Forest Redevelopment Agency, the Project Area was transferred to the City. Health and Safety Code (HSC) 34182.1 requires that relevant property tax revenues related to the County's former El Toro Sub Area be deposited into the County's Redevelopment Property Tax Trust Fund to address County debt service before any funds being disbursed to the City of Lake Forest. Although the County's Successor Agency is set to retire its debt in 2023, HSC Section 34182.1 would require it to remain in operation until 2033, when the City of Lake Forest retires its debt.

   "Assembly Bill 1270 would amend HSC Section 34182.1 to allow the Lake Forest Successor Agency to receive redevelopment property tax revenues directly from the County Auditor-Controller and enable the County's Successor Agency to dissolve as planned in September 2023. This legislative fix will reduce administrative costs for the County, wind down a successor agency, and ensure the City of Lake Forest continues to receive property tax dollars."

7) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Orange County

Opposition

None on file

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