

Date of Hearing: May 4, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2780 (Arambula) – As Amended April 25, 2022

SUBJECT: Dissolution of redevelopment agencies: enhanced infrastructure financing districts: City of Selma.

SUMMARY: Allows the City of Selma to initiate, participate in, govern or finance an enhanced infrastructure financing district (EIFD) if certain conditions are met. Specifically, **this bill:**

- 1) Specifies that the City of Selma may initiate, participate in, govern, or finance an EIFD, if the City of Selma, acting as the successor agency to the former Selma Redevelopment Agency (RDA), is in compliance with particular EIFD Law requirements and is also in compliance with a settlement agreement it has entered into with the state to resolve any RDA dissolution issues.
- 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 financial circumstances in the City of Selma and the city's need to participate in an EIFD to give it additional tools to fund housing construction, social services centers, and climate resilience projects.

EXISTING LAW limits a city or county that created a RDA, as defined, from initiating the creation of an EIFD, nor participating in the governance or financing of an EIFD, until each of the following has occurred:

- 1) The successor agency for the former RDA created by the city or county has received a Finding of Completion, as specified.
- 2) The city or county certifies to the Department of Finance (DOF) and to the public financing authority that no former RDA assets that are the subject of litigation involving the state, if the city or county, the successor agency, or the designated local authority are a named plaintiff, have been or will be used to benefit any efforts of an EIFD, unless the litigation and all possible appeals have been resolved in a court of law. The city or county shall provide this certification to DOF within 10 days of its legislative body's action to participate in or form an EIFD, as specified.
- 3) The office of the State Controller has completed its review as required by existing law.
- 4) The successor agency and the entity that created the RDA have complied with all of the State Controller's findings and orders stemming from the reviews specified in c), above.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Bill Summary and Author's Statement.** This bill allows the City of Selma to initiate, participate in, govern or finance an EIFD if certain conditions pertaining to the dissolution of the City's RDA are met. The City of Selma is the sponsor of this bill.

According to the author, "Barring cities and counties who missed deadlines codified nearly a decade ago from ever forming an enhanced infrastructure financing district, even if they have since dispensed of assets as ordered and no longer have outstanding debts, has had an irreversible punitive impact on some of California's most disadvantaged communities. AB 2780 allows the City of Selma to establish an enhanced infrastructure financing district contingent upon re-engagement in good faith to address outstanding assets, debts, or bonds of redevelopment agencies created by the City. By allowing formation of EIFDs if specific conditions are met, this bill provides the City of Selma with additional tools to fund housing construction, social services centers, and climate resilience projects."

- 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 (Blumenfeld), 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. RDA dissolution law states that successor agencies that did not receive their Finding of Completion by this date, or did not enter into a written installment payment plan with DOF, were to never receive a Finding of Completion. Nine successor agencies did not receive a Finding of Completion by the deadline.

If a successor agency receives a Finding of Completion, loan agreements made between the RDA and the local agency that created it can become enforceable obligations. Without a Finding of Completion, these loans cannot become enforceable obligations and the successor agency cannot repay the loans with property tax revenue. Additionally, successor agencies with a Finding of Completion can spend a greater portion of bond proceeds in excess of what is necessary to pay off enforceable obligations provided they remain consistent with bond covenants, not just to cancel or defease the bonds. When bond proceeds are defeased or cancelled, property tax revenue used to pay off bonds returns to the local agencies that generated the property tax revenue, not the RPTTF. Due to outstanding disputed funds, the City of Selma did not receive a Finding of Completion by the December 21, 2015, deadline.

- 4) **AB 1484 of 2012.** As part of the winding down of redevelopment agencies, AB 1484 (Committee on Budget), Chapter 26, Statutes of 2012, made various statutory changes associated with the dissolution of redevelopment agencies 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 redevelopment agency assets.

According to a City of San Diego report conducted by its Office of the Independent Budget Analyst in 2012, “AB 1484 contains provisions to ensure that FY 2012 pass-through payments are made to taxing entities and any residual amounts of funds have been distributed. If AB 26 had gone into effect on October 1, 2011 as originally intended, the [County Auditor-Controller] CAC would have made the first distribution from the RPTTF on December 16, 2011 for the period January 1-July 30, 2012. Because of the California Supreme Court stay, the funds that would have been available for deposit into the RPTTF for the December distribution were dispersed to RDAs in late 2011 and used by most successor agencies to pay enforceable obligations on the Recognized Obligation Payment Schedule (ROPS) 1.

“Essentially, if local taxing entities did not receive the full amount of their allocated share of property taxes for the periods January 1-June 30, 2012 (ROPS 1) and July 1-December 30, 2012 (ROPS 2), the CAC was required to determine the amount owed by the Successor Agency and send a demand for payment by July 9, 2012. AB 1484 did not explain how this amount should be determined (since there was no distribution from RPTTF for this period). However, the DOF provided a prescribed methodology on its website for calculating the residual balanced payment—called the July true-up process.”

- 5) **Attempts to Replace RDAs.** After the Supreme Court’s 2011 Matosantos decision dissolved all RDAs, legislators enacted several measures creating new tax increment financing tools to pay for local economic development. The Legislature authorized the creation of EIFDs [SB 628 (Beall), Chapter 785, Statutes of 2014] quickly followed by CRIAs [AB 2 (Alejo), Chapter 319, Statutes of 2015]. Similar to EIFDs, CRIAs use tax increment financing to fund infrastructure projects. CRIAs may currently only be formed in economically depressed areas. The Legislature has also authorized the formation of affordable housing authorities (AHAs), which may use tax increment financing exclusively for rehabilitating and constructing affordable housing and also do not require voter approval to issue bonds [AB 1598 (Mullin), Chapter 764, Statutes of 2017]. SB 961 (Allen), Chapter 559, Statutes of 2018, removed the vote requirement for a subset of EIFDs to issue bonds and required these EIFDs to instead solicit public input, and AB 116 (Ting), Chapter 656, Statutes of 2019, removed the voter requirement for any EIFD to issues bonds in favor of a formal protest process. While these entities share fundamental similarities with RDAs in terms of using various forms of tax-increment financing, they differ in two significant aspects, 1) not having access to the school’s share of property tax increment, and 2) not automatically including the tax increment of other taxing entities.

Cities that did not receive a Finding of Completion are prohibited from forming, or participating in, an EIFD.

- 6) **City of Selma.** The City of Selma is located 16 miles southeast of the City of Fresno in Fresno County. Selma was incorporated in 1893 and has a population of approximately 24,000 people as of the 2020 Census.

According to a DOF letter issued to the City of Selma on August 27, 2012 regarding the July True-Up payment requirement, “Finance contacted the Agency on July 20, 2012, regarding a discrepancy between the amount the Agency was billed on July 9, 2012 by the County Auditor-Controller (CAC) pursuant to Health and Safety Code (HSC) section 34183.5 (b)(2)(A) and the amount the Agency subsequently remitted to them on July 12, 2012. In our letter, Finance requested that the Agency provide any information that would justify the underpayment by July 31, 2012.

“Finance has completed its review of the material submitted and its assessment of the Agency’s situation. While Finance does not have the statutory authorization to reduce the amount the Agency has been billed by the CAC, we do not intend to pursue either the civil penalties or the Sales and Use Tax offsets that may be levied when an Agency fails to pay the billed amount.

“However, please be advised that pursuant to HSC section 34179.7, as a result of not paying the demand amount, Finance may be prohibited from issuing a Finding of Completion to the Agency. Receiving a Finding of Completion can allow a Successor Agency to do several things, including expend ‘stranded’ bond proceeds for specified purposes, repay loans from the city to the former RDA that are not recognized as Enforceable Obligations, and transfer land to the city so that it may be used for the purposes identified in the original redevelopment plan.”

- 7) **Policy Consideration.** In order for DOF to issue a Finding of Completion, a successor agency had to have met certain conditions by December 31, 2015. If these conditions were not met and verified by DOF, the successor agency could never receive a Finding of Completion under existing law. A successor agency had to have paid the full amount as determined during the Due Diligence Reviews and the full amount determined during the July True-Up process. Additionally, a successor agency could have paid the full amount upon a final judicial determination of the amounts due, or entered into a written installment payment plan with DOF for the payments owed. It is unclear if the City of Selma has met these requirements. To ensure that the City of Selma has satisfied the above conditions, the Committee may wish to consider if additional clarification is needed.
- 8) **Committee Amendments.** In response to the above policy consideration, the Committee may wish to consider amending the bill in the following way:

53398.54(e) Notwithstanding subdivision (a), the City of Selma may initiate, participate in, govern, or finance an enhanced infrastructure financing district, if the City of Selma, acting as the successor agency to the former Selma Redevelopment Agency, is in compliance with subdivisions (b), (c), and (d) and is also in compliance with a settlement agreement it has entered into with the state to resolve any redevelopment agency dissolution issues **and any payments required by subparagraph (A) of paragraph (2) of subdivision (b) of Section 34183.5 of the Health and Safety Code.**

- 9) **Arguments in Support.** According to the City of Selma, “As the City of Selma seeks to continue to reach our Regional Housing Needs Allocation (RHNA) goals and support further economic development efforts, tools like an Enhanced Infrastructure Financing District (EIFD) will ensure that our efforts are sustainable and fiscally prudent for the long-term benefit of the community and our region.

“AB 2780 will provide the City of Selma with the ability to leverage tax increment financing (TIF) to enable housing development, commercial development, social services centers, and climate resilience projects. This is a vital tool that cities and counties can employ to meet their communities’ development needs and goals. Currently, the law bars cities and counties who missed the 2015 Finding of Completion deadline from ever forming an EIFD, even if they have dispensed of assets as ordered and no longer have outstanding debts, which has had an irreversible punitive impact on disadvantaged communities. This bill will enable the City of Selma to get back on track with our growth and development efforts, having met our obligations and responsibilities to the State and other stakeholders.”

- 10) **Arguments in Opposition.** According to the Howard Jarvis Taxpayers Association, “If Selma is allowed to reopen negotiations and receives clearance to create an EIFD, other local jurisdictions will surely follow and more EIFDs will be created. EIFD’s represent a far broader redevelopment scope than traditional IFDs, a scope we believe to be overly expansive. EIFDs also do not require voter approval to form, and AB 116 (2019) eliminated any voter approval requirement for EIFD bonds.

“Further, EIFD bonds are not the same as local General Obligation bonds. GO bonds are backed by the full faith and credit of a municipality’s General Fund. EIFD bonds have no such assurances. This creates a much greater risk for the bond holders and taxpayers, resulting in higher interest rates and thus less money for projects.”

REGISTERED SUPPORT / OPPOSITION:

Support

City of Selma [SPONSOR]
California Association of Local Economic Development
Fresno Council of Governments
Fresno County

Opposition

Howard Jarvis Taxpayers Association

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