

Date of Hearing: July 15, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Brian Maienschein, Chair
SB 441 (Leno) – As Amended April 6, 2015

SENATE VOTE: 26-13

SUBJECT: San Francisco redevelopment: housing.

SUMMARY: Allows the successor agency to the Redevelopment Agency of the City and County of San Francisco (SF successor agency) to issue bonds or incur other indebtedness to finance the affordable housing requirements of several designated projects. Specifically, **this bill:**

- 1) Allows the SF successor agency, subject to the approval of the oversight board, to issue bonds or incur other indebtedness to finance all of the following:
 - a) The affordable housing requirements of the following enforceable obligations:
 - i) The Mission Bay North Owner Participation Agreement;
 - ii) The Mission Bay South Owner Participation Agreement;
 - iii) The Disposition and Development Agreement for Hunters Point Shipyard Phase 1;
 - iv) The Candlestick Point-Hunters Point Shipyard Phase 2 Disposition and Development Agreement; and,
 - v) The Transbay Implementation Agreement.
 - b) The infrastructure requirements of the Transbay Implementation Agreement.
- 2) Allows the SF successor agency to pledge any property tax revenues available in the Redevelopment Property Tax Trust Fund (RPTTF) that are not otherwise obligated to pay the bonds or other indebtedness that results from financing the above enforceable obligations.
- 3) Allows bonds to be sold at either a negotiated or a competitive sale.
- 4) Specifies that bonds issued or other indebtedness incurred may be issued or incurred on a parity basis with outstanding bonds or other indebtedness obligations of the SF successor agency.
- 5) Allows the SF successor agency to pledge the revenues pledged to those outstanding bonds or other indebtedness obligations to the issuance of bonds or other indebtedness. Requires the pledge, when made in connection with the issuance of bonds or other indebtedness obligations to have the same lien priority as the pledge of outstanding bonds or other indebtedness, and shall be valid, binding, and enforceable in accordance with its terms.
- 6) Requires, prior to incurring any bonds or other indebtedness, the SF successor agency to subordinate to the bonds or other indebtedness the amount required to be paid to an affected

taxing entity that is required to be paid out through pass through agreements, provided that the affected taxing entity has approved the subordinations, pursuant to the bill's provisions.

- 7) Requires, at the time the SF successor agency requests an affected taxing entity to subordinate the amount to be paid to it, the SF successor agency to provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service on the bonds or other indebtedness and the pass through agreements to the other taxing entities.
- 8) Requires, within 45 days after receipt of the agency's request, the affected taxing entity to approve or disapprove the request for subordination. Allows an affected taxing entity to disapprove the request for subordination only if it finds, based upon substantial evidence, that the successor agency will not be able to pay the debt service payments and the amount required to be paid to the affected taxing entity. Specifies that if the affected taxing entity does not act within 45 days after receipts of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.
- 9) Allows an action to be brought, pursuant to determine the validity of bonds or other obligations authorized by the bill's provisions, the pledge of revenues to those bonds or other obligations authorized by this section, the legality and validity of all proceedings theretofore taken and, as provided in the resolution of the legislative bond of the SF successor agency authorizing the bonds or other obligations authorized by the bill's provisions, proposed to be taken for the authorization, execution, issuance, sale, and delivery of the bonds or other obligations, and for the payment of debt service on the bonds or the payment of amounts under other obligations, as authorized.
- 10) Requires the Department of Finance to be notified of the filing of any action as an affected party.
- 11) Requires an action to challenge the issuance of bonds or the incurrence of indebtedness by the SF successor agency to be brought within 30 days after the date on which the oversight board approves the resolution of the successor agency approving the issuance of bonds or the incurrence of indebtedness.
- 12) Specifies for the Department of Finance (DOF), that under the authority granted to DOF under existing law, DOF either reviews and approves or fails to request review within five business days of an oversight board approval of an action authorized by the bill's provisions, that the scheduled payments on the bonds or other indebtedness shall be listed in the Recognized Obligation Payment Schedule (ROPS) and shall not be subject to further review and approval by DOF or the Controller. Allows DOF to extend its review time to 60 days for actions authorized, pursuant to the bill's provisions, and to seek the assistance of the Treasurer in evaluating proposed actions.
- 13) Specifies that any bonds, indebtedness, or amended enforceable obligations to be considered indebtedness incurred by the dissolved redevelopment agency (RDA), with the same legal effect as if the bonds, indebtedness, financing agreement, or amended enforceable obligation had been issued, incurred, or entered into prior to June 29, 2011, in full conformity with the applicable provisions of the Community Redevelopment Law that existed prior to that date, shall be included in the SF successor agency's ROPS, and shall be secured by a pledge of, and lien on, and shall be repaid from moneys deposited from time to time in the RPTTF, as

specified. States that property tax revenues pledged to any bonds, indebtedness, or amended enforceable obligations are taxes allocated to the SF successor agency, as specified.

- 14) Requires the SF successor agency to make diligent efforts to ensure that the lowest long-term cost financing is obtained, and that the financing shall not provide for any bullets or spikes and shall not use variable rates. Requires the SF successor agency to make use of an independent financial advisor in developing financing proposals and requires the work products of the financial advisor available to DOF at its request.
- 15) Declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances related to affordable housing in the City and County of San Francisco, in conjunction with the affordable housing and infrastructure requirements of the enforceable obligations, specified in the bill's provisions.
- 16) Provides that no reimbursement is required because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, as specified.
- 17) Makes a number of findings and declarations.

EXISTING LAW:

- 1) Requires RDAs to dissolve effective February 1, 2012, pursuant to the California Supreme Court's decision in *CRA v. Matosantos* (2011).
- 2) Establishes successor agencies to RDAs that would, except in certain situations, be the city, county, or city and county in the territorial jurisdiction of the former RDA.
- 3) 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.
- 4) Requires the entity assuming the housing functions of the former RDA to submit a list of all housing assets to DOF by August 1, 2012, as specified.
- 5) 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.
- 6) 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.
- 7) Allows the RDA of the City and County of San Francisco to, subject to the approval of the Board of Supervisors of the City and County of San Francisco, retain its ability to incur indebtedness exclusively for Low- and Moderate-Income Housing Fund activities, as specified, until January 1, 2014, or until the agency replaces all of the housing units demolished prior to the enactment of the replacement housing obligations in Chapter 970 of the Statutes of 1975, whichever occurs earlier.

- 8) Allows the ability of the RDA of the City and County of San Francisco to receive tax increment revenues to repay indebtedness incurred for these Low- and Moderate- Income Housing Fund activities to be extended until no later than January 1, 2044.

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill is expected to result in additional net General Fund expenditures of approximately \$273 million over 40 years by authorizing bond financing pledged by revenues in San Francisco's Redevelopment Property Tax Trust Fund (RPTTF) for specified projects, rather than financing those projects on a pay-as-you-go (pay/go) basis. The bill would result in reduced General Fund expenditures over the next ten years, followed by thirty years of increased General Fund expenditures, as follows:

- Reduced General Fund allocations to San Francisco school entities of approximately \$79 million over the five-year period from 2015-16 through 2019-20.
- Reduced General Fund allocations to San Francisco schools of approximately \$6 million over the five-year period from 2021-22 through 2024-25.
- Increased General Fund allocations to San Francisco schools of approximately \$131 million over the ten-year period from 2025-26 through 2034-35.
- Increased General Fund allocations to San Francisco schools of approximately \$227 million over the remaining 20-year period of bond repayment, ending in 2054-55.

These impacts are a result of the effect the bill would have on payments to schools from the RPTTF. In general, any reductions in amounts allocated to schools from the RPTTF must be backfilled from the state General Fund, while any increased allocations to schools from the RPTTF would reduce General Fund expenditures, pursuant to the Proposition 98 minimum funding guarantees. Staff notes that the school share of property tax revenues in the City and County of San Francisco is approximately 35% of total revenues.

Staff notes that all figures noted here are based on comparative scenarios for financing the projects (pay/go vs. bonding) with data provided by San Francisco's successor agency. Using the pay/go scenario, total RPTTF expenditures to finance the projects would be approximately \$598 million, most of which would occur over the next 8-10 years. If the successor agency issues bonds to finance the projects, total RPTTF expenditures for debt service would be approximately \$1.38 billion over the next 40 years, with three phases of 30-year bonds issued over the next ten years.

COMMENTS:

- 1) **Bill Summary.** This bill authorizes the SF successor agency to issue bonds or incur other indebtedness to finance the construction of specified affordable housing and infrastructure enforceable obligations. This bill is sponsored by Edwin M. Lee, Mayor of San Francisco.
- 2) **Background on Redevelopment and Replacement of Affordable Housing Units in San Francisco.** Prior to the dissolution of redevelopment, state law required RDAs to set aside 20% of their property tax increment revenues to increase, improve, and preserve the supply of affordable housing. State law also required local officials to limit the length of time during which redevelopment plans remained in effect, and required that RDAs must meet

their housing obligations before they terminate a project area. SB 211 (Torlakson), Chapter 741, Statutes of 2001, suspended the time limits on a redevelopment plan's effectiveness and on the diversion of property tax increment revenues to repay its debts until the RDA "fully complied with its obligations."

In 2000, six of San Francisco's oldest redevelopment project areas were about to reach some of the statutory deadlines on RDA activities. The Legislature, in SB 2113 (Burton), Chapter 661, Statutes of 2000, extended the deadlines and allowed San Francisco officials to use the resulting funds to replace more than 6,700 affordable housing units that the RDA had demolished and not replaced during the years before state law imposed replacement housing requirements on RDAs. Specifically, the Legislature allowed San Francisco officials to extend the deadline for establishing debt in the older project areas until 2014, or until the RDA replaced all of the demolished housing units, whichever date was earlier, and to extend the deadline for receiving property tax increment revenues to pay for their housing debts until 2044.

SB 2113 required San Francisco to focus on low-income housing, limit its administrative spending, and get state approval before incurring more debt. The time extension excluded schools' share of property tax revenues, therefore not impacting the state's General Fund.

Before state law dissolved RDAs, San Francisco's RDA had been able to finance the construction of 867 of the 6,709 replacement affordable housing units that the Burton bill allowed it to finance.

- 3) **Author's Statement.** According to the author, "At the time of redevelopment dissolution in 2012, the former redevelopment agency had just started planning and funding for the affordable housing projects in Transbay and Hunters Point Shipyard/Candlestick Point and had completed or approved less than 1,000 units of affordable housing at Mission Bay. In 2013 and 2014, the California Department of Finance finally and conclusively determined that the Successor Agency's obligations to fund affordable housing and public infrastructure in the Major Approved Development Projects were enforceable under redevelopment dissolution law and thus constituted continuing obligations of the San Francisco Successor Agency, also known as the Office of Community Investment and Infrastructure.

"Redevelopment dissolution law generally does not provide successor agencies with the authority to issue tax allocation bonds to complete surviving enforceable obligations, except where contracts explicitly pledged specific amounts. As a result, the completion of San Francisco's affordable housing program in the Major Approved Development Projects cannot be financed and would require, in the next several years, the set aside of large amounts of property tax revenues from the 3,300 affordable units in Transbay, Mission Bay, and Hunters Point Shipyard/Candlestick Point and for public infrastructure (other than the Transbay Transit Center) in the Transbay area.

"SB 441 will authorize San Francisco to use bond financing to fund and construct over 3,300 units of affordable housing and complete public infrastructure for a new residential neighborhood surrounding the Transbay Terminal Center. This bill allows the San Francisco Successor Agency to fulfill, in an expeditious manner with less impact on taxing entities, enforceable obligations that the California Department of Finance has finally and conclusively determined to have survived redevelopment dissolution."

- 4) **Previous Legislation.** SB 1404 (Leno, 2014) would have allowed the successor agency of the City and County of San Francisco to receive property tax increment from six specified redevelopment project areas, and issue debt to pay for specified replacement housing obligations. The bill was vetoed with the following veto message:

I am returning Senate Bill 1404 without my signature.

This bill allows the Successor Agency of the former City and County of San Francisco Redevelopment Agency to create a new enforceable obligation to replace approximately 5,800 units of affordable housing.

Without a doubt, San Francisco faces extraordinary housing affordability challenges, compounded by the number of affordable units previously destroyed by the former redevelopment agency. I applaud the author and the mayor's continued efforts to increase affordability in this area. This bill as drafted, however, would grant this particular Successor Agency the ability to use tax increment and redevelopment law in a way that no other successor agency in the state has been granted.

I am directing the Department of Finance to work closely with the author and sponsors of this measure to explore other alternatives.

- 5) **Arguments in Support.** Supporters argue that this bill will provide funding for over 3,000 units of affordable housing in the near term, and will actually hasten the wind down of redevelopment in San Francisco.
- 6) **Arguments in Opposition.** None on file.
- 7) **Conflicting Legislation.** This bill conflicts with provisions contained in AB 113 (Budget). Should both bills continue to progress, amendments may be needed to address the conflict.
- 8) **Double Referral.** This bill was heard by the Housing and Community Development Committee on July 1, 2015, and passed with a 5-2 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Honorable Edwin M. Lee, Mayor of San Francisco [SPONSOR]
City and County of San Francisco
California Apartment Association

Opposition

None on file

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