


EXPEDITED CITY COUNCIL ACTION REQUEST

Department(s): City Manager's Office	Date: 8/4/14	Coordination: City Manager's Office, Sacramento Legislative Representative, and the City Attorney	Dept. Approval: /s/ Betsy Shotwell CMO Approval: 
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SUBJECT: SB 663 (LARA) – LOCAL GOVERNMENT: REDEVELOPMENT: REVENUES FROM PROPERTY TAX OVERRIDE RATES; AB 1450 (GARCIA)

RECOMMENDED POSITION: OPPOSE UNLESS AMENDED

RECOMMENDED ACTION:

1. Pursuant to the City's streamlined bill process for responding quickly to legislative proposals, re-affirm a position to oppose unless amended for SB 663 (Lara) and its Assembly counterpart bill AB 1450 (Garcia).
2. Recommend a one-week turnaround to the City Council so that the City's legislative representative can continue to advocate the City's position on SB 663 and AB 1450.

BILL SYNOPSIS:

Pending Bill:

Existing law dissolved redevelopment agencies as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies. Existing law requires revenues equivalent to those that would have been allocated to each redevelopment agency, had the agency not been dissolved, to be allocated to the Redevelopment Property Tax Trust Fund of each successor agency for making payments on enforceable obligations as listed on an approved Recognized Obligation Payment Schedule.

Existing law requires the county auditor-controller, after deducting administrative costs, to allocate property tax revenues in each Redevelopment Property Tax Trust Fund in a specified manner.

This bill, for the 2014–15 fiscal year and each fiscal year thereafter, would prohibit any 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 pension programs and levied in addition to the general property tax rate ("Pension Property Tax Overrides"), from being allocated to a Redevelopment Property Tax Trust Fund and would, instead, require these revenues be allocated to, and when collected to be paid into, the fund of the city, county, or city and county whose voters approved the tax unless, following a written request with each Recognized Obligation Payment Schedule cycle from the successor agency to the city, county, or city and county whose voters approved the tax, the city, county, or city and county authorizes the use of the revenues by the successor agency to pay any enforceable obligation, as specified. The bill would require any revenues derived from the Pension Property Tax Override that have been pledged as security for the payment of any indebtedness obligation to be allocated to the successor agency to pay that indebtedness obligation, as specified. The bill would require all allocations of revenues derived from the imposition of a Pension Property Tax Override made by any county auditor-controller prior to July 1, 2014, to be deemed correct, and would prohibit any city, county, city and county, county auditor-controller, successor agency, or affected taxing entity from being subject to any claim, as specified.

Proposed Amendments:

The purpose of this bill, as stated by its authors, is to allow Successor Agency tax revenues derived from Pension Tax Overrides imposed by several cities in Los Angeles County to fund their City pension obligations. There are other cities in California who also have imposed similar tax overrides.

Santa Clara County is the only County in the State to impose a Pension Tax Override. It has been collecting the override for over 70 years and in various redevelopment project areas for 50 years and has never used the San Jose tax increment revenues derived from the override to pay for pension obligations. A change in law will have severe impacts to the Successor Agency and the City as described in detail below.

In order to maintain the status quo, at least until this issue has been fully adjudicated in the pending lawsuit between the City of San Jose and the County of Santa Clara, staff has proposed amendments to limit its applicability to the Successor Agencies established by those entities that imposed the Pension Tax Override.

IMPACTS TO CITY OF SAN JOSE:

The County of Santa Clara has been collecting a Pension Property Tax Override since 1944 on all real property in the county. In 1952, the California Constitution was amended to provide tax increment financing for redevelopment agencies which applies to "all levies on an ad valorem basis upon land or real property." (Article XVI, section 16). From 1956 until 2012, when it was dissolved, the Redevelopment Agency of the City of San Jose received tax increment on all real property within designated redevelopment project areas. This tax increment was pledged to bondholders and other creditors to pay enforceable obligations. The County now claims that its Pension Property Tax Override was diverted to redevelopment agencies in the form of tax increment.

In June 2012, despite the provision of the Redevelopment Dissolution law requiring the allocation of taxes to the Successor Agency be made in the same amount that would have been made had the former redevelopment agency not been dissolved, the County of Santa Clara withheld from the San Jose Successor Agency distribution for the ROPS 2 period the amount of tax revenues attributable to the County's Pension Property Tax Override, (approximate \$3.5M for the 6 month period). As a result, the Successor Agency was unable to pay enforceable obligations. In August 2012, the City of San Jose, as Successor Agency, filed a lawsuit challenging the County's withholding of the Pension Property Tax Override in the Sacramento Superior Court. (City of San Jose v. Vinod K. Sharma et.al. Case No.: 34-2012-80001190). On June 24, 2013, the Hon. Allen Sumner issued his final ruling on this issue in favor of the City. The County subsequently appealed and the case is currently pending in the Third Appellate District Court.

If enacted SB663 would overturn Judge Sumner's decision and render this pending litigation moot in favor of the County. If enacted, it would permit the County to retain the funds it has been unlawfully withholding continue to withhold (currently approximately \$14 million) from the Successor Agency and extend immunity to the County for damages caused by its unlawful retention. Prospectively, SB 663 allows the County to continue to withhold from the Successor Agency any amounts derived from the County's Pension Property Tax Override thereby depriving the Successor Agency of funds required to pay the Agency's unsecured creditors and administrative expenses.

The County's diversion of these tax revenues costs the Successor Agency, and in turn its creditors, approximately \$7-8 million per year. This diversion of funds impedes the Successor Agency's ability to wind up the Redevelopment Agency's business to the detriment of the taxing entities, which cannot receive distributions under the Dissolution Law until there are sufficient funds to pay the former Agency's enforceable obligations.

POLICY ALIGNMENT:

This recommended bill position aligns with the City Council adopted 2014 Legislative Guiding Principles: "1. Protect Local Control – Specifically, the City supports efforts, legislation and policies that 14. Promote and protect local control and decision making related to the City's fiscal stability and health; and opposes legislation that: 17. Impedes or reduces the ability of local governments to make and implement decisions regarding administrative and financial matters reflective of local interests and priorities."

SUPPORTERS/OPPONENTS:

Support:

AFSCME, District Council 36
Cities of Bell, Compton, Huntington Park, Inglewood, Lynwood, and Monterey Park
Independent Cities Association
League of California Cities
Los Angeles County Board of Supervisors
Los Angeles County Division, League of California Cities
Los Angeles County Police Chiefs Association

Opposition:

Unknown

Registered Support/Opposition to the bill as amended June 18, 2014, as shown in the Bill Analysis prepared for the meeting of the Assembly Committee on Local Government on June 25, 2014.

STATUS OF BILL:

SB 663 currently pending before Assembly Appropriations Committee. AB 1450 is currently in Senate Rules Committee. AB 1450 is expected to be re-referred to the Senate Governance and Finance Committee.

FOR QUESTIONS CONTACT: Patricia Deignan, Chief Deputy City Attorney 408-535-1201