

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: RN 11 23792 to June 20, 2011
POSITION: Oppose
SPONSOR: State Controller John Chiang, Western Center on Law and Poverty, California Rural Legal Assistance Foundation

BILL NUMBER: SB 450
AUTHOR: A. Lowenthal

BILL SUMMARY: Redevelopment

Current law, the Community Redevelopment Act allows a local government to establish a redevelopment area and capture all of the increase in property taxes that is generated within the area, referred to as "tax increment", over a period of decades. The law requires redevelopment agencies (RDAs) to deposit 20 percent of tax increment into a Low and Moderate Income Housing Fund (L&M fund) to be used to increase, improve, and preserve the community's supply of low and moderate income housing.

This bill would make a variety of changes in rules for the expenditure of L&M funds by RDAs.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the April 11, 2011 version would:

- Require redevelopment agencies to post their annual financial reports on their websites and require the report to include a specified itemization of all planning and administrative costs paid from the L & M fund.
Authorize a superior court to impose sanctions for major audit violations commensurate with the violation, and require that sanctions for major audit violations to be paid with non-L & M funds or any city, county, or agency special fund related to housing.
Increase the proposed cap on planning and administrative costs payable from the L & M fund to 20 percent, including a 10 percent cap on overhead, administration, and supervisory staff, and allow redevelopment agencies to use L & M fund funds for agency staff participation in the development of the housing element provided that such costs are subject to the cap on planning and administrative expenses.
Specify that a redevelopment agency may not expend L & M fund funds to assist households whose incomes exceed 50 percent of the area median income until the agency has expended the funds it should have expended on extremely low, very low, and low-income housing in previous implementation periods.
Authorize the Department of Housing and Community Development (HCD), with respect to the proposed dates by which a redevelopment agency must complete required activities on land purchased with L & M fund funds, to grant one 5-year extension upon a petition from the agency. HCD would be authorized to charge a fee to cover its costs of considering such a petition.

Analyst/Principal Date Program Budget Manager Date
(0762) C. Hill Mark Hill

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

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- Allow redevelopment agencies greater flexibility in meeting replacement housing obligations with rehabilitated units.

FISCAL SUMMARY

Finance estimates this bill would have no state General Fund impact. The bill may increase the amount of RDA tax increment revenue used for housing-related purposes to an unquantifiable extent. HCD audit costs, funded by RDAs, are estimated to be \$540,000 per year. The requirement for RDAs to pay a fraction of their tax increment to HCD may not comport with the provisions of Proposition 22.

COMMENTS

The Administration continues to have concern over the relative priority given to providing funding for housing in an era of significant oversupply in many areas of the state, while providing for core public service continues to remain an ongoing challenge at both the state and local government levels. Providing even more restrictions on where redevelopment housing money can be spent may further make the use of these funds out of sync with local needs and markets. While the bill may result in faster spending of redevelopment housing funds, it may also have the opposite effect, thus any positive economic effects from housing construction are likely to be limited.

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ANALYSIS**A. Programmatic Analysis**

Current law, the Community Redevelopment Act, allows a local government to establish a redevelopment area and capture all of the increase in property taxes that is generated within the area (referred to as "tax increment") over a period of decades. The law requires redevelopment agencies to deposit 20 percent of tax increment into a Low and Moderate Income Housing Fund (L&M fund) to be used to increase, improve, and preserve the community's supply of low and moderate income housing.

Existing law states the intent of the Legislature that redevelopment agencies use L&M funds to the maximum extent possible to defray the costs of building and improving affordable housing. Existing law limits administrative expenditures from the L&M funds to staff costs directly related to housing activities, and to any equivalent services provided through outside agreements that are directly related to housing activities.

This bill would replace the current language on planning and administration expenditures with a new definition, and would cap those expenditures at 15 percent of the tax increment annually deposited in the L&M fund.

Current law, with some exceptions, defines as "excess surplus" any unexpended and unencumbered amount in an RDA's L&M fund that is greater than \$1 million or the sum of the last four years' worth of L&M tax increment. Excess surplus funds must be disbursed to the local housing authority or a local housing development agency within one year, or must be expended by the RDA within three years. Until the RDA expends or disburses the excess surplus, it may not encumber or expend any other non- L&M funds except to pay debt service, contractual obligations, and specified operating costs.

Existing law also establishes requirements for the use of real property purchased with L&M funds. Within five years of acquisition, the RDA must initiate activities consistent with the development of the property for the purpose of developing affordable housing. These activities may include, but are not limited to, zoning changes and disposition and development agreements. The RDA may extend the deadline by up to an additional five years. If the RDA fails to meet these requirements, the property must be sold and the proceeds deposited in the L&M fund.

This bill would:

- Specify that an RDA, within five years of acquisition of real property, must either enter into an agreement with a third party for the development of affordable housing or obtain final land use entitlements and secure financing for RDA development of affordable housing.
- Require an RDA, if it has not initiated affordable housing development activity on sites purchased with L&M funds within five years or if less than 10 percent of the dwelling units or floor area of an affordable housing project is completed within 10 years, to reimburse the L&M fund 150 percent of the amount expended to acquire and maintain the property or 150 percent of the current fair market value of the property, whichever is greater.
- Require an RDA that at any time sells a property or uses less than half of a property purchased with L&M funds for a non-affordable housing purpose to reimburse the L&M fund the proceeds of the sale plus 50 percent of the fair market value of the property.

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- Deletes the authority of an RDA to disburse excess surplus funds to the local housing authority.

Existing law requires an RDA to expend L&M funds for very low and low income housing in at least the same proportion as those income categories are represented within the RDA's jurisdiction.

This bill would require that at least 75 percent of each agency's expenditures, exclusive of debt service payments, from the L&M fund directly assist the construction, acquisition and rehabilitation or preservation of rental housing for persons of extremely low, very low, or low income. It would further require that 50 percent of each RDA's expenditures directly assist extremely low income households and that an additional 25 percent assist very low income households.

Under current law, RDAs must hire independent auditors each year to review their financial statements. The RDAs must provide these audits to the State Controller's Office (SCO) so that a list of agencies with major audit violations may be compiled and, if not corrected, referred to the Attorney General. HCD has also audited a small number of RDAs each year to determine compliance with various housing obligations. In recent years, HCD has been unable to conduct such audits due to insufficient resources.

This bill would:

- Codify the requirement for independent auditors to list major audit violations, and require RDAs, in their annual report to their governing bodies, to list corrective measures taken to correct those major audit violations. RDAs would be required to post the report on the RDA website, and to furnish a copy of the report to the State Controller's Office.
- Require RDAs to remit .05 percent of L&M tax increment to the HCD to conduct redevelopment audits, and require HCD to conduct audits of RDAs to ensure compliance with the housing provisions of the Community Redevelopment Law. HCD would be required to compile a list of uncorrected major audit violations discovered by those audits and forward this list to the AG to determine whether to file an enforcement action.

Existing law provides a 10-year statute of limitations for enforcement actions if an RDA fails to deposit the required tax increment into its L&M fund, or if it mispends L&M funds. If a court finds that an RDA violated these requirements, the RDA must reimburse the L&M fund with interest.

This bill would provide that an RDA failing to deposit L&M funds as required or spending L&M money inappropriately must reimburse the L&M fund 150 percent of the reimbursement amount plus interest.

B. Fiscal Analysis

Finance estimates this bill would have no state General Fund impact. The bill may increase the amount of RDA tax increment revenue used for housing-related purposes to an unquantifiable extent. HCD audit costs, funded by .05 percent of RDA tax increment revenues, are estimated to be \$540,000 per year.

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

AUTHOR

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	
0001/Major Rev	SO	Yes		-----	No/Minor	Fiscal Impact	-----		0001
2240/HCD	SO	No	C	\$540	C	\$540	C	\$540	0995
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
0995	Reimbursements								