DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 12, 2011
POSITION: Oppose

BILL NUMBER: SB 536
AUTHOR: M. DeSaulnier

BILL SUMMARY: Property Tax Revenue Allocations: Public Utilities

Property tax revenues from public utility-owned electrical facilities are currently distributed according to statutory formulas to the county where the facility is located, to the city where the facility is located, and to each K-14 district located in the county.

This bill would create a new method for allocating property tax revenues from a public utility-owned electrical facility located in the Oakley Redevelopment Project Area (RDA) in Contra Costa County. Specifically, a portion of the property tax revenues that would currently go to non-school special districts located outside the Project Area would instead be diverted to the Project Area.

We note that the provisions and protections afforded property tax allocations by Proposition 1A (2004) did not extend to RDAs. The property tax shift from special districts to an RDA arising from this bill could violate Article XIII, Section 25.5, of the California Constitution.

This bill is sponsored by the City of Oakley which contends that the property tax allocation formula contained in existing law would result in inadequate revenues for the Oakley RDA to develop infrastructure to support the proposed power plant.

FISCAL SUMMARY

This bill would result in an estimated additional $2 million per year in property tax revenue to the Oakley RDA, and a consequent reduction in revenues to other non-school special districts.

This bill requires the Contra Costa county auditor-controller to adopt a different method of property tax allocation for property tax revenues from the qualified property, and further requires the auditor-controller to be reimbursed for all reasonable costs arising from the implementation of the alternative property tax allocation method by the Oakley RDA.

COMMENTS

Finance opposes this bill for the following reasons:

- The property tax allocation formulas contained in existing law were enacted in 2006 (SB 1317, Torlakson, Chapter 872 – Statutes of 2006) in a statewide compromise negotiated among power plant operators and their surrounding special districts. An exception to existing law redirecting additional property tax revenues to the Oakley RDA, to the detriment of other Contra Costa County special districts, would establish an undesirable precedent for subsequent exemptions elsewhere and is contrary to previous agreements.

- The provisions and protections afforded property tax allocations by Proposition 1A (2004) did not extend to RDAs. The property tax shift from special districts to an RDA arising from this bill could violate Article XIII, Section 25.5, of the California Constitution. While Section 25.5 allows

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the Legislature to shift property taxes between, cities, counties and special districts by a 2/3 vote, the Section does not authorize shifting property tax revenues from these entities to RDAs.

- This bill conflicts with the Administration's redevelopment reform proposal contained in AB 101 (Assembly Committee on Budget). That bill, which will generate $1.7 billion in 2011-12 General Fund savings that have already been scored by the Budget Conference Committee, will eliminate RDAs and replace them with successor agencies tasked with winding down RDA operations and debt.

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ANALYSIS

A. Programmatic Analysis

Current law requires the BOE to assess public utilities for property tax purposes. The BOE assesses utility property as a unit, instead of assessing the individual value of separate properties owned by the utility. Generally, the BOE annually reassesses state-assessed property at its current market value on January 1 of each year.

Prior to enactment of Chapter 872, Statutes of 2006 (SB 1317, Torlakson), property tax revenues from public utility-owned electrical facilities were distributed by county auditor-controllers (using the BOE assessment data) on a pro-rated basis to every taxing entity in the county where the facilities were located. Every taxing entity thus received a share of these revenues regardless of whether or not an electrical facility was located within their boundaries.

SB 1317, enacted by 2/3 vote of the Legislature as required by Proposition 1A (2004), amended this allocation formula as follows:

- Counties, K-14 schools, and non-enterprise special districts received the same percentage of these property tax revenues as they received in the previous year.
- The cities in which the electrical facilities are located received 90 percent of the remaining property tax revenues.
- The city or water districts that provided water service to the electrical facilities received the remaining 10 percent of the property tax revenues.
- The other entities that would previously have received a share of the property tax revenues (namely cities and enterprise special districts) now received none of these revenues.

This bill would create a new method for allocating property tax revenues from a public utility-owned electrical facility in the Oakley Redevelopment Project Area that is placed into service on or after January 1, 2011. This bill requires the Contra Costa county auditor-controller to distribute these revenues as follows:

- First, allocate to the county in which the qualified property is located, and then to the K-14 school districts in that county the amount of property tax revenues they would have received had the bill not been enacted.
- Second, allocate two percent of the property tax to the East Contra Costa Fire Protection District.
- Third, allocate to any regional park district an amount of property tax revenues equal to the amount of property tax revenues allocated to that special district in 2010-11.
- Forth, allocate the remaining property tax revenues to the Oakley Redevelopment Project Area.

The net impact would be to divert to the Project Area those electrical facility-related property tax revenues that would currently go to non-K-14 special districts located outside the Project Area’s boundaries.

This bill would also require the Oakley RDA, once the qualified property is placed in service, to develop one new housing unit for each 40 jobs created on real property within the specified

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redevelopment project area. All of the new housing units must be affordable to, and occupied by, extremely low income persons, as defined in statute.

We note that the provisions and protections afforded property tax allocations by Proposition 1A (2004) did not extend to RDAs. The property tax shift from special districts to an RDA arising from this bill could violate Article XIII, Section 25.5, of the California Constitution.

B. Fiscal Analysis

This bill would result in an estimated additional $2 million per year in property tax revenue to the Oakley RDA, and a consequent reduction in revenues to other non-school special districts.

This bill requires the Contra Costa county auditor-controller to adopt a different method of property tax allocation for property tax revenues from the qualified property, and further requires the auditor-controller to be reimbursed for all costs arising from the implementation of the alternative property tax allocation method by the Oakley Redevelopment Agency.

	SO	(Fiscal Impact by Fiscal Year)						
Code/Department	LA	(Dollars in Thousands)						
Agency or Revenue	CO	PROP						Fund
Type	RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013	Code
0001/Major Rev	SO	No		-------------------- See Fiscal Analysis ----------------------					0001