

## REVENUE & TAXATION POLICY COMMITTEE

Thursday, March 29, 2012

10:00 a.m. – 3:00 p.m.

Doubletree Hotel, Harvest Room, Ontario, CA

Individuals who wish to review the full text of bills included in this packet are encouraged to do so by visiting the League's website at [www.cacities.org/billsearch](http://www.cacities.org/billsearch). Be sure to review the most recent version of the bill.

### REVISED AGENDA

**Special Order of Business**  
**Post Redevelopment & State Budget Update**  
**10:00 – 10:45 a.m., Harvest Room, Doubletree Hotel, Ontario**

- I. **Welcome and Introductions**
- II. **Public Comment**
- III. **Additional Discussion of State Budget (if necessary) – Mike Coleman, Dan Carrigg**
- IV. **Report: League Task Force on the Next Generation of Economic Development Tools**  
(Handout) (Action Item)
- V. **State Legislative Update** (League staff is reviewing legislation, and may bring several items to committee)
- VI. **Use Tax Subcommittee Update – Pending Federal Legislation – Dan Carrigg** (Handout)
- VII. **Review of California Forward Initiative: The Government Performance and Accountability Act – 11:45 a.m.** (Attachments A & B) (Action Item)
  - Fred Silva, Senior Fiscal Policy Advisor, California Forward
  - Mike Madrid, Campaign Manager, California Forward Action Fund
- VIII. **Next Meeting: THURSDAY, June 14, 2012, Sacramento Convention Center**

*Brown Act Reminder: The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:*

- 1) *Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or*
- 2) *A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.*

*A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.*

*NOTE: Policy committee members should be aware that lunch is usually served at these meetings. The state's Fair Political Practices Commission takes the position that the value of the lunch should be reported on city officials' statement of economic interests form. Because of the service you provide at these meetings, the League takes the position that the value of the lunch should be reported as income (in return for your service to the committee) as opposed to a gift (note that this is not income for state or federal income tax purposes—just Political Reform Act reporting purposes). The League has been persistent, but unsuccessful, in attempting to change the FPPC's mind about this interpretation. As such, we feel we need to let you know about the issue so you can determine your course of action.*

*If you would prefer not to have to report the value of the lunches as income, we will let you know the amount so you can reimburse the League. The lunches tend to run in the \$30 to \$45 range. To review a copy of the FPPC's most recent letter on this issue, please go to [www.cacities.org/FPPCletter](http://www.cacities.org/FPPCletter) on the League's Web site.*

**Task Force Report: Next Generation of Economic Development Tools**

*Report for League Policy Committees on Revenue and Taxation  
and Housing, Community and Economic Development*

The League Task Force on the Next Generation of Economic Development Tools is looking at a wide range of existing and potential future tools that cities could use to promote economic development in the aftermath of the elimination of redevelopment agencies. Numerous bills have also been introduced that offer possible vehicles for advancing this agenda, which the Task Force believes should be focused on the following goals:

- Provide ongoing funding for local infrastructure and economic development projects through tax increment financing authority, land assembly and conveyance, and other tools.
- Address local concerns with: (a) cleaning-up brownfields now held by successor agencies, (b) preserving critical community assets that will be needed for future community revitalization TOD, etc., and (c) allow unspent bond proceeds to be used to finish quality projects, as in SB 986 (Dutton).

**Recommended Strategy: Short and Longer Term:** In keeping with these recommended areas of focus, the Task Force recommends the following strategy be implemented by the League:

**Short Term: Next Few Months**

- 1) **Cleanup of AB X1 26:** Cities and successor agencies are facing real challenges dealing with many unresolved issues from AB X1 26. Pursuing and supporting legislation that would address these challenges is the most important thing that can be done in the short term. AB 1585 (Pérez), is a great first step, but other legislation addressing asset management, brownfields, unspent bond proceeds and other matters should be pursued however possible.
- 2) **IFD:** Draft and support amendments to make SB 214 (Wolk) and the IFD tool a workable option for cities to finance infrastructure. Make this tool as flexible as possible, including allowing its use for revitalization/redevelopment as well as new development purposes.
- 3) **Other Opportunities:** Review and consider support for other legislation (SB 1151 (Steinberg), AB 2144 (Perez), etc.) that can expand local economic development and infrastructure options as opportunities present themselves.
- 4) **Research:** Continue to research, examine and develop new possibilities and flexibility for: tax increment financing, assessment districts, economic development corporations, ideas suggested by the task force and other options that would expand the ability of cities to develop infrastructure, provide services, pursue economic development, remove blight, assemble land and develop affordable housing.

**Longer Term: (Before End of the Year)**

- 1) Draft concept legislation that would authorize the state, via the State Infrastructure Bank or another entity, to approve the use of some or all of the local school share of property tax to support tax increment financing for projects which advance important state priorities:
  - a. Projects consistent with SB 375.
  - b. Affordable housing.
  - c. Military base reuse.
  - d. Projects to attract high-wage employers to the state.
- 2) Work with legislators to develop and refine legislation derived from further League research, or ideas offered by other stakeholders.

- 3) Work with legislators and the Governor to encourage the development and adoption of a state economic development strategy, with appropriate state and local fiscal incentives for job creation, urban revitalization and sustainable development.

**Background:** The League's Task Force on the Next Generation of Economic Development Tools was created to examine a wide range of existing and potential tools cities can use to develop infrastructure and promote economic development; so far it has met three times. Its members (*See Attachment 1*) include representatives from the League's leadership, policy committees, departments and geographical divisions.

The first meeting of the Task Force on February 22 set the stage for discussions by reviewing the current legal and political landscape and framing issues. The members received an overview by League staff of existing State and federal grant, bond and tax credit programs that currently support community and economic development.

[http://www.cacities.org/resource\\_files/30608.EconomicDevelopmentBackground.pdf](http://www.cacities.org/resource_files/30608.EconomicDevelopmentBackground.pdf) Additional approaches using local tax authority and revenue streams were also presented. League Special Counsel Betsy Strauss explained the legal framework governing future tax increment financing proposals. Also reviewed and discussed was the legislative environment, including efforts to clean up and interpret AB X1 26 and consider new tools.

With this background in mind, the Task Force focused on key questions to guide League advocacy. Participants identified what they most needed to promote infrastructure and economic development in their communities.

While a broad range of issues were listed, the two highest priority needs were identified as

- 1) New funding for public-private economic development partnerships. This might come from (a) new tax increment financing, including the school share if the project met State or regional policy objectives; (b) sale of former RDA assets; (c) new State grants or (d) funding for public infrastructure and affordable housing through bonds, local taxes or state or federal tax credits.
- 2) New authority for public private economic development partnerships to remediate brownfields, and assemble and convey land.

On March 8, a subcommittee of the Task Force met by conference call to clarify and narrow these goals to develop a recommended strategy for Task Force consideration. (*Subcommittee members are identified in Attachment 1 with an asterisk.*)

Initial discussions surrounded the range of possible authority and tools. The Subcommittee considered whether re-authorizing RDA's was a viable option. While helpful, such an effort would likely awaken many controversies and future agencies would face constraints to their scope and authority. The Subcommittee also reviewed whether and under what circumstances, joint powers agencies (JPA's) might be useful, given their broad authority. More discussions of JPA's are likely given Senator Steinberg's interest in this approach in SB 1156, which would establish a JPA between a city and county for community development and housing. While JPA's may be a useful tool, more issues remain to be explored. Other items discussed were funding for public private partnerships, legal authority for cities to assemble and convey land within such partnerships, and the need to retain RDA bond proceeds and real estate assets.

**IFD Discussion:** The Subcommittee examined, at length, the feasibility of using infrastructure financing districts (IFD's) for local infrastructure. They discussed the feasibility and limitations of IFD's, including

SB 214 (Wolk), and if/how they could be made into a workable tool to finance local infrastructure and broader economic development activity. While IFD's have been around for a long time, they have not been used due to the constitutional debt limit issue, a supermajority 2/3 vote requirement, and their limited scope for public infrastructure. But these issues, however, could be addressed. The Subcommittee recognized that SB 214 already proposes to remove the supermajority vote requirement, authorizes IFD's to finance any actions necessary to implement the Polanco Redevelopment Act and projects that implement a SB 375 sustainable communities strategy. League Special Counsel, Betsy Strauss, reported that according to her research and discussions with bond counsel, a key legal concern with the constitutional debt limit issue could be remedied with amendments that ensured that an IFD was established as a separate legal entity.

Other comments and questions included: (a) the shares of tax increment that could be captured, (b) the scope of infrastructure covered, (c) the ability of a city to pledge other local revenue for its purposes and (d) how the measure could be used for broader economic development activity.

At the conclusion of the discussion, there was consensus among Subcommittee members that it was worthwhile for the League to pursue a workable IFD tool to fund infrastructure. They also acknowledged that efforts to expand the scope of IFD authority and other options must be based on careful consideration of the political environment, and recognized that no single bill would address all issues. Thus, it was best for the League to remain flexible and pursue its priorities in a variety of ways. Chair Bogaard then asked staff to develop a near and longer term strategy to the Task Force meeting on March 22.

At the March 22 meeting, members of the full Task Force reviewed the subcommittee report including draft recommendations on a strategy for moving forward. Also timely and informative were separate discussions about the Assembly and Senate's activities and perspectives.

#### **Comments from Assembly Member Toni Atkins (D-San Diego):**

Assembly Member Toni Atkins (D-San Diego), who has been appointed by Assembly Speaker John Perez to lead a working group of Assembly Democrats on redevelopment-related issues, addressed the task force. She said that it had not been the intent of the Legislature to eliminate RDA's, and the Court's decision was the worst possible outcome. She also said that her working group had considered the benefits of extending the dissolution deadline, but that was made difficult by efforts by other groups to leverage additional items that cities would not have liked, which limited the ability to move forward.

She said that the clean-up effort to AB X1 26 is the biggest focus now. She said that AB 1585 reflects many issues raised by cities, including the League and CRA, but it is not a "shoe-in" that the bill will be passed. She said she remained worried about the Governor's support. She announced that 1585 will take an accelerated path in the Assembly, with the goal of passing it by Monday, March 26, prior to the Legislative Spring break. This would give the Senate a month to review the measure. Time was a concern, however, because the housing funds would be dispersed to taxing entities if the measure was delayed. She said the bill was a high priority for the Speaker. Support from Republican members was important for the upcoming floor vote, and cities should continue to lobby the Senate and the Governor. "We have a job to do despite what has been dealt us," she said. "We need to band together and get it done."

As for next steps, Assembly Member Atkins said there were many challenges. Solutions were needed for affordable housing and brownfields. She said the working group had started developing tools for

economic development, but there were many questions. Creative thinkers are needed. Solutions must include money, and it was difficult to maneuver through the ballot measures and court decisions. Getting good advice from legal counsel has been difficult because most of the outside experts are busy on dissolution issues. Ms. Atkins said that her working group had recently been focused on military bases, including determining the position of the Governor. She concluded by offering to work with the League and was open to ideas it developed.

#### **Comments from Steve Shea, Consultant to Senator Darrell Steinberg:**

At a later point in the meeting, the task force heard from Steve Shea, Consultant to Senator Darrell Steinberg. Mr. Shea said the Assembly was doing good work cleaning up redevelopment dissolution issues and that the Senate was working more on next steps. He said they were beginning to put out ideas and trying to develop broad coalitions, without alienating anyone. A goal was to get something enacted this year as new model for going forward, but it did not have to be perfect and could be improved in the future.

Mr. Shea said that the two main bills shaping the post-RDA environment that he was working on was SB 1151 and SB 1156 by Senator Steinberg. The plan was to have these bills amended and in print by the end of the month, and in position to be heard in mid-April in Senate policy committees.

SB 1151, intended to work in tandem with SB 1156, was designed to focus on RDA assets including cash, investments, and real property. He said that AB X1 26 provided no timeframe for asset disposal and there was concern about a “fire sale” resulting in a cherry-picking transfer of wealth from the public to private sector. Mr. Shea said that it was better to know what you have, compile information into thoughtful plan with environmental data, value of the property, etc. Further, economic value for the State was not necessarily the most important thing; the most important thing is to integrate assets into city and county planning, including SB 375 goals.

SB 1156 was intended to include a process to manage assets in trust plus provide a new tool of tax increment financing. California’s reality is that its finances are in a Gordian knot where it is almost impossible to get anything done. Redevelopment was an anomaly. It allowed things to be done quickly and efficiently. Mr. Shea said the goal is to re-energize this framework for new policy arena. A JPA consisting of both the city and county was the template. It was necessary to bring in counties because counties were often disadvantaged historically with RDA and counties are also agencies of the state in many ways-so their interests and state’s are aligned. The goal is to put lots of tools in a toolbox and build on over time.

A task force member questioned whether a city-county JPA structure would always work, especially if they are not in sync, and asked if a city could go it alone if necessary. Mr. Shea responded that nothing was set in stone.

#### **Major RDA Cleanup Bills**

Cities and successor agencies are facing real challenges dealing with many unresolved issues from AB X1 26. Pursuing and supporting legislation that would address these challenges is the most important priority for the short term.

- 1) **AB 1585 (Perez).** This is the most developed cleanup bill. The League and CRA worked to draft and suggest many of its provisions and are continuing to work with the Speaker’s staff on additional

minor amendments. The bill makes many appropriate policy changes and technical clarifications to reduce confusion and provide greater direction to successor agencies, oversight boards and successor housing entities. Among its most important provisions, AB 1585:

**Major Policy Provisions:**

- i. **Preserves affordable housing funding.** Requires any amounts on deposit in the Low and Moderate Income Housing Fund (L&M Fund) of a former RDA be transferred to the successor housing entity and used for affordable housing rather than being distributed as property tax revenue. (If there is no successor housing entity, funds revert to HCD to be awarded on a competitive basis to extremely/very/low income projects within the counties in which the funds were collected.) At least 80% of L&M Funds must be contracted for expenditure within two years of receipt unless a waiver is granted.
- ii. **Ensures loan repayments to help provide local services.** This provision goes a long way to addressing the inequity in AB X1 26 that excluded most outstanding loans between a city or county to a RDA from being considered an “enforceable obligation.” Left unaddressed, this provision would result in severe hardship to local budgets and critical public safety and other vital services. In brief, the measure adds the following types of loans to be considered as an enforceable obligation:
  - o Loan agreements between the former RDA and the city, county, or city and county that created it, made within two years of the date of the creation of a project area, if the loan was for the project area;
  - o Loans made from the city or county to the former RDA to make a payment to the State's Supplemental Educational Revenue Augmentation Fund (SERAF); and
  - o Any other loan, provided the oversight board makes a finding that the loan was for legitimate redevelopment purposes; the oversight board may also condition its approval of the loan being repaid on a defined schedule over a reasonable term, at an interest rate not to exceed the interest rate earned by funds deposited into the Local Agency Investment Fund.
- iii **Preserves asset value.** Requires the compilation of a complete inventory of existing real property assets, by project area, including the general categories of such assets, the purpose for which they were originally acquired, the original purchase price and the estimated current market value. Authorizes an oversight board to direct the transfer of assets integral for a governmental purpose, such as a parking facility, to an appropriate governmental jurisdiction. Prior to disposing of any assets, the oversight board must receive and review this inventory and adopt a strategy for disposal or transfer that ensures it is done in an expeditious but orderly manner that preserves the asset's value.

**Important Procedural/Technical Changes:**

- i. Ensures that a successor agency can use the initial estimated obligation repayment schedule (EOPS) until a final recognized obligation payment schedule (ROPS) is adopted. This resolves a major concern that bond defaults could occur if obligations came due to successor agencies, but the county auditor-controllers would not release the funds because the ROPS had not yet been finalized.

- ii. Ensures that a full year of bond debt service requirements and other obligations may be provided on the first six-month enforceable obligation list, and requires the auditor-controller to ensure that sufficient funds are reserved to make necessary payments. This resolves another major concern that bond defaults could occur based upon insufficient funds being retained to make interest and principal payments according to the schedule in the bond indenture documents.
- iii. Ensures that successor entities can refinance outstanding debt when outstanding obligations exceed available revenue with the approval of an oversight board. This provision can help avoid possible bond defaults where the former RDA had a bond obligation coming due, such as a balloon payment, and a refinancing was anticipated. Absent this clarification there would be insufficient tax increment funds available to repay the debt.
- iv. Clarifies that a successor agency is a legally distinct and separate body that acts by resolution, can sue and be sued, and can have additional powers that may be conferred upon it. This resolves a very important legal question that provides helpful clarity and will improve the functioning of successor agencies.
- v. Clarifies important questions regarding the ability of a successor agency to have sufficient administrative cost allowances to administer its assigned duties, including clarifying that employee costs associated with specific project implementation activities are not subject to the existing 5% administrative cap.
- vi. Resolves several questions regarding selection of oversight board members from special districts and former employees of the RDA. These are important changes that reduce confusion with the selection of oversight board members.
- vii. Makes many other helpful and clarifying changes that assist with implementation.

For a description of all the bill's extensive changes, see the analysis by the Assembly Local Government Committee here: [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1551-1600/ab\\_1585\\_cfa\\_20120320\\_123010\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1585_cfa_20120320_123010_asm_comm.html)

AB 1585 is a significant first step; other legislation addressing asset management, brownfields, unspent bond proceeds and other matters should also be pursued.

**2) Other Legislation** A complete list of pending bills is at the end of this report; the more important of current pending bills include the following:

- **SB 1151 (Steinberg)** requires successor agencies to develop an asset management plan by December, 2012, and prohibits assets from being disposed of until this plan has been approved by both the oversight board and DOF. Additional amendments are expected which would require these assets to be placed in trust.
- **SB 1335 (Pavley)** focuses on brownfield issues and authorizes successor agencies to retain brownfield sites, and in the future develop transit-oriented development type projects on those properties, upon appropriation by the Legislature.
- **SB 986 (Dutton)** deems all former RDA bond proceeds encumbered, and requires them to be used for their intended purpose. This League-supported bill provides a forum to discuss what happens with projects that are stalled even though bonds have been issued.

- **AB 2144 (Perez)** is a spot bill that states intent to enact legislation that establishes long-term, targeted programs giving local governments tools and resources for public infrastructure, affordable housing, economic development and job creation, and environmental protection and remediation in a manner that encourages local cooperation and includes appropriate protections for state and local taxpayers.

The Task Force will continue its work on legislative proposals and researching options and will meet again on May 16, after the May budget revision is released.

### **List of 2012 Post-RDA Legislation**

*(Draft, as of 3-23-12)*

#### **AB X1 26 Related Clean-Up**

- AB 1585 (Perez) Major clean-up vehicle to AB X1 26, includes retaining RDA housing funds.
- SB 654 (Steinberg) Retain RDA Housing funds. (In Assembly, not yet assigned to committee)
- SB 986 (Dutton) Deems all former RDA bond proceeds encumbered, and requires them to be used for their intended purpose.
- AB 1555 (Norby) Imposes various prohibitions and limitations on loan forgiveness.
- AB 1644 (Carter) States Intent to address military base closure issues.
- SB 1157 (Berryhill) Successor agency spot.
- SB 1439 (Huff) Exempts City of Monrovia RDA from dissolution.
- SB 1056 (Hancock) Deems a project with funding from a Federal Qualified School Construction Bond an enforceable obligation.
- SB 1335 (Pavley) Brownfields: authorizes successor agencies to retain brownfield sites. Authorizes a successor agency to develop a transit-oriented development type project on those properties, upon appropriation by the legislature.
- SB 1151 (Steinberg) Requires the preparation of a long range asset management plan by Dec 1, 2012. (Suspends asset disposal until such a plan has been approved by both oversight board and DOF by Dec 31, 2012.)

#### **Next Steps Post-RDA Vehicles**

##### **Bills by Leadership:**

- AB 2144 (Perez): Spot bill states intent to enact legislation that establishes long-term, targeted programs giving local governments tools and resources for public infrastructure, affordable housing, economic development and job creation, and environmental protection and remediation in a manner that encourages local cooperation and includes appropriate protections for state and local taxpayers.
- SB 1156 (Steinberg) Authorizes the creation of a Community Development and Housing JPA between a city and a county.

##### **IFD Bills:**

- SB 214 (Wolk) Infrastructure Financing District (IFD)
- AB 485 (Ma) IFD for transit-oriented development.
- AB 910 Torres-IFD- (Author is open to working with the League with this vehicle)
- AB 2551 (Hueso) Authorizes the creation of IFD's called "Renewable Energy Zones."
- SB 1417 (Hancock) Spot. Interested in ways to make SB 310 (Hancock) of 2011 more useable.

## Attachment 1

**Membership, League Task Force on Next Generation Economic Development Tools**

**Chair:** \*Bill Bogaard, League First Vice President and Mayor, Pasadena

**Vice Chair:** \*Jose Cisneros, League Second Vice President, Treasurer, San Francisco

**Members:**

Alejandro Esparza (Lobbyist, Los Angeles)  
 Amy Bodek, Exec Dir, Long Beach RDA;  
 Art Madrid, Mayor, La Mesa; Asst to Julio Fuentes  
 Ben Johnson, Mayor, Pittsburg;  
 Brad Kilger, City Mgr, Benicia;  
 Brian Ambrose (Leg Analyst for McAllister);  
 \*Bryan Briggs, Economic & Redevelopment Manager, Ceres  
 Curtis Hunt, Cnclmbr, Vacaville  
 Daniel Parra, Mayor Pro Tem, Fowler  
 \*L. Dennis Michael, Mayor, Rancho Cucamonga  
 Dominique Sayer (admin to Paul Navazio)  
 Doug McAllister, Mayor, Murrieta  
 Emil Marzullo, San Bern. Eco Devel Agency Int Dir  
 Frank Robinson, City Mgr, Apple Valley  
 \*Iris Yang, City Attorney, Paso Robles  
 Ivania Sobalvarro, Leg Analyst, LA City Council  
 J Davis (asst to Daniel Parra)  
 \*Jan Arbuckle, Mayor, Grass Valley (Sac Valley Rep)  
 Jander Lacerda, Admin to Jose Cisneros  
 \*Julio Fuentes, City Manager, Alhambra  
 \*Jim Kennedy, Interim Executive Director, CRA  
 \*Jim Starbird, L.A. Division Representative/Consultant, HDL (League Partner)  
 June Catalano, City Mgr, Pleasant Hill RDA  
 L. Dennis Michael, Mayor, Rancho Cucamonga  
 LaShelle Dozier, Exec Dir, Sacramento Housing and Redevelopment Agency  
 Lidia Simms (Art Madrid's asst)  
 Lorain Nagahiro (Bill Bogaard's Exec Asst)  
 Lynn Boardman (asst to June Catalano)  
 Mark Wheatley, Council Member, Arcata  
 \*Pat Eklund, Mayor Pro Tem, Novato  
 Paul Navazio, Asst City Mgr, Davis  
 \*Peter Pirnejad, Asst Dir, Economic and Community Development, Daly City  
 Ray Kerridge, City Mgr, Roseville  
 \*Rene Mendez, City Manager, Gonzales  
 \*Robert Ross, Council Member, San Mateo  
 Scott Miller, Admin Svcs Dir, Beverly Hills  
 Scott Nelson, Council Member, Placentia

**League Staff and Consultants:** Chris McKenzie, Dan Carrigg, Betsy Strauss, Dwight Stenbakken, Mimi Sharpe, Michael Coleman, Ellen Powell, Patrick Whitnell. Other attendees: David Jones (RDA lobbyist), Roxanne Miller (City of San Jose lobbyist), Jim Kennedy (Interim Exec Dir CRA), Jim Starbird, Consultant, HDL.

*\*Indicates member of Subcommittee of March 8*