ASSEMBLY BILL No. 741

Introduced by Assembly Member Brown

February 21, 2013

An act to add Section 98.3 to the Revenue and Taxation Code, relating to local government finance, and declaring the urgency thereof, to take effect immediately.

legislative counsel's digest

AB 741, as introduced, Brown. Local government finance: tax equity allocation formula: qualifying cities.

Existing property tax law requires the auditor of each county with qualifying cities, as defined, to make certain property tax revenue allocations to those cities in accordance with a specified Tax Equity Allocation (TEA) formula established in a specified statute and to make corresponding reductions in the amount of property tax revenue that is allocated to the county.

This bill would, commencing with the 2012–13 fiscal year and each fiscal year thereafter, increase the allocation of property tax revenues under a new TEA formula, as specified, for qualifying cities, as defined.

By changing the manner in which county auditors allocate ad valorem property tax revenues, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ⅔. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 98.3 is added to the Revenue and Taxation Code, to read:

98.3. (a) Notwithstanding any other law, in each county having within its boundaries a qualifying city, the computations made pursuant to Section 96.1 or its predecessor section, for the 2012–13 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 2012–13 fiscal year and each fiscal year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 2012–13 fiscal year and each fiscal year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that qualifying city in proportion to each tax rate area's share of the total assessed value in the qualifying city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its predecessor section, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 2012–13 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall, for the 2012–13 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 96.5 or its predecessor section to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 2013–14 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor, for the 2012–13 fiscal year and each fiscal year thereafter, for each qualifying city as follows:

(1) The auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city before the allocation and payment of any funds in that fiscal year from the Redevelopment Property Tax Trust Fund, as established and administered pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to the Redevelopment Property Tax Trust Fund, as established and administered pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code, for the qualifying city.

(3) The auditor shall determine the total amount of funds allocated in each fiscal year from the Redevelopment Property Tax Trust Fund, as established and administered pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code, to a qualifying city in its capacity as the successor agency of a former redevelopment agency as defined in subdivision (j) of Section 34171 and Section 34173 of the Health and Safety Code, including, but not limited to, funds allocated for deposit into the Redevelopment Obligation Retirement Fund created pursuant to Section 34170.5 of the Health and Safety Code and for the administrative cost allowance as defined in subdivision (b) of Section 34171 of the Health and Safety Code.

(4) The auditor shall determine the total amount of funds allocated in each fiscal year from the Redevelopment Property Tax Trust Fund, as established and administered pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code, to a qualifying city as payment for an agreement between the qualifying city and its former redevelopment agency that is deemed to be an enforceable obligation as defined in subdivision (d) of Section 34171 and Section 34178 of the Health and Safety Code, and is paid by the successor agency of the former redevelopment agency to the qualifying city from that successor agency's Redevelopment Obligation Retirement Fund created pursuant to Section 34170.5 of the Health and Safety Code.

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (3).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives an allocation pursuant to this section, 9 percent.

(B) For the second fiscal year in which the qualifying city receives an allocation pursuant to this section, 12 percent.

(C) For the third fiscal year in which the qualifying city receives an allocation pursuant to this section, and for each fiscal year thereafter in which the qualifying city receives an allocation pursuant to this section, 15 percent.

(d) "Qualifying city" means any city, general law or charter, that meets all of the following:

(1) The city incorporated prior to June 29, 2011.

(2) Prior to June 29, 2011, the city had a redevelopment agency or redevelopment agency components of a community development agency exercising powers and duties within the territorial jurisdiction of the city under Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.

(3) On February 1, 2012, the redevelopment agency or redevelopment agency components of the community development agency of the city dissolved pursuant to Part 1.85 (commencing

with Section 34170) of Division 24 of the Health and Safety Code, as modified pursuant to California Redevelopment Association v. Matosantos (2011) 53 Cal.4th 231.

(4) The city had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1, Section 98, or their predecessor sections in the 2011–12 fiscal year that is less than 15 percent of the amount of property tax revenue computed as follows:

(A) The auditor shall determine the total amount of property tax revenue allocated to the city in the 2011–12 fiscal year.

(B) The auditor shall subtract the amount for the 2011–12 fiscal year determined in paragraph (4) of subdivision (c) from the amount determined in paragraph (3) of subdivision (c).

(C) The auditor shall divide the amount of property tax revenue determined in subparagraph (A) by the amount of property tax revenue determined in subparagraph (B).

(D) If the quotient determined in subparagraph (C) is less than 0.15, the city is a qualifying city. If the quotient determined in subparagraph (C) is equal to or greater than 0.15, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue that was exchanged, if any, between the county and the qualifying city, which is also a qualifying city pursuant to Section 98, as a result of negotiation pursuant to Section 99.03.

(2) (A) The amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 2011, of the tax rate or tax base of any locally imposed tax, except any tax that was imposed after January 1, 2011. In the case of a tax that existed before January 1, 2011, this subparagraph

shall apply only with respect to an amount attributable to a reduction of the rate or base to a level lower than the rate or base applicable on January 1, 2011. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this subparagraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(B) No reduction may be made pursuant to subparagraph (A) in the case in which a local tax is reduced or eliminated as a result of either a court decision or the approval or rejection of a ballot measure by the voters.

(3) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 2009–10 fiscal year by all special districts that are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city.

(4) Notwithstanding paragraph (3), commencing with the 2012–13 fiscal year and each fiscal year thereafter, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of the following:

(A) The qualifying city becoming the successor agency to a special district, that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 2011.

(B) The qualifying city becoming the successor agency of its former redevelopment agency or redevelopment agency components of its community development agency dissolved on February 1, 2012, pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code, as modified pursuant to California Redevelopment Assn. v. Matosantos (2011) 53 Cal.4th 231.

(C) The qualifying city withdrawing from a county free library system pursuant to Section 19116 of the Education Code.

(g) Notwithstanding any other provision of this section, in no event may the auditor reduce the amount of ad valorem property tax revenue otherwise allocated to a qualifying city pursuant to this section on the basis of any additional ad valorem property tax revenues received by that city pursuant to a services for revenue agreement. For purposes of this subdivision, a “services for revenue agreement” means any agreement between a qualifying city and the county in which it is located, entered into by joint resolution of that city and that county, under which additional service responsibilities are exchanged in consideration for additional property tax revenues.

(h) In any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall increase the actual amount distributed to the qualifying city by the amount of property tax revenue allocated to the qualifying city pursuant to Section 19116 of the Education Code.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e), (f), and (g), would result in a qualifying city having proceeds of taxes in excess of its appropriation limit as established by this section, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city’s appropriations limit.

(j) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(k) Notwithstanding any other provision of this section, no qualifying city shall be allocated and distributed an amount pursuant to this section that is less than the amount the city would have been allocated without the application of the TEA formula.

(*l*) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the federal Tax Reform Act of 1986 (Public Law 99-514) and is no longer eligible for tax-exempt financing.

SEC. 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end, the provisions of this act are severable.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for reimbursement to a local agency in the form of additional revenues that are sufficient in amount to fund the new duties established by this act, within the meaning of Section 17556 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure qualifying cities, as defined in subdivision (d) of Section 98.3 of the Revenue and Taxation Code, receive a minimum amount of ad valorem property tax revenues necessary to maintain services lost due to the elimination of redevelopment, it is necessary that this act take effect immediately.

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