Brief Analysis of SB 107

Below is a brief summary of SB 107, the redevelopment dissolution bill, compiled by the League's Attorneys, and reflects input from city attorneys representing agencies across the state.

Given that this 104 page bill is being placed into print on the last day of session, affected cities and legislators are being given little time to review and understand its full impact. The details and nuances of the language and how they will later be interpreted by DOF matter immensely.

Loan Repayment

1. Third-Party or "Reimbursement Agreements" The maximum amount of reimbursement under this type of loan is $5,000,000 per agency for all loan agreements.

   COMMENT: The $5,000,000 limit applies per agency, even if there was more than one loan agreement. Many cities are owed much more than this. This is the issue that has been most hotly contested, and was the subject of the *Watsonville* case, where a city contracted with a third party.

   The language also requires that the city's agreement with a third party was made "on behalf of the RDA." This language will give DOF an opportunity to limit these types of loans to agreements that explicitly provide that they are made *"on behalf of" the RDA*. Many agreements do not include this language.

   Some city attorneys have commented that the obligation to reimburse was documented *with a resolution rather than "an agreement"* and that DOF may adopt a narrow definition of "agreement" and limit repaying loans on that basis.

2. Transfers of Real property: City transfers real property to CRA for use by CRA and CRA is required to pay city for real property interest.

   COMMENT: It is unclear how widely applicable this provision is. City attorneys reviewing the bill this morning identified Santa Monica, Daly City and Hayward as potentially benefitting. The bill requires that there was a transfer of an interest in real property to the redevelopment agency. This type of loan does not include agreements between a city and its redevelopment agency in which the interest in real property remained with the city.

3. Cash: This is DOF's original proposal in AB 113. While cash loans will supposedly be recognized the interpretation of "required repayment schedule" (page 80, line 3) by DOF will make the difference in whether such loans are recognized or must be further litigated.

   COMMENT: DOF will have the opportunity to interpret the phrase "repayment schedule." Loans of cash do not include a "repayment schedule" as that phrase is ultimately interpreted by DOF will not qualify for repayment.

4. Interest rate on these loans: Recalculated from origination at 3% simple interest.

   COMMENT: This interest rate would be less than what local agencies could otherwise recover based on existing law and the *Glendale* decision.

Due Process & Legal costs: DOF is exempted from the Administrative Procedures Act. Local agencies are restricted to the administrative cost allowance as the sole funding source for legal costs. City may loan funds to successor agency but may only recoup funds if litigation is successful.

New types of enforceable obligations

Two new types of enforceable obligations are created by the bill:

1. "State highway infrastructure improvements" (funded pursuant to Health & Safety Code 33445).

2. Loan from city to CRA of federal grant/loan funds (e.g. CDBG/Section 108 funding)

Changes affecting housing successor

1. Increases from 2% of value of property to 5% of value of property amount that can be spent by housing successor on administrative costs.

2. Allows use of 100% of housing bonds.

Countywide Oversight Boards do not begin until 2018 (instead of July 2016)

Other provisions of the legislation: As previously provided in AB 113

1. Interest rate on loans from cities to successor agencies calculated from date of OB approval at LAIF rate in effect for the previous fiscal quarter.

2. Use of 2010 bond proceeds require Oversight Board approval only.

3. 2011 bonds may be used as previously provided in AB 113.

4. DOF may require compensation agreements for transfer of property from successor agency to city for future development.

5. A public parking facility that produces revenue in excess of "maintenance costs" is not considered a public parking facility.

6. Validation of re-entered agreements prior to AB 1484.

7. May create limited enforceable obligations for "winding down" activities as defined (no maintenance of property included).