



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

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Staff Report
August 21, 2007

Honorable Members of the
Law and Legislation Committee

**Title: Legislation Position: Oppose SB 103 Relating to Economic Development
Subsidies Report by Local Agencies**

Location/Council District: Citywide

Recommendation: Staff recommends that the Law and Legislation Committee adopt an oppose position on SB 103.

Contact: Lisa Bates, Director, Housing and Community Development, 440-1322

Presenters: Kenneth Jones, Program Manager, Housing and Community Development, 440-1311

Department: Sacramento Housing and Redevelopment Agency

Division: Housing and Community Development

Description/Analysis

Issue: Senate Bill 103 (Senator Gilbert Cedillo) would, beginning January 1, 2008, require each local agency to provide specified information to the public before approving any economic development subsidy and to review, hold hearings, and report on those subsidies at specified intervals. By requiring a higher level of service of local agencies, this bill would impose a state-mandated local program.

As defined in the bill, "economic development subsidy" means any expenditure of public funds or loss of revenue to a local agency in the amount of \$25,000 or more, for the purpose of stimulating economic development within a local agency, including, but not limited to, enterprise zone incentives, bonds, grants, loans, loan guarantees, tax-increment financing, fee waivers, land price subsidies and tax exemptions.

Policy Considerations: SB 103 is inconsistent with existing city policies that support incentives for economic development. The bill requires duplicative reports and hearings on the same subsidies, thereby leading to unnecessary time and expenses by local governments. Some groups are concerned that economic development subsidies do not receive the same level of public scrutiny as budgetary and regulatory decisions.

Environmental Considerations: None.

Committee/Commission Action: None.

Rationale for Recommendation: Staff recommends opposition of SB 103 because it will add duplicative, unnecessary and onerous requirements that could undermine the intent and effectiveness of Redevelopment Agency programs, including redevelopment tax increment, Enterprise Zones, grants and bonds which already require disclosure, public hearing and reporting on economic assistance.

Economic development subsidies, including Enterprise Zones, are vital to our community; they specifically help economically distressed areas, through the use of special tax incentives, encourage business investment and promote job retention and creation.

Organizations opposed to SB 103 include California Association for Local Economic Development, California Redevelopment Association and California Taxpayers' Association and League of California Cities.

Financial Considerations: There could be significant costs, potentially exceeding \$1 million annually, to local government agencies for the compilation of information and preparation of reports required by this bill. If the Commission on State Mandates determines that the bill contains mandated costs, local governments could be reimbursed for these expenses. However, the extent to which these local costs would be reimbursable is uncertain. In addition, courts have found that redevelopment agencies are not eligible for mandate reimbursements, and redevelopment agencies are one of the major entities that offer local economic subsidies.

Approved by: 
Anne Moore, Director of SHRA

Recommendation Approved:


GUSTAVO F. VINA
Assistant City Manager

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AMENDED IN SENATE FEBRUARY 27, 2007

SENATE BILL

No. 103

Introduced by Senator Cedillo

January 17, 2007

An act to add Section 53083 to the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 103, as amended, Cedillo. Economic development subsidies: review by local agencies.

(1) Existing law provides for various programs for economic development activities by state and local agencies.

This bill would, beginning January 1, 2008, require each local agency to provide specified information to the public before approving any economic development subsidy, as defined, within its jurisdiction, and to review, hold hearings, and report on those subsidies at specified intervals. By requiring a higher level of service of local agencies, this bill would impose a state-mandated local program.

(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 53083 is added to the Government Code,
2 to read:

3 53083. (a) On and after January 1, 2008, each local agency
4 shall, prior to approving any economic development subsidy within
5 its jurisdiction, provide all of the following information in written
6 form available to the public, and through its Web site, if applicable:

7 (1) The name and address of the entity or individual that is the
8 beneficiary of the economic development subsidy, if applicable.

9 (2) The start and end dates and schedule, if applicable, for the
10 economic development subsidy.

11 (3) The total amount of the expenditure of public funds by, or
12 of revenue lost to the jurisdiction, as a result of the economic
13 development subsidy.

14 (b) On or before October 1, 2009, and on or before October 1
15 in each odd-numbered year thereafter, the local agency shall
16 prepare a report for each economic development subsidy approved
17 after January 1, 2008. ~~For~~ *Notwithstanding the requirement to*
18 *prepare a report every two years, for an economic development*
19 *subsidy that will exist for 40 years or more, the report shall be*
20 *prepared only once every six years after the initial report.* The
21 report shall contain the information described in subdivision (a).
22 The local agency shall make the report available to the public and
23 through its Web site, if applicable.

24 (c) On or before November 1, 2009, and on or before November
25 1 in each odd-numbered year thereafter, the local agency shall
26 hold a public hearing to consider any written or oral comments on
27 the information contained in the report prepared pursuant to
28 subdivision (b).

29 (d) The local agency shall provide a final report at the conclusion
30 of each economic development subsidy that would include, but
31 not be limited to, the information described in subdivision (a), in
32 written form available to the public, and through its Web site, if
33 applicable.

34 (e) As used in this section, the following terms have the
35 following meanings:

36 (1) "Economic development subsidy" means any expenditure
37 of public funds or loss of revenue to a local agency in the amount
38 of twenty-five thousand dollars (\$25,000) or more, for the purpose

1 of stimulating economic development within a local agency,
 2 including, but not limited to, bonds, grants, loans, loan guarantees,
 3 enterprise zone or empowerment zone incentives, tax-increment
 4 financing, fee waivers, land price subsidies, matching funds, tax
 5 abatements, tax exemptions, and tax credits.

6 (2) "Local agency" means a city, including a charter city, county,
 7 city and county, and community redevelopment agency.

8 SEC. 2. The Legislature finds and declares that the right of the
 9 public to be informed of economic development subsidies approved
 10 by their local agencies, as described in Section 53083 of the
 11 Government Code, as added by Section 1 of this act, is a matter
 12 of statewide concern, and not a municipal affair, as that term is
 13 used in Section 5 of Article XI of the California Constitution.

14 SEC. 3. If the Commission on State Mandates determines that
 15 this act contains costs mandated by the state, reimbursement to
 16 local agencies and school districts for those costs shall be made
 17 pursuant to Part 7 (commencing with Section 17500) of Division
 18 4 of Title 2 of the Government Code.

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ASSEMBLY COMMITTEE ON APPROPRIATIONS

Bill Analysis

Mark Leno, Chair

SB 103 (Cedillo) - As Amended: February 27, 2007

Date of Hearing: July 18, 2007

Policy Committee: Local
GovernmentVote:5-0

Urgency: No State Mandated Local Program:
Yes Reimbursable: Yes

SUMMARY

This bill requires that each local agency prepare a report and hold hearings on economic development subsidies approved after January 1, 2008. Specifically the bill:

- 1)Requires the report to include information on the name and address of the entity receiving the subsidies, the start and end dates of the subsidies, and the total amount of expenditures or foregone revenues resulting from the subsidies.
- 2)Defines an economic development subsidy to include bonds, grants, loans, loan guarantees, enterprise zones, tax increment financing, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, or tax credits.
- 3)Requires that the report be issued on or before October 1 of each odd-numbered year, unless the subsidy will exist for 40 years or more, in which case the report is required every six years.
- 4)Requires each local agency, on or before November 1 in each odd-numbered year, to hold a public hearing to consider comments on the reports.
- 5)Requires that the information in the reports be presented on a public web-site.

FISCAL EFFECT

Significant costs, potentially exceeding \$1 million annually, to local government agencies for the compilation of information and preparation of reports required by this bill. If the Commission on State Mandates determines that the bill contains mandated costs, the GF could incur costs to reimburse local governments for these expenses. The extent to which these local costs would be reimbursable is uncertain.

COMMENTS

1)Background . Cities and counties influence land use development through regulatory powers (such as general plans, zoning ordinances, and permitting requirements), direct spending through their budgets for public works, grants, and loans, and through economic incentives to induce individual businesses to locate in their communities, Most regulatory and budgetary activities are transparent because of legal requirements for public hearings, environmental reviews, annual financial reports, and regular audits. Some groups are concerned that economic development subsidies do not receive the same level of public scrutiny as budgetary and regulatory decisions.

2)Rationale . According to the author, the bill is intended to increase public accountability and oversight of local economic development subsidies. Supporters indicate that while economic development is a worthy goal, more transparency and oversight is needed.

3)Concerns . In policy committee, concerns were raised that the bill, as currently drafted, contains an overly broad and vague definition of an "economic development subsidy", and that the bill requires duplicative reports and hearings on the same subsidies, thereby leading to unnecessary time and expenses by local governments.

4)Reimbursable Mandate ? Under the Constitution, when the Legislature or a state agency mandates a new program or higher level of service on a local government, it is required to provide a subvention of funds. If the Commission on State Mandates finds that the requirements of this bill constitute a reimbursable mandate, the costs to the state could be significant. For example, investment reporting requirements imposed on local government treasurers following the Orange County bankruptcy resulted in local mandate claims of averaging \$3.5 million per year.

However, the extent to which the local costs imposed by this bill would be reimbursable is uncertain. For example, courts have found that redevelopment agencies are not eligible for mandate reimbursements, and redevelopment agencies are one of the major entities that offer local economic subsidies. Similarly, the state is only required to reimburse local governments for mandatory activities. To the extent that economic subsidies are considered discretionary activities of local agencies, they would not be reimbursable.

5)Previous Legislation . This bill is similar to SB 1268 (Cedillo) from 2006, which was held in the Senate Appropriations Committee.

Analysis Prepared by : Brad Williams / APPR. / (916) 319-2081

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
BILL ANALYSIS
Anna Marie Caballero, Chair
SB 103 (Cedillo) - As Amended: February 27, 2007

Date of Hearing: July 3, 2007

SENATE VOTE : 25-13

SUBJECT : Economic development subsidies: review by local agencies

SUMMARY : Requires local agencies to provide full disclosure of any economic development subsidy of \$25,000 or more. Specifically, this bill :

1) Requires, beginning January 1, 2008, each local agency, prior to approving an economic development subsidy within its jurisdiction, to provide the following information in written form available to the public, and through its Web site, if applicable:

- a) The name and address of the entity or individual that is the beneficiary of the economic development subsidy;
- b) The start and end dates and schedule, if applicable, for the economic development subsidy; and
- c) The total amount of the expenditure of public funds by, or of revenue lost to the jurisdiction, as a result of the economic development subsidy.

2) Require local agencies to prepare a report on or before October 1 in each odd-numbered year for each economic development subsidy approved after January 1, 2008, containing the information specified above.

3) Specifies that if the economic development subsidy will exist for 40 years or more, the report shall be prepared once every six years.

4) Requires the local agency to make the report available to the public and through its Web site, if applicable.

5) Requires each local agency, on or before November 1 in each odd-numbered year, to hold a public hearing to consider any comments on the information contained in the report.

6) Requires each local agency to provide, in written form available to the public, and through its Web site, if applicable, a final report at the conclusion of each economic development subsidy that would include, but not be limited to, the following information:

- a) The name and address of the entity or individual that is the beneficiary of the economic development subsidy;

b) The start and end dates and schedule, if applicable, for the economic development subsidy; and

c) The total amount of the expenditure of public funds by, or of revenue lost to the jurisdiction, as a result of the economic development subsidy.

7) Defines "economic development subsidy" as any expenditure of public funds or loss of revenue to a local agency in the amount of twenty-five thousand dollars (\$25,000) or more, for the purpose of stimulating economic development within a local agency, including, but not limited to, bonds, grants, loans, loan guarantees, enterprise zone or empowerment zone incentives, tax-increment financing, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits.

8) Defines "local agency" as a city, including a charter city, county, city and county, and community redevelopment agency.

9) Finds and declares that the right of the public to be informed of economic development subsidies approved by their local agencies is a matter of statewide concern and not a municipal affair as that term is used in the California Constitution.

EXISTING LAW prohibits cities, counties, and redevelopment agencies from subsidizing the relocation of big box retailers and auto malls within the same market area.

FISCAL EFFECT : According to the Senate Appropriations Committee, the cost to develop and report economic development subsidy information on a biennial basis and to hold a public hearing and consider written or oral comments may be a reimbursable state mandate. Costs could be \$443,000 every two years. Actual reporting costs would likely be much higher but would not be fully known until the Commission on State Mandates (CSM) approved a test claim.

COMMENTS :

1) Cities and counties engage in a wide variety of economic development activities to build their tax bases. Local officials use their regulatory powers, direct spending, and tax policies to influence where, when, and how the private sector invests capital and improves real property. Local officials sometimes use their economic development powers to induce business to relocate to their communities. How local officials use their regulatory powers is relatively transparent because state law requires public notice, public hearings, and environmental reviews. State requirements for local budgets, annual financial reports, and regular audits allow constituents to review most of the direct fiscal decisions. However, some groups worry that local economic development subsidies do not receive the same public scrutiny

as budgets and regulatory decisions. SB 103 attempts to remedy that perceived shortcoming.

2)According to the author, SB 103 will "increase public accountability and oversight of local economic development subsidies." They further state that "while economic development is a worthy goal, we need more transparency and oversight in the process of awarding these subsidies. Many local governments do not hold meetings prior to their implementation. Once they are implemented, there is very little follow-up to determine if the subsidies provided to businesses yielded positive benefits for the community."

3)State law prohibits cities, counties, and redevelopment agencies from subsidizing the relocation of big box retailers and auto malls within the same market area, but otherwise local governments are generally authorized to make their own decisions regarding local economic development matters. Although the sponsor of SB 103 maintains that local governments approve billions of dollars in economic development subsidies with absolutely no public oversight, it is unclear how widespread the problem of lack of disclosure really is. The League of California Cities, writing in opposition to SB 103, states that "local agencies generally provide information about the amount and timing of payments (or foregone revenue) at the time the decision is made to grant the subsidy. In addition such decisions must be made in open meetings and all documents are subject to public review."

4)The California Association for Local Economic Development (CALED) concurs with the League that "there is adequate public disclosure at the front end due to public hearing notice requirements." CALED further writes that "the ongoing reporting requirement is not clear or uniform. It may be that local agencies can modify an existing reporting requirement to include the data desired by the bill's proponent, rather than mandating a whole new set of reporting requirements."

5)While well-intended, SB 103 as currently drafted is problematic. The bill requires local agencies to report biennially (or every six years if the term of the subsidy is 40 years or more) on every approved economic development subsidy, although the information required to be provided every two years is the same information the agency is required to provide at the time the subsidy is approved - who is the beneficiary, how long will it last, and how much is it worth. As long as the terms of the subsidy do not change, it seems unnecessary to repeatedly report the same information. Additionally, SB 103 requires a public hearing every two years (or every six years for long-term subsidies) on every approved subsidy. Local agencies hold hearings when items are up for consideration so that the comments of the public can play a part in the local decision-making process. Once a decision

has been made and a subsidy approved, it is unclear what value a public hearing would have.

6) The definition of "economic development subsidy" in SB 103 seems overly broad. The bill defines a subsidy as any expenditure of public funds or loss of revenue of \$25,000 or more for the purpose of stimulating economic development within a local agency, including, but not limited to, bonds, grants, loans, loan guarantees, enterprise zone or empowerment zone incentives, tax-increment financing, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits. This definition could potentially be interpreted to encompass a wide variety of expenditures that might not normally be thought of as subsidies for economic development. For example, do investments in affordable housing count as economic development subsidy? Is a loan a subsidy in all cases, or only when the interest rate is lower than on loans from commercial banks?

7) PROPOSED COMMITTEE AMENDMENTS :

- a) Delete the current text on page 2, lines 3-33.
- b) Require local agencies to adopt or make changes to an economic development subsidy at a noticed public hearing of the legislative body.
- c) Require the hearing notice to include the following information:
 - i) The name and address of the entity or individual that will be the beneficiary of the economic development subsidy, if applicable.
 - ii) The start and end dates and schedule, if applicable, for the economic development subsidy.
 - iii) The total amount of the expenditure of public funds or, if the subsidy is not a direct payment of public funds, a detailed description of the type and nature of the economic development subsidy.
- a) Require the local agency to make the above information available for public inspection at a public office and through its website, if applicable, for every economic development subsidy that is approved or changed.
- b) Require the information to be posted within 45 days of approving or changing an economic development subsidy and to remain posted for the entire term of the subsidy.
- c) Delete redevelopment agencies from the definition of local agency and delete tax-increment financing from the list of things considered an economic development subsidy.
- d) Refine the definition of economic development subsidy to make it clear what does and does not count as a subsidy.

8)SB 103 is similar to SB 1268 (Cedillo, 2006), which was held on suspense in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION :

Support

American Federation of State, County and Municipal Employees
[SPONSOR]
CA Alliance for Consumer Protection
CA Tax Reform Association
Los Angeles Alliance for a New Economy

Opposition

CA Association for Local Economic Development (unless amended)
CA Redevelopment Association
City of Poway
County of Mendocino
Cal-Tax
League of CA Cities

Analysis Prepared by : Anya Lawler / L. GOV. / (916) 319-3958

August 14, 2007

The Honorable Senator Gilbert Cedillo
State Capitol, Room 5100
Sacramento, CA 95814
Phone: (916) 651-4022

Re: Opposition of SB 103

Dear Senator Cedillo,

On behalf of the City of Sacramento and the Sacramento Housing and Redevelopment Agency, I would like to express my opposition to SB 1008 (Cedillo).

SB 103 will add duplicative, unnecessary and onerous requirements that could undermine the intent and effectiveness of the City's economic revitalization efforts, including our Enterprise Zones, which already require disclosure, public hearing and reporting on economic assistance.

Economic development subsidies, including Enterprise Zones, are vital to our community; they specifically help economically distressed areas, through the use of special tax incentives, encourage business investment and promote job retention and creation. The window of opportunity for attracting and retaining businesses in our State can be narrow at times. If the City is unable to react quickly enough, it may lose businesses to other States.

There could be significant costs to local government agencies for the compilation of information and preparation of reports required by this bill. The extent to which these local costs would be reimbursable is uncertain. In addition, courts have found that redevelopment agencies are not eligible for mandated reimbursements, and redevelopment agencies are one of the major entities that offer local economic subsidies.

I want to thank you for your consideration of our position on this bill. If you have any questions, please contact Kenneth Jones at (916) 440-1399 ext. 1311.

Sincerely,

Heather Fargo
Mayor
City of Sacramento

