



City Council Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2018-01185

August 21, 2018

Consent Item 01

Title: Ordinance Adding Chapter 3.154 to the Sacramento City Code Relating to the Issuance of Transient-Occupancy-Tax Revenue Bonds (Passed for Publication 08/14/2018; Published 08/17/2018)

Location: Citywide

Recommendation: 1) Pass a Motion allowing the City Council to adopt an ordinance that adds chapter 3.154 to the Sacramento City Code, thereby authorizing the issuance of revenue bonds secured by transient-occupancy taxes, without the Law and Legislation Committee's prior review (Council Rules of Procedure, chapter 13, section B.1.b(ii)); and 2) pass an ordinance adding chapter 3.154 to the Sacramento City Code.

Contact: Brian Wong, Debt Manager, (916) 808-5811; Colin Bettis, Senior Debt Analyst, (916) 808-8292, Office of the City Treasurer

Presenter: None

Attachments:

1-Description/Analysis

2-Ordinance

Description/Analysis

Issue Detail: The current Transient-Occupancy Tax (“TOT”) ordinance allows TOT revenues to be used for the “acquisition, construction, completion, operation, repair, and maintenance of public assembly and convention halls, including convention center, auditorium, and little theater buildings with facilities for convention meetings, and public assemblies (including dramatic and musical performances), public off-street parking facilities and other site improvements related thereto.” It also allows for use of TOT revenues to pay the interest and principal payments on bonds issued to acquire any of the facilities listed previously and for the payment of any lease payments of the facilities previously mentioned. (See City Code § 3.28.180.)

City Charter section 119 authorizes the City Council to “issue revenue bonds for any lawful purpose in such manner and upon such terms and conditions as it may fix and establish by the provisions of a procedural ordinance,” but the City Council has never enacted a procedural ordinance that authorizes the issuance of issue bonds backed by a pledge of the TOT revenues. Adding chapter 3.154 to the City Code will authorize the use of TOT revenues to pay debt service on revenue bonds issued to finance qualifying capital-improvement costs. Importantly, only TOT revenues that have not been previously obligated may be so used. The previously obligated TOT revenues are (1) the 2% TOT imposed under City Code § 3.28.050 for the General Fund and (2) payments to Visit Sacramento (formerly known as the Sacramento Convention and Visitors Bureau) required under City Code § 3.28.040.

Policy Considerations: The proposed new chapter is consistent with the City’s debt-management policy adopted on June 19, 2018.

Economic Impacts: Not applicable.

Environmental Considerations: Approval of the recommendation is not a “project” subject to CEQA because it (a) has no potential to cause a significant effect on the environment and (b) concerns governmental fiscal activities that do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. (14 Cal. Code Regs. §§15061(b)(3) and 15378(b)(4)).

Sustainability: Not Applicable.

Commission/Committee Action: Not Applicable

Rationale for Recommendation: The addition of chapter 3.154 to the City Code will authorize the City to issue TOT revenue bonds that will be limited obligations of the City, with the TOT pledge restricted to revenues that are legally available for the repayment of debt.

Financial Considerations: Not applicable

Local Business Enterprise (LBE): Not applicable

ORDINANCE NO. 2018-____

AN ORDINANCE ADDING CHAPTER 3.154 TO THE SACRAMENTO CITY CODE,
RELATING TO THE ISSUANCE OF TRANSIENT-OCCUPANCY-TAX REVENUE BONDS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

Under sections 3, 5, and 7 in article XI of the California Constitution and section 10 of the Sacramento City Charter, the city is authorized to make and enforce all laws and regulations concerning municipal affairs and certain other matters. Under section 119 of the Sacramento City Charter, the city is specifically authorized to issue revenue bonds for any lawful purpose and to adopt a procedural ordinance prescribing the terms and conditions of issuance. Acting in accordance with this authority, the city council hereby finds that the public interest and necessity require the adoption of this ordinance to authorize, and to establish the procedures for, the city's sale and issuance of revenue bonds secured by, and payable from, transient-occupancy taxes and other funds as may be designated in the instrument or agreement under which the city issues the bonds.

SECTION 2

Chapter 3.154 is added to the Sacramento City Code to read as follows:

CHAPTER 3.154 TOT REVENUE BOND LAW

Article 1. General Provisions and Definitions

3.154.010 Short title.

This chapter may be cited as the TOT Revenue Bond Law.

3.154.020 Purpose.

The city council hereby finds that the city's issuance of bonds to finance capital-improvement costs is a municipal affair and promotes a necessary and essential public purpose.

3.154.030 Definitions.

The following definitions apply in this chapter:

"Bonds" means any bonds, notes, loans, interim certificates, debentures, installment-purchase agreements, leases, or other obligations that are issued or incurred under this chapter and are payable from revenues and other funds pledged under the issuing instrument as described in the issuing instrument.

“Capital-improvement costs” means all costs and expenses the city pays or incurs for the purposes authorized in section 3.28.180.

“City treasurer” means the city treasurer or his or her designee.

“Include” and its variants are terms of enlargement rather than of limitation, so that “includes” means “includes but not limited to,” and “including” means “including but not limited to.”

“Issuing instrument” means the resolution of the city council adopted under this chapter and any indenture, trust agreement, loan agreement, lease, installment-purchase agreement, revolving-credit agreement, credit or liquidity agreement, or other instrument or agreement under which the city issues or incurs bonds.

“Revenues” means either or both of the following:

1. All or any portion of the TOT to the extent pledged to secure the payment of bonds under an issuing instrument
2. At the city’s discretion, penalties and interest imposed under section 3.28.110 for TOT delinquencies to the extent pledged to secure the payment of bonds under an issuing instrument.

“TOT” means the transient-occupancy taxes imposed under either or both of the following:

1. Sections 3.28.030 and 3.28.040, other than taxes imposed under section 3.28.040 and used to fund the Sacramento Convention and Visitors Bureau (also known as Visit Sacramento) in accordance with that section.
2. Any future amendments to chapter 3.28 providing for the levy of additional transient-occupancy taxes that are available for capital-improvement costs.

Article II Issuance of Bonds

3.154.040 General Powers.

The city is authorized and empowered to do the following:

- A. Issue or incur bonds for the purposes of financing capital-improvement costs and other authorized facilities, refunding outstanding bonds, establishing debt-service reserves, paying capitalized interest, and paying all costs incurred in connection with bonds.
- B. Establish the terms for financings undertaken in accordance with this chapter.

- C. Employ or contract for such legal, underwriting, municipal-advising, feasibility, engineering, and other consultant services the city council authorizes or determines to be necessary for the issuance and sale of bonds.
- D. Do all things necessary or convenient to carry out the purposes of this chapter.

3.154.050 Authorization of bonds.

The city council may adopt a resolution authorizing the issuing or incurring of bonds in accordance with this chapter. Bonds must be payable from revenues and may, in the city council's discretion, be additionally payable from other funds as designated in the issuing instrument, including assessments levied within any assessment district the City establishes under the Property and Business Improvement District Law of 1994 (California Streets and Highways Code, section 36600 et seq.) as it may be modified in accordance with section 3.92.050 or any other provision of this code.

3.154.060 Proceedings authorizing issuance; public or private sales.

- A. The resolution that authorizes the issuance of bonds and the related issuing instrument may prescribe any or all of the following for the bonds:
 - 1. The form of the bonds, which may be issued as serial bonds, term bonds, or installment bonds, or any combination of them.
 - 2. The date or dates to be borne by the bonds.
 - 3. The date or dates of maturity of the bonds.
 - 4. The interest to be borne by the bonds, which may be taxable or tax-exempt, or fixed or variable, and which may be paid on a current-interest-rate basis or a capital-appreciation basis.
 - 5. The date or dates that the bonds will be payable.
 - 6. The denominations, form, and registration privileges of the bonds.
 - 7. The manner of execution of the bonds.
 - 8. The place or places the bonds are payable.
 - 9. The terms of redemption of the bonds.
 - 10. Any other terms and conditions the city considers necessary.
- B. The bonds may be sold at either a public or private sale, on either a negotiated or competitive basis, and at a price at, above, or below the par value.

3.154.070 Application of proceeds of bonds.

The proceeds of the bonds must be applied to the purposes authorized by section 3.154.040.

3.154.080 Issuing instrument.

An issuing instrument may contain any lawful provisions the city council authorizes or determines to be reasonable and proper. In the discretion of the city council, any bonds issued under this chapter may be secured or evidenced by an issuing instrument in the form of an indenture or a trust agreement between the city and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company.

3.154.090 Insurance or credit enhancement or liquidity support.

The city treasurer may obtain bond insurance or other credit enhancement or liquidity support for the bonds and may enter into any credit agreement, reimbursement agreement, standby bond-purchase agreement, or similar agreement with any person or entity. Such an agreement must contain the terms of the credit, reimbursement, liquidity support, interest rate, and security, and any other terms the city treasurer considers necessary or appropriate.

3.154.100 Bonds and investments; contracts to place on an interest-rate, cash-flow, or other basis.

- A. In connection with, or incidental to, the issuing or carrying of bonds, or the acquiring or carrying of any investment or program of investment with respect to bonds, the city treasurer may, on the city's behalf, enter into any contracts that he or she determines to be necessary or appropriate to place the obligation or investment of the city (as represented by the bonds, investment, or program of investment) and the contract or contracts, in whole or in part, on the interest-rate, currency, cash-flow, or other basis he or she desires, including the following:
1. Contracts commonly known as interest-rate-swap agreements, currency-swap agreements, forward-payment-conversion agreements, and futures.
 2. Contracts providing for payments based on levels of, or changes in, interest rates, currency-exchange rates, or stock or other indices.
 3. Contracts to exchange cash-flows or a series of payments.
 4. Contracts to hedge payment, currency, rate, spread, or similar exposure, including interest-rate floors or caps, options, puts, and calls.

- B. The city treasurer may also enter into these contracts in connection with, or incidental to, entering into or maintaining any agreement that secures bonds.
- C. These contracts must contain the payment, security, default, remedy, and other terms the city treasurer determines to be appropriate. When determining the terms of, and the other parties to, these contracts, the city treasurer shall give due consideration to the creditworthiness of the other parties, including any ratings of the parties by a nationally recognized rating agency.

3.154.110 Investment of proceeds.

In connection with, or incidental to, the issuing or carrying of bonds, the city treasurer may, on the city's behalf, enter into investment agreements, forward-purchase agreements, and other investments relating to the investment of amounts held according to an issuing instrument.

3.154.120 Personal liability.

Neither the members of the city council; nor the city's officers, employees, and agents; nor any person executing bonds will be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuing or incurring of the bonds.

3.154.130 Refunding bonds.

The city council may issue bonds to refund outstanding bonds. Such a refunding includes payment of the principal, purchase price, interest, redemption premiums (if any) of the outstanding bonds, and carrying costs associated with any refunding escrow. At the discretion of the city council, based on the city treasurer's recommendation, the proceeds of bonds issued to refund outstanding bonds may be applied to the retirement of the outstanding bonds at maturity or to the redemption (on any redemption date) or purchase of the outstanding bonds before maturity, upon such terms as the city council authorizes or determines to be appropriate.

Article III Miscellaneous Provisions

3.154.140 Liberal construction.

This chapter, being necessary for the health, welfare, and safety of the city and its residents, is to be liberally construed to carry out its purposes.

3.154.150 This chapter is complete, additional, and alternative.

This chapter provides a complete, additional, and alternative method for doing the things authorized and is to be regarded as supplemental and additional to the powers conferred by other laws.

3.154.160 Validity of bonds.

The validity of any bonds does not depend on, and is not affected in any way by, any proceedings taken by the city for acquisition, construction, or completion of any properties or projects for which the bonds are issued or incurred or any agreements made in connection with the acquisition, construction, or operation of those properties. The bonds will be incontestable and by their issuance or incurrence and delivery will conclusively establish the due performance of all related conditions precedent.

3.154.170 Amendment of chapter.

This chapter may not be amended to have a material, adverse effect upon the rights of any holder of any outstanding bonds without the written consent of the holder, except that this chapter may be amended at any time for any or all of the following reasons:

- A. If the amendment is needed to cure an ambiguity or to correct or supplement a defective provision.
- B. If the city council finds that the amendment will not materially impair or adversely affect the city's interests or the interests of any holder of bonds.
- C. If the city council finds that the amendment is necessary or desirable to assure that interest on bonds intended to be exempt from gross federal income taxation will be exempt from gross federal income taxation, if applicable.
- D. If the amendment will apply solely to bonds issued or incurred after its effective date.

3.154.180 Chapter controlling.

To the extent this chapter is inconsistent with any general statute or special act, this chapter will control.

3.154.190 Partial invalidity.

If, for any reason, any part of this chapter is invalid, then all valid parts that are severable from the invalid part remain in effect.