ITEM 4

TEST CLAIM
FINAL STAFF ANALYSIS

AND

PROPOSED STATEMENT OF DECISION

Health and Safety Code Section 34176

Statutes 2011, First Extraordinary Session, Chapter 5 (ABX1 26);
Statutes 2012, Chapter 26 (AB 1484)

Housing Successor Agency

12-TC-03

Stanton Housing Authority, Claimant

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Exhibit K

Exhibit A

1. TEST CLAIM TITLE

Housing Successor Agency

2. CLAIMANT INFORMATION

Stanton Housing Authority
Name of Local Agency or School District

Omar Dadabhoy
Claimant Contact

Deputy Executive Director
Title

7800 Katella Avenue
Street Address

Stanton, CA 90680
City, State, Zip

(714) 890-4213
Telephone Number

(714) 890-1443
Fax Number

ODadabhoy@ci.stanton.ca.us
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Elizabeth W. Hull
Claimant Representative Name

Partner
Title

Best Best & Krieger LLP
Organization

18101 Von Karman Ave, Suite 1000
Street Address

Irvine, CA 92612
City, State, Zip

(949) 263-2608
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For CSM Use Only

Filing Date:

RECEIVED
JUNE 28, 2013
COMMISSION ON
STATE MANDATES

Test Claim #: 12-TC-03

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections (include statutes, chapters, and bill numbers) (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]), regulations (include register number and effective date), and executive orders (include effective date) that impose the alleged mandate .

Health & Safety Code Section 34176
Statutes 2011-12 First Extraordinary Session, Chapter 5 [ABX1 26];
Statutes 2012; Chapter 26 [AB 1484].

☑ *Copies of all statutes and executive orders cited are attached.*

Sections 5, 6, and 7 are attached as follows:

5. Written Narrative: pages 1 to 4.
6. Declarations: pages 5 to 6.
7. Documentation: pages 7 to 99.

8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission.**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Omar Dadabhoy
Print or Type Name of Authorized Local Agency or School District Official

Deputy Executive Director
Print or Type Title

Signature of Authorized Local Agency or School District Official

June 27, 2013
Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

5. WRITTEN NARRATIVE

Identify the specific sections of statutes or executive orders alleged to contain a mandate.

Assembly Bill ABX1 26, Statutes of 2011-12 First Extraordinary Session, Chapter 5 ("ABX1 26"), added Health and Safety Code Section 34176, which relates to the housing assets and functions previously performed by a redevelopment agency located within the housing authority's jurisdictional boundaries. Subsection (b) of Section 34176, as added by ABX1 26, states:

> (b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the agency, excluding any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:
>
> (1) Where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.
>
> (2) Where there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.
>
> (3) Where there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.

Assembly Bill 1484, Statutes of 2012, Chapter 26 amended Health and Safety Code Section 34176 to state (added language in italics):

> (a)*(2) The entity assuming the housing functions of the former redevelopment agency shall submit to the Department of Finance by August 1, 2012, a list of all housing assets that contains an explanation of how the assets meet the criteria specified in subdivision (e). The Department of Finance shall prescribe the format for the submission of the list. The list shall include assets transferred between February 1, 2012, and the date upon which the list is created. The department shall have up to 30 days from the date of receipt of the list to object to any of the assets or transfers of assets identified on the list. If the Department of Finance objects to assets on the list, the entity assuming the housing functions of the former redevelopment agency may request a meet and confer process within five business days of receiving the department objection. If the transferred asset is deemed not to be a housing asset as defined in subdivision (e), it shall be*

> *returned to the successor agency and the provision of Section 34178.8 may apply.*
> *If a housing asset has been previously pledged to pay for bonded indebtedness, the successor agency shall maintain control of the asset in order to pay for the bond debt.*
> (b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, duties, and obligations associated with the housing activities of the agency, excluding *enforceable obligations retained by the successor agency* and any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:
>
> (1) *If* there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.
>
> (2) *If* there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.
>
> (3) *If* there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.

Include a statement that actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars ($1,000), and include all of the following elements for each statute or executive order alleged:

(A) A detailed description of the new activities and costs that arise from the mandate.

Actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars ($1,000).

On January 10, 2012, in accordance with Section 34176(b), the City of Stanton adopted Resolution No. 2012-03 requiring all "rights, powers, assets, liabilities, duties and obligations" of the former Stanton Redevelopment Agency ("RDA") to be transferred to the Stanton Housing Authority ("Authority"). Several properties, and the obligations for completion of planned/ongoing projects and/or maintenance of these properties, were transferred to the Authority under Section 34176. These obligations far exceed any fee authority, or governmental funding, provided to the Authority. The largest expense transferred to the Authority under Section 34176 consists of a low and moderate income housing project created by the former RDA and known as the "Tina/Pacific Project." The Tina/Pacific Project consists of 25 properties purchased by the former RDA and has substantial expenses that transferred to the Authority including:

a. Staff and consultant fees and costs associated with the completion of the Housing Asset Transfer Form ("HAT"), including costs related to the completion, submission and meet & confer with DOF, and implementation of the HAT.

b. $6,500,000 in replacement housing costs for 12 properties that were demolished by the former Stanton Redevelopment Agency.

c. $7,041,684 in replacement housing costs for the 13 properties to be demolished.

d. $519,600 for demolition [$390,000 for demolition of the 13 properties ($30,000 per property), +$129,600 for fencing ($21,600 per 6 month period).]

e. $1,629,000 in relocation expenses [$24,000 for relocation plan plus $1,605,000 in relocation costs] for the 13 properties previously purchased by the former Stanton Redevelopment Agency, in which the tenants have not yet been paid relocation costs.

f. $105,000 in consultant fees to assist with relocation of Tina/Pacific Project existing tenants.

g. Estimated $612,000 in staff time related to Tina/Pacific Project.

h. Estimated $596,400 in maintenance/utilities/miscellaneous expenses for all 25 Tina/Pacific Project properties.

Additionally, the HAT lists additional properties there were transferred from the former RDA to the Housing Authority, which will require costs associated with maintenance, utilities and staff time.

(B) A detailed description of existing activities and costs that are modified by the mandate.

Prior to ABX1 26, the Authority did not have any responsibilities or obligations associated with former RDA properties, including the Tina/Pacific Project. All obligations of the Authority related to former RDA properties, and the HAT form, are a new program or higher level of service imposed by ABX1 26 and AB 1484.

(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.

ABX1 26 was adopted on June 28, 2011; however, the former RDA's responsibilities were not transferred to the Authority until January 10, 2012 per Stanton City Council Resolution No. 2012-03 (in accordance with Health & Safety Code Section 34170(a).)

Actual increased costs incurred in Fiscal Year 2012-2013 were as follows: $113,851.43 for maintenance, utilities, and miscellaneous expenses; $18,496 for consultant services; $205,744.29 for staffing.

(D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandated during the fiscal year immediately following the fiscal year for which the claim was filed.

Approximately $2,060,000, which consists of relocation consulting, relocation of residents prior to demolition, lead & asbestos survey and remediation, repair fees, maintenance, utilities, housing replacement plan, staff costs related to Tina/Pacific Project, and fencing of demolished properties.

(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

The Authority is unable to provide a statewide cost estimate, as the cost will vary greatly from housing authority to housing authority, depending on the obligations of the former redevelopment agency that were transferred to each housing authority per Section 34176.

(F) Identification of all of the following funding sources available for this program:

(i) Dedicated state funds: None

(ii) Dedicated federal funds: None

(iii) Other nonlocal agency funds: None.[1]

(iv) Stanton Housing Authority's general purpose funds: None.

(v) Fee authority to offset costs: The Authority currently collects approximately $48,000/per month in rent from the Tina/Pacific Project. No rent is received from the other former RDA properties.

(G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.

None.

(H) Identification of a legislatively determined mandate pursuant to Government Code Section 17573 that is on the same statute or executive order.

None.

[1] Approximately $4,725,448.50 in 2011 Bond proceeds were transferred to the Stanton Housing Authority as part of the transfer of all former Stanton Redevelopment Agency housing assets and obligations. However, Department of Finance has determined that these Bond funds can only be used to defease the bonds. As such, no nonlocal agency funds are available for this program. (*See* final determination letter from DOF re ROPS III, dated December 18, 2012).

6. DECLARATION OF OMAR DADABHOY IN SUPPORT OF TEST CLAIM

I, Omar Dadabhoy, declare as follows:

2. I have served as Deputy Executive Director to the Stanton Housing Authority ("Authority") prior to and since January 10, 2012, the date on which all of the former Stanton Redevelopment Agency's housing assets and functions were transferred to the Authority pursuant to Stanton City Council Resolution No. 2012-03. In this capacity, I oversee the day-to-day functions of the Authority.

3. As a result of the adoption of Health and Safety Code Section 34176, as adopted by ABX1 26 and amended by AB 1484, to my personal knowledge, information or belief the Authority will incur the following actual or estimated increased costs:

   a. Staff and consultant fees and costs associated with the completion of the Housing Asset Transfer Form ("HAT"), including costs related to the completion, submission and meet & confer with DOF, and implementation of the HAT.

   b. $6,500,000 in replacement housing costs for 12 properties that were demolished by the former Stanton Redevelopment Agency

   c. $7,041,684 in replacement housing costs for the 13 properties to be demolished

   d. $519,600 for demolition [$390,000 for demolition of the 13 properties ($30,000 per property), +$129,600 for fencing ($21,600 per 6 month period).]

   e. $1,629,000 in relocation expenses [$24,000 for relocation plan plus $1,605,000 in relocation costs] for the 13 properties previously purchased by the former Stanton Redevelopment Agency, in which the tenants have not yet been paid relocation costs.

   f. $105,000 in consultant fees to assist with relocation of Tina/Pacific Project existing tenants.

   g. Estimated $612,000 in staff time related to Tina/Pacific Project.

   h. Estimated $596,400 in maintenance/utilities/miscellaneous expenses for all 25 Tina/Pacific Project properties.

   i. Unknown costs associated with maintenance/utilities/staff time for all other former RDA properties.

4. The following local, state or federal funds, and fee authority, are available, and have been used, to offset the increased costs incurred by or to be incurred by the Authority to implement the requirements of Health and Safety Code Section 34176, including all direct and indirect costs incurred by the Authority:

a. No local, state or federal funds are provided to offset the increased costs associated with Section 34176.

b. The Authority receives approximately $48,000 per month in rent from the Tina/Pacific Project. No rent is received from the other former RDA properties.

5. The following new activities, duties, and obligations are required to be performed by the Authority to implement the requirements imposed on the Authority by Section 34176:

a. Creation of a Housing Asset Transfer form, as well as all staff costs associated with the creation and adoption of the form, submission to the Department of Finance and related meet & confer process with Department of Finance, and implementation of the Housing Asset Transfer form. (Health & Safety Code Section 34176(a)(2).)

b. Relocation and replacement housing for the Tina/Pacific Project, including but not limited to demolition, consultant costs, relocation plan creation and implementation, fencing, environmental testing, and construction related costs. (Government Code Sections 7260, 7261, 7262, 7263, 7264.)

c. Maintenance and Utilities (*see* Health & Safety Code Section 34176(b) [all rights, powers, assets, duties, and obligations associated with the housing activities of the former Stanton Redevelopment Agency shall transfer to the Authority].)

d. Related staff and consultant costs, including but not limited to in-house staff, relocation consultants, and legal costs (*see* Health & Safety Code Section 34176(b) [all rights, powers, assets, duties, and obligations associated with the housing activities of the former Stanton Redevelopment Agency shall transfer to the Authority].)

I declare under penalty of perjury that the foregoing is true and correct as based upon my personal knowledge, information or belief, and that this declaration is executed this 27th day of June, 2013, in Stanton, California.

Omar Dadabhoy
Deputy Executive Director
Stanton Housing Authority

7. DOCUMENTATION

The following documents are attached to this test claim:

1. Health and Safety Code Section 34176
2. Government Code Section 7260
3. Government Code Section 7261
4. Government Code Section 7262
5. Government Code Section 7263
6. Government Code Section 7264
7. Letter from Department of Finance, Dated December 18, 2012, informing Stanton Successor Agency that all costs associated with Tina/Pacific Project, as listed on Recognized Obligation Payment Schedule for the period of January 1, 2013 through June 30, 2013 (ROPS III), are the responsibility of the Stanton Housing Authority, as housing successor agency.
8. Letter from Department of Finance, Dated May 17, 2013, informing the Stanton Successor Agency that all costs associated with Tina/Pacific Project, as listed on Recognized Obligation Payment Schedule for the period of July 2013 through December 2013 (ROPS 13-14A), are the responsibility of the Stanton Housing Authority, as housing successor agency.
9. Stanton City Council Resolution No. 2012-03, Dated January 10, 2012.
10. AB X1 26
11. AB 1484

HEALTH AND SAFETY CODE
Division 24. Community Development and Housing
Part 1.85. Dissolution of Redevelopment Agencies and Designation of Successor Agencies
Chapter 2. Effect of Redevelopment Agency Dissolution

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Health & Saf Code § 34176 (2013)

§ 34176. Retention or transfer of assets; Enforcing of covenants; Funding administrative and planning costs

(a)

(1) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a redevelopment agency, all rights, powers, duties, obligations, and housing assets, as defined in subdivision (e), excluding any amounts on deposit in the Low and Moderate Income Housing Fund and enforceable obligations retained by the successor agency, shall be transferred to the city, county, or city and county.

(2) The entity assuming the housing functions of the former redevelopment agency shall submit to the Department of Finance by August 1, 2012, a list of all housing assets that contains an explanation of how the assets meet the criteria specified in subdivision (e). The Department of Finance shall prescribe the format for the submission of the list. The list shall include assets transferred between February 1, 2012, and the date upon which the list is created. The department shall have up to 30 days from the date of receipt of the list to object to any of the assets or transfers of assets identified on the list. If the Department of Finance objects to assets on the list, the entity assuming the housing functions of the former redevelopment agency may request a meet and confer process within five business days of receiving the department objection. If the transferred asset is deemed not to be a housing asset as defined in subdivision (e), it shall be returned to the successor agency and the provision of Section 34178.8 may apply. If a housing asset has been previously pledged to pay for bonded indebtedness, the successor agency shall maintain control of the asset in order to pay for the bond debt.

(b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, duties, and obligations associated with the housing activities of the agency, excluding enforceable obligations retained by the successor agency and any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:

(1) If there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.

(2) If there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

(3) If there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.

(c) Commencing on the operative date of this part, the entity that assumes the housing functions formerly performed by the redevelopment agency and receives the transferred housing assets may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)), including, but not limited to, Section 33418.

(d) Except as specifically provided in Section 34191.4, any funds transferred to the city, county, or city and county or designated entity pursuant to this section, together with any funds generated from housing assets, as defined in subdivision (e), shall be maintained in a separate Low and Moderate Income Housing Asset Fund which is hereby created in the accounts of the entity assuming the housing functions pursuant to this section. Funds in this account shall be used in accordance with applicable housing-related provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(e) For purposes of this part, "housing asset" includes all of the following:

(1) Any real property, interest in, or restriction on the use of real property, whether improved or not, and any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses, and mapping programs, that were acquired for low- and moderate-income housing purposes, either by purchase or through a loan, in whole or in part, with any source of funds.

(2) Any funds that are encumbered by an enforceable obligation to build or acquire low- and moderate-income housing, as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)) unless required in the bond covenants to be used for repayment purposes of the bond.

(3) Any loan or grant receivable, funded from the Low and Moderate Income Housing Fund, from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low or moderate income as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(4) Any funds derived from rents or operation of properties acquired for low- and moderate-income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits.

(5) A stream of rents or other payments from housing tenants or operators of low- and moderate-income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low- and moderate-income housing.

(6)

(A) Repayments of loans or deferrals owed to the Low and Moderate Income Housing Fund pursuant to subparagraph (G) of paragraph (1) of subdivision (d) of Section 34171, which shall be used consistent with the affordable housing requirements in the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(B) Loan or deferral repayments shall not be made prior to the 2013-14 fiscal year. Beginning in the 2013-14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made pursuant to this paragraph and subdivision (b) of Section 34191.4 combined shall be equal to one-half of the increase between the amount distributed to taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012-13 base year. Loan or deferral repayments made pursuant to this paragraph shall take priority over amounts to be repaid pursuant to subdivision (b) of Section 34191.4.

(f) If a development includes both low- and moderate-income housing that meets the definition of a housing asset under subdivision (e) and other types of property use, including, but not limited to, commercial use, governmental use, open space, and parks, the oversight board shall consider the overall value to the community as well as the benefit to taxing entities of keeping the entire development intact or dividing the title and control over the property between the housing successor and the successor agency or other public or private agencies. The disposition of those assets may be accomplished by a revenue-sharing arrangement as approved by the oversight board on behalf of the affected taxing entities.

(g)

(1)

(A) The entity assuming the housing functions pursuant to this section may designate the use of and commit indebtedness obligation proceeds that remain after the satisfaction of enforceable obligations that have been approved in a Recognized Obligation Payment Schedule and that are consistent with the indebtedness obligation covenants. The proceeds shall be derived from indebtedness obligations that were issued for the purposes of affordable housing prior to January 1, 2011, and were backed by the Low and Moderate Income Housing Fund. Enforceable obligations may be satisfied by the creation of reserves for the projects that are the subject of the enforceable obligation that are consistent with the contractual obligations for those projects, or by expending funds to complete the projects.

(B) The entity assuming the housing functions pursuant to this section shall provide notice to the successor agency of any designations of use or commitments of funds specified in subparagraph (A) that it wishes to make at least 20 days before the deadline for submission of the Recognized Obligation Payment Schedule to the oversight board. Commitments and designations shall not be valid and binding on any party until they are included in an approved and

valid Recognized Obligation Payment Schedule. The review of these designations and commitments by the successor agency, oversight board, and Department of Finance shall be limited to a determination that the designations and commitments are consistent with bond covenants and that there are sufficient funds available.

(2) Funds shall be used and committed in a manner consistent with the purposes of the Low and Moderate Income Housing Asset Fund. Notwithstanding any other law, the successor agency shall retain and expend the excess housing obligation proceeds at the discretion of the succeeding housing entity, provided that the successor agency ensures that the proceeds are expended in a manner consistent with the indebtedness obligation covenants and with any requirements relating to the tax status of those obligations. The amount expended shall not exceed the amount of indebtedness obligation proceeds available and such expenditure shall constitute the creation of excess housing proceeds expenditures to be paid from the excess proceeds. Excess housing proceeds expenditures shall be listed separately on the Recognized Obligation Payment Schedule submitted by the successor agency.

(h) Subdivisions (d) and (e) of Section 33334.3 and any other applicable sections of the Community Redevelopment Law shall apply for purposes of funding administrative and planning costs associated with the implementation of this section. For this purpose, the term "Low and Moderate Income Housing Fund" shall mean the "Low and Moderate Income Housing Asset Fund." This section shall not be construed to provide any stream of tax increment financing.

GOVERNMENT CODE
Title 1. GENERAL
Division 7. Miscellaneous
Chapter 16. Relocation Assistance

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 7260 (2013)

§ 7260. Definitions

As used in this chapter:

(a) "Public entity" includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state or any entity acting on behalf of these agencies when acquiring real property, or any interest therein, in any city or county for public use, and any person who has the authority to acquire property by eminent domain under state law.

(b) "Person" means any individual, partnership, corporation, limited liability company, or association.

(c)

(1) "Displaced person" means both of the following:

(A) Any person who moves from real property, or who moves his or her personal property from real property, either:

(i) As a direct result of a written notice of intent to acquire, or the acquisition of, the real property, in whole or in part, for a program or project undertaken by a public entity or by any person having an agreement with, or acting on behalf of, a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity, as the public entity may prescribe under a program or project undertaken by a public entity, of real property on which the person is a residential tenant or conducts a business or farm operation, if the public entity determines that the displacement is permanent. For purposes of this subparagraph, "residential tenant" includes any occupant of a residential hotel unit, as defined in subdivision (b) of *Section 50669 of the Health and Safety Code*, and any occupant of employee housing, as defined in *Section 17008 of the Health and Safety Code*, but does not include any person who has been determined to be in unlawful occupancy of the displacement dwelling.

(B) Solely for the purposes of Sections 7261 and 7262, any person who moves from real property, or moves his or her personal property from real property, either:

(i) As a direct result of a written notice of intent to acquire, or the acquisition of, other real property, in whole or in part, on which the person conducts a business or farm operation for a program or project undertaken by a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity as the public entity may prescribe under a program or project undertaken by a public entity, of other real property on which the person conducts a business or farm operation, in any case in which the public entity determines that the displacement is permanent.

(2) This subdivision shall be construed so that persons displaced as a result of public action receive relocation benefits in cases where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for, or in connection with, a public use where the public entity is otherwise empowered to acquire the property to carry out the public use.

(3) Except for persons or families of low and moderate income, as defined in *Section 50093 of the Health and Safety Code*, who are occupants of housing that was made available to them on a permanent basis by a public agency and who are required to move from the housing, a "displaced person" shall not include any of the following:

(A) Any person who has been determined to be in unlawful occupancy of the displacement dwellings.

(B) Any person whose right of possession at the time of moving arose after the date of the public entity's acquisition of the real property.

(C) Any person who has occupied the real property for the purpose of obtaining assistance under this chapter.

(D) In any case in which the public entity acquires property for a program or project (other than a person who was an occupant of the property at the time it was acquired), any person who occupies the property for a period subject to termination when the property is needed for the program or project.

(E) Any person who donates or willingly sells his or her property for the purposes of protecting fish and wildlife habitat, providing recreational areas, or preserving cultural or agricultural resources and open space, or any person who occupies that property on a rental basis. This subparagraph does not apply when a sale is in response to an eminent domain proceeding.

(d) "Business" means any lawful activity, except a farm operation, conducted for any of the following:

(1) Primarily for the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property.

(2) Primarily for the sale of services to the public.

(3) Primarily by a nonprofit organization.

(4) Solely for the purpose of Section 7262 for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display, whether or not the display is located on the premises on which any of the above activities are conducted.

(e) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing these products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) "Affected property" means any real property that actually declines in fair market value because of acquisition by a public entity for public use of other real property and a change in the use of the real property acquired by the public entity.

(g) "Public use" means a use for which real property may be acquired by eminent domain.

(h) "Mortgage" means classes of liens that are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

(i) "Comparable replacement dwelling" means any dwelling that is all of the following:

(1) Decent, safe, and sanitary.

(2) Adequate in size to accommodate the occupants.

(3) In the case of a displaced person who is a renter, within the financial means of the displaced person. A comparable replacement dwelling is within the financial means of a displaced person if the monthly rental cost of the dwelling, including estimated average monthly utility costs, minus any replacement housing payment available to the person, does not exceed 30 percent of the person's average monthly income, unless the displaced person meets one or more of the following conditions, in which case the payment of the monthly rental cost of the comparable replacement dwelling, including estimated average monthly utility costs, minus any replacement housing payment available to the person, shall not exceed 25 percent of the person's average monthly income:

(A) Prior to January 1, 1998, the displaced person received a notice to vacate from a public entity, or from a person having an agreement with a public entity.

(B) The displaced person resides on property that was acquired by a public entity, or by a person having an agreement with a public entity, prior to January 1, 1998.

(C) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, initiated negotiations to acquire the property on which the displaced person resides.

(D) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, entered into an agreement to acquire the property on which the displaced person resides.

(E) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, gave written notice of intent to acquire the property on which the displaced person resides.

(F) The displaced person is covered by, or resides in an area or project covered by, a final relocation plan that was adopted by the legislative body prior to January 1, 1998, pursuant to this chapter and the regulations adopted pursuant to this chapter.

(G) The displaced person is covered by, or resides in an area or project covered by, a proposed relocation plan that was required to have been submitted prior to January 1, 1998, to the Department of Housing and Community Development or to a local relocation committee, or for which notice was required to have been provided to occupants of the property prior to January 1, 1998, pursuant to this chapter and the regulations adopted pursuant to this chapter.

(H) The displaced person is covered by, or resides in an area or project covered by, a proposed relocation plan that was submitted prior to January 1, 1998, to the Department of Housing and Community Development or to a local relocation committee, or for which notice was provided to the public or to occupants of the property prior to January 1, 1998, pursuant to this chapter and the regulations adopted pursuant to this chapter, and the person is eventually displaced by the project covered in the proposed relocation plan.

(I) The displaced person resides on property for which a contract for acquisition, rehabilitation, demolition, construction, or other displacing activity was entered into by a public entity, or by a person having an agreement with a public entity, prior to January 1, 1998.

(J) The displaced person resides on property where an owner participation agreement, or other agreement between a public entity and a private party that will result in the acquisition, rehabilitation, demolition, or development of the property or other displacement, was entered into prior to January 1, 1998, and the displaced person resides in the property at the time of the agreement, provides information to the public entity, or person having an agreement with the public entity, showing that he or she did reside in the property at the time of the agreement and is eventually displaced by the project covered in the agreement.

(4) Comparable with respect to the number of rooms, habitable space, and type and quality of construction. Comparability under this paragraph shall not require strict adherence to a detailed, feature-by-feature comparison. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features shall be present.

(5) In an area not subject to unreasonable adverse environmental conditions.

(6) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(j) "Displacing agency" means any public entity or person carrying out a program or project which causes a person to be a displaced person for a public project.

(k) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(l) "Small business" means a business as defined in Part 24 of Title 49 of the Code of Federal Regulations.

(m) "Lead agency" means the Department of Housing and Community Development.

GOVERNMENT CODE
Title 1. GENERAL
Division 7. Miscellaneous
Chapter 16. Relocation Assistance

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 7261 (2013)

§ 7261. Planning of programs or projects; Establishment of offices; Matters included in assistance

(a) Programs or projects undertaken by a public entity shall be planned in a manner that (1) recognizes, at an early stage in the planning of the programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (2) provides for the resolution of these problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion. The head of the displacing agency shall ensure the relocation assistance advisory services described in subdivision (c) are made available to all persons displaced by the public entity. If the agency determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency may make the advisory services available to the person.

(b) In giving this assistance, the public entity may establish local relocation advisory assistance offices to assist in obtaining replacement facilities for persons, businesses, and farm operations which find that it is necessary to relocate because of the acquisition of real property by the public entity.

(c) This advisory assistance shall include those measures, facilities, or services which are necessary or appropriate to do all of the following:

(1) Determine and make timely recommendations on the needs and preferences, if any, of displaced persons for relocation assistance.

(2) Provide current and continuing information on the availability, sales prices, and rentals of comparable replacement dwellings for displaced homeowners and tenants, and suitable locations for businesses and farm operations.

(3) Assure that, within a reasonable time period prior to displacement, to the extent that it can be reasonably accomplished, there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities, and at rents or prices within the financial means of displaced families and individuals, decent, safe, and sanitary dwellings, sufficient in number to meet the needs of, and available to, those displaced persons requiring those dwellings and reasonably accessible to their places of employment, except that, in the case of a federally funded project, a waiver may be obtained from the federal government.

(4) Assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of any of the following:

(A) A major disaster as defined in Section 102(2) of the federal Disaster Relief Act of 1974.

(B) A state of emergency declared by the President or Governor.

(C) Any other emergency which requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person.

(5) Assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location.

(6) Supply information concerning other federal and state programs which may be of assistance to those persons in applying for assistance under the program.

(7) Provide other advisory services to displaced persons in order to minimize hardships to those persons.

(d) The head of the displacing agency shall coordinate its relocation assistance program with the project work necessitating the displacement and with other planned or proposed activities of other public entities in the community or nearby areas which may affect the implementation of its relocation assistance program.

(e) Notwithstanding subdivision (c) of Section 7260, in any case in which a displacing agency acquires property for a program or project, any person who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project, shall be eligible for advisory services to the extent determined by the displacing agency.

GOVERNMENT CODE
Title 1. GENERAL
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Chapter 16. Relocation Assistance

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 7262 (2013)

§ 7262. Compensable expenses and losses; Businesses and farm operations

(a) Whenever a program or project to be undertaken by a public entity will result in the displacement of any person, the displaced person is entitled to payment for actual moving and related expenses as the public entity determines to be reasonable and necessary, including expenses for all of the following:

(1) Actual and reasonable expenses in moving himself or herself, his or her family, business, or farm operation, or his or her, or his or her family's, personal property.

(2) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the public entity.

(3) Actual and reasonable expenses in searching for a replacement business or farm, not to exceed one thousand dollars ($1,000).

(4) Actual and reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed ten thousand dollars ($10,000).

(b) Any displaced person eligible for payments under subdivision (a) who is displaced from a dwelling and who elects to accept the payments authorized by this subdivision in lieu of the payments authorized by subdivision (a) shall receive a moving expense and dislocation allowance which shall be determined according to a schedule established by the head of the lead agency. The schedule shall be consistent with the Residential Moving Expense and Dislocation Allowance Payment Schedule established by Part 24 of Title 49 of the Code of Federal Regulations.

(c) Any displaced person who moves or discontinues his or her business or farm operation and elects to accept the payment authorized by this subdivision in lieu of the payment authorized by subdivision (a), shall receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that the payment shall not be less than one thousand dollars ($1,000) nor more than twenty thousand dollars ($20,000). In the case of a business, no payment shall be made under this subdivision, unless the public entity is satisfied that the business cannot be relocated without substantial loss of patronage and is not part of a commercial enterprise having at least one other establishment not being acquired, engaged in the same or similar business. For purposes of this subdivision, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation before federal, state, and local income taxes during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property being acquired, or during any other period as the public entity determines to be more equitable for establishing earnings, and includes any compensation paid by the business or farm operation to the owner, his or her spouse, or his or her dependents during the two-year or other period. To be eligible for the payment authorized by this subdivision, the business or farm operation shall make available its state income tax records, financial statements, and accounting records, for confidential use pursuant to an audit to determine the payment pursuant to this subdivision. In regard to an outdoor advertising display, payment pursuant to this subdivision shall be limited to the amount necessary to physically move, or replace that display. Any displaced person eligible for payments under subdivision (a) who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the public entity, may elect to accept a fixed payment in lieu of the payment authorized by subdivision (a). The fixed payment shall not be less than one thousand dollars ($1,000) nor more than twenty thousand dollars ($20,000). A person whose sole business at the displacement dwelling is the rental of the property to others shall not qualify for a payment under this subdivision.

(d) Whenever the acquisition of real property used for a business or farm operation causes the person conducting the business or farm operation to move from other real property, or to move his or her personal property from other real

property, the person shall receive payments for moving and related expenses under subdivision (a) or (b) and relocation advisory assistance under Section 7261 for moving from the other property.

(e) Whenever a public entity must pay the cost of moving a displaced person under paragraph (1) of subdivision (a), or subdivision (d):

(1) The costs of the move shall be exempt from regulation by the Public Utilities Commission.

(2) The public entity may solicit competitive bids from qualified bidders for performance of the work. Bids submitted in response to the solicitations shall be exempt from regulation by the Public Utilities Commission.

(f) No provision of this chapter shall be construed to require a public entity to provide any relocation assistance to a lessee if the property acquired for a program or project is subject to a lease for purposes of conducting farm operations and the public entity agrees to assume all of the terms of that lease.

GOVERNMENT CODE
Title 1. GENERAL
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Chapter 16. Relocation Assistance

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 7263 (2013)

§ 7263. Payment for purchase of comparable replacement dwelling

(a) In addition to the payments required by Section 7262, the public entity, as a part of the cost of acquisition, shall make a payment to the owner of real property acquired for public use which is improved with a dwelling actually owned and occupied by the owner as a permanent or customary and usual place of abode for not less than 180 days prior to the initiation of negotiation for the acquisition of that property.

(b) The payment, not to exceed twenty-two thousand five hundred dollars ($22,500), shall be based on the following factors:

(1) The amount, if any, which, when added to the acquisition cost of the dwelling acquired by the public entity equals the reasonable cost of a comparable replacement dwelling.

(2) The amount, if any, which will compensate the displaced owner for any increased interest costs which the owner is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of the dwelling. All of the mortgages on the acquired dwelling shall be used to compute the payment. The amount shall be computed using the lesser of the principal balance of the mortgage on the replacement dwelling or the outstanding principal balance of the mortgage on the acquired dwelling and the lesser of the remaining term on the acquired dwelling or the actual term of the new mortgage. The present value of the increased interest costs shall be computed based on the lesser of the prevailing interest rate or the actual interest rate on the replacement property. The amount shall also include other reasonable debt service costs incurred by the displaced owner.

For the purposes of this subdivision, if the replacement dwelling is a mobilehome, the term "mortgage," as defined in subdivision (h) of Section 7260, shall include those liens as are commonly given to secure advances on, or the unpaid purchase price of, mobilehomes, together with the credit instruments, if any, secured thereby.

(3) Reasonable expenses incurred by the displaced owner for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(c) The additional payment authorized by this section shall be made only to a displaced owner who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year from the later of the following:

(1) The date the displaced person receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of estimated just compensation is deposited in court.

(2) The date the displacing agency fulfulls its obligation to make available at least one comparable replacement dwelling to the displaced person.

However, the displacing agency may extend the period for good cause. Also, the displaced owner and the public entity may agree in writing that the displaced owner may remain in occupancy of the acquired dwelling as a tenant of the public entity on the conditions that the displaced owner shall only be entitled to the payment authorized by this section on the date on which the owner moves from the acquired dwelling and that the payment shall be in an amount equal to that to which the owner would have been entitled if the owner had purchased and occupied a replacement dwelling one year subsequent to the date on which final payment was received for the acquired dwelling from the public entity.

(d) In implementing this chapter, it is the intent of the Legislature that special consideration be given to the financing and location of a comparable replacement dwelling for displaced persons 62 years of age or older.

GOVERNMENT CODE
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Chapter 16. Relocation Assistance

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 7264 (2013)

§ 7264. Payment to cover additional rent or make down payment on purchase of dwelling

(a) In addition to the payments required by Section 7262, as a part of the cost of acquisition, the public entity shall make a payment to any displaced person displaced from any dwelling not eligible to receive a payment under Section 7263 which was actually and lawfully occupied by the person as a permanent or customary and usual place of abode for not less than 90 days prior to the initiation of negotiation by the public entity for the acquisition of the dwelling, or in any case in which displacement is not a direct result of acquisition, or any other event which the public entity shall prescribe.

(b) The payment, not to exceed five thousand two hundred fifty dollars ($5,250), shall be the additional amount which is necessary to enable the person to lease or rent a comparable replacement dwelling for a period not to exceed 42 months, unless the displaced person meets one or more of the conditions set forth in paragraph (3) of subdivision (i) of Section 7260, in which case the payment, which shall not exceed five thousand two hundred fifty dollars ($5,250), shall be the additional amount which is necessary to enable the person to lease or rent a comparable replacement dwelling for a period not to exceed 48 months. However, publicly funded transportation projects shall make payments enabling the person to lease or rent a comparable replacement dwelling for a period not to exceed 42 months, including compensation for utilities, as provided in subdivision (b) of Section 24.402 of Part 24 of Title 49 of the Code of Federal Regulations. Payments up to the maximum of five thousand two hundred fifty dollars ($5,250) shall be made in a lump sum. Should an agency pay pursuant to Section 7264.5 an amount exceeding the maximum amount, payment may be made periodically. Computation of a payment under this subdivision to a low-income displaced person for a comparable replacement dwelling shall take into account the person's income.

(c) Any person eligible for a payment under subdivision (a) may elect to apply the payment to a downpayment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. The person may, at the discretion of the public entity, be eligible under this subdivision for the maximum payment allowed under subdivision (b), except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment shall not exceed the payment which the person would otherwise have received under subdivision (b) of Section 7263 had the person owned and occupied the displacement dwelling 180 days immediately prior to the initiation of the negotiations.

(d) In implementing this chapter, it is the intent of the Legislature that special consideration shall be given to assisting any displaced person 62 years of age or older to locate or lease or rent a comparable replacement dwelling.

DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 18, 2012

Ms. Terri Marsh, Director of Administrative Services
City of Stanton
7800 Katella Ave
Stanton, CA 90680

Dear Ms. Marsh:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated October 5, 2012. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Stanton Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS III) to the California Department of Finance (Finance) on August 22, 2012 for the period of January 1 through June 30, 2013. Finance issued its determination related to those enforceable obligations on October 5, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more of the items denied by Finance. The Meet and Confer session was held on November 7, 2012.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of the specific items being disputed.

- Item Nos. 10, 12, 15 through 23, 30, 39, and 43 – Various Tina-Pacific Neighborhood Rehabilitation projects totaling $2.6 million Redevelopment Property Tax Trust Fund (RPTTF) funding and $6.3 million bond funds. Finance continues to deny the items. Finance denied the items as HSC section 34163 (b) prohibits a redevelopment agency (RDA) from entering into a contract with any entity after June 27, 2011. Contracts for these items were executed after June 27, 2011; therefore, these items, and any resulting commitments, are not enforceable obligations. The Agency contends the items are enforceable obligations because the former RDA and Housing Authority have purchased 25 of 40 properties and the former RDA issued a bond to pay for the acquisition of the 15 properties not yet purchased. However, all of the contracts provided are either after June 27, 2011, or between the City of Stanton (City) and a third party, not the former RDA. HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011, and the Agency is not obligated to pay contracts of the City. Therefore, the items are not enforceable obligations.

  We note that pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued. Successor agencies are required to defease or repurchase on the open market

for cancellation any bonds that cannot be used for the purpose they were issued or if they were issued after December 31, 2010. The bond proceeds requested for use were issued in March 2011.

- Item No. 24 – Affordability Covenant Extension in the amount of $2 million. Finance continues to deny this item. Finance denied this time as HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. The Agency contends these items are related to its obligations to obtain and extend affordability covenants on affordable housing. However, obligations associated with the former RDA's previous statutory housing obligations are not enforceable obligations. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that "all rights, powers, duties, obligations and housing assets...shall be transferred" to the new housing entity. This transfer of "duties and obligations" necessarily includes the transfer of statutory obligations; to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in ABx1-26/AB1484. Therefore, this item is not an enforceable obligation.

- Item No. 29 – Replacement Housing Obligation for $13 million, no funding identified. Finance continues to deny the item. Finance denied the item as HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. There is no contract in place for this item. The Agency contends the item is an enforceable obligation because nothing in the dissolution bills affected or repealed the obligation to provide replacement housing for low- and moderate-income housing which was removed as part of a redevelopment project. Obligations associated with the former RDA's previous statutory housing obligations are not enforceable obligations. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that "all rights, powers, duties, obligations and housing assets...shall be transferred" to the new housing entity. This transfer of "duties and obligations" necessarily includes the transfer of statutory obligations; to the extent any continue to be applicable. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in ABx1-26/AB1484. Therefore, this item is not an enforceable obligation.

- Item No. 37 – Option Agreement with the City of Stanton for $12.5 million, no funding identified. Finance continues to deny the item. Finance denied the item as HSC section 34163 (e) prohibits the RDA from acquiring real property by any means for any purpose. In addition, HSC section 34163 (f) prohibits the RDA from transferring, assigning, vesting, or delegating any of its assets to any entity. The Agency contends the item is an enforceable obligation because the former RDA granted the City an option to purchase certain parcels of property from the RDA on February 8, 2011 for consideration and the options were properly extended. However, the agreement is between the former RDA and the City. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, this item is not an enforceable obligation.

- Item No. 38 – Stanton Central Park construction contract in the amount of $8.8 million in bond funds. Finance continues to deny the item at this time. Finance denied the item as HSC section 34163 (b) prohibits a RDA from entering into a contract with any entity after June 27, 2011. There is no contract in place for this item. The Agency contends the item is an enforceable obligation because funding for a new community park was made possible through a $19 million dollar tax exempt bond issued in 2010. However, no contracts were in place prior to June 27, 2011. Therefore, the item is not eligible for bond funding at this time. However, successor agencies will be eligible to expend bonds issued prior to January 1, 2011, once a finding of completion is received per 34191.4 (c). Those obligations should be reported on a subsequent ROPS.

- Item No 40 – Option Agreement with the City of Stanton in the amount of $6.3 million of other funds. Finance continues to deny the item. Finance denied the item as HSC section 34163 (e) prohibits the RDA from acquiring real property by any means for any purpose. In addition, HSC section 34163 (f) prohibits the RDA from transferring, assigning, vesting, or delegating any of its assets to any entity. The Agency contends the item is an enforceable obligation because the former RDA granted the City an option to purchase certain parcels of property from the RDA on February 8, 2011 for consideration and the options were properly extended. However, the agreement is between the former RDA and the City. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, this item is not an enforceable obligation.

- Item No. 42 – Cooperative Agreement with the City of Stanton in the amount of $16.2 million, no funding identified. Finance continues to deny the item. Finance denied the item as HSC section 34163 (b) prohibits an RDA from entering into a contract with any entity after June 27, 2011. The Agency contends the item is an enforceable obligation because this agreement was entered into in January 2011. However, the agreement is between the former RDA and the City. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, the item is not an enforceable obligation.

- The following items were reclassified as administrative costs:

    - Item No. 7 – Jones & Mayer legal services in the amount of $90,000.
    - Item No. 9 – Audit contract with White, Nelson, Diehl, Evans in the amount of $280,000.
    - Item No. 31 – PERMA Liability insurance coverage in the amount of $45,156.
    - Item No. 32 – Unemployment and Workers Compensation insurance with PERMA and the State of California in the amount of $20,520.

  Finance continues to reclassify the items as administrative costs. Although this reclassification increased administrative costs to $238,469, the administrative cost allowance has not been exceeded. The Agency contends the items are enforceable obligations because the services referenced are all for professional services and insurance which are specifically related to dissolution and wind-down activities by the Agency as required law, and as permitted to be incurred for these purposes. However, the Agency did not provide any additional documents indicating that the items do not fall

into any of the following categories that are specifically excluded from the administrative cap as defined by HSC section 34171 (b):

- Any litigation expenses related to assets or obligations.
- Settlements and judgments.
- The costs of maintaining assets prior to disposition.
- Employee costs associated with work on specific project implementation activities, including, but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs.

Therefore, the items are reclassified as administrative costs.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is $4,102,935 as summarized below:

Approved RPTTF Distribution Amount For the period of January through June 2013		
Total RPTTF funding requested for obligations	$	4,871,054
Less: Six-month total for item(s) denied or reclassified as administrative cost		
Item 7*		24,000
Item 9*		10,000
Item 12		426,000
Item 15		12,000
Item 16		60,000
Item 17		90,000
Item 18		42,000
Item 19		8,400
Item 20		9,000
Item 21		120,000
Item 22		24,000
Item 23		102,387
Item 30		18,040
Item 31*		22,578
Item 32*		20,520
Item 43		17,663
Total approved RPTTF for enforceable obligations	$	3,864,466
Plus: Allowable RPTTF distribution for administrative cost for ROPS III		238,469
Total RPTTF approved:	$	4,102,935

* Reclassified as administrative cost

Pursuant to HSC section 34186 (a), successor agencies were required to report on the ROPS III form the estimated obligations and actual payments associated with the January through June 2012 period. The amount of RPTTF approved in the above table will be adjusted by the county auditor-controller to account for differences between actual payments and past estimated obligations. Additionally, these estimates and accounts are subject to audit by the county auditor-controller and the State Controller.

The amount available from the RPTTF is the same as the property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an

unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

Except for items disallowed as noted above, Finance is not objecting to the remaining items listed in your ROPS III. Obligations deemed not to be enforceable shall be removed from your ROPS. This is Finance's final determination related to the enforceable obligations reported on your ROPS for January 1 through June 30, 2013. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not questioned on this ROPS or a preceding ROPS.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Omar Dadabhoy, Community Development Director, City of Stanton
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office

DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

May 17, 2013

Mr. Omar Dadabhoy, Community Development Director
City of Stanton Successor Agency
7800 Katella Avenue
Stanton, CA 90680

Dear Mr. Dadabhoy:

Subject: Recognized Obligation Payment Schedule

This letter supersedes Finance's Recognized Obligation Payment Schedule (ROPS) letter dated April 11, 2013. Pursuant to Health and Safety Code (HSC) section 34177 (m), the City of Stanton Successor Agency (Agency) submitted a Recognized Obligation Payment Schedule (ROPS 13-14A) to the California Department of Finance (Finance) on February 25, 2013, for the period of July through December 2013. Subsequently, the Agency requested a Meet and Confer session on one or more of the items denied by Finance. The Meet and Confer session was held on April 22, 2013.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of the specific items being disputed.

- Item Nos. 46 through 59, and 61 – Various Tina-Pacific Neighborhood Rehabilitation Projects totaling $18.8 million, including $4.8 million in 2011 bond proceeds. It is our understanding that contracts for these line items were awarded after June 27, 2011. HSC section 34163 (b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. Therefore, this item is not an enforceable obligation. Additionally, these line items were denied by Finance on the ROPS for the January through June 2013 period and again through the Meet and Confer process in our letter dated December 18, 2012. Furthermore, in Finance's Housing Asset Transfer Form Letter dated February 25, 2013, the properties were approved for transfer to the Housing Successor Entity. As such, any future costs associated with relocation, demolition, maintenance, management, or construction on the properties is now the responsibility of the Housing Successor Entity. Finance continues to deny these items.

  To the extent proceeds from bonds issued after December 31, 2010, exist and are not encumbered by an enforceable obligation pursuant to 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

- Item Nos. 13, 26, 27, and 32 – Code Enforcement Prosecution, Palazzo Maintenance, and Unemployment and Workers Compensation Insurance costs totaling $166,100 were

considered general administrative costs and were reclassified. Finance continues to reclassify Items 13 and 32 as administrative costs, no longer reclassifies Item 27 as an administrative cost, and denies Item 26 as an enforceable obligation. Although this reclassification increased administrative costs to $165,368, the administrative cost allowance has not been exceeded.

Item 26 is a request for reserves related to maintenance costs. However, ABx1 26 and AB 1484 only allows agencies to maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds as referenced in HSC section 34177 (b). The statute does not currently recognize all anticipated obligations, thus creation of reserves for the maintenance costs are not permissible. Therefore, Item 26 is not an enforceable obligation and not eligible for Redevelopment Property Tax Trust Fund (RPTTF) funding.

Item 27 is the Agency's share of maintenance costs under a Cost Sharing Agreement with a third party entered into prior to June 27, 2011. Therefore, Item 27 is an enforceable obligation and is eligible for RPTTF funding.

In addition, per Finance's ROPS letter dated April 11, 2013, the following items not disputed by the Agency continue to be denied:

- Item No. 11 – Ampco Contract in the amount of $700,000. This public works contract is between the City of Stanton (City) and Ampco Contracting. The Agency is neither a party to the contract nor responsible for payment of the contract. Therefore, this line item is not an enforceable obligation and not eligible for RPTTF funding.

- Item Nos. 14 and 28 – Various housing obligations totaling $12,200. HSC section 34176 (a) (1) states if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county, or city and county. Since the City assumed the housing functions, the administrative costs associated with these functions are the responsibility of the housing successor. Therefore, these items are not enforceable obligations and not eligible for RPTTF funding. Since funding for Item 14 was requested under the administrative budget, the administrative cost allowance was decreased by $5,000.

- Item No. 45 – Prior Period Legal Services in the amount of $60,000. It was determined that an error was made by the Agency; the total amount shown for the 6-month period should be $40,000; therefore an adjustment in the amount of $20,000 has been made.

- Item No. 62 – City Option Agreement in the amount of 4.8 million, funded by other funds. HSC section 34163 (e) prohibits the RDA from acquiring real property by any means for any purpose, and HSC section 34163 (f) prohibits the RDA from transferring, assigning, vesting, or delegating any of its assets to any entity. And, the agreement is between the City and the former RDA. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. Therefore, this item is not an enforceable obligation.

Additionally, this line item was denied by Finance as an inclusion to the ROPS for the period January through June 2013, and again through the Meet and Confer process in our letter dated December 18, 2012. Finance continues to deny this item.

The Agency's maximum approved Redevelopment Property Tax Trust Fund (RPTTF) distribution for the reporting period is $1,190,175 as summarized below:

Approved RPTTF Distribution Amount For the period of July through December 2013		
Total RPTTF funding requested for obligations	$	3,854,560
Minus: Six-month total for items denied or reclassified as administrative cost		
Item 11		350,000
Item 13*		15,000
Item 26		4,000
Item 28		2,000
Item 32*		4,000
Item 45		20,000
Items 46-59		2,403,500
Total approved RPTTF for enforceable obligations	$	1,056,060
Plus: Allowable RPTTF distribution for ROPS 13-14A administrative cost		165,368
Minus: ROPS II prior period adjustment		(35,253)
Total RPTTF approved for distribution:	**$**	**1,186,175**

*Reclassified as administrative cost

Pursuant to HSC Section 34186 (a), successor agencies were required to report on the ROPS 13-14A form the estimated obligations and actual payments (prior period adjustments) associated with the July through December 2012 period. HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by successor agencies are subject to audit by the County Auditor Controller (CAC) and the State Controller. The amount of RPTTF approved in the above table includes the prior period adjustment that was self-reported by the Agency and the prior period adjustment resulting from the CAC's audit of the Agency's self-reported prior period adjustment. Please refer to the worksheet used by the CAC to determine the audited prior period adjustment for the Agency:

http://www.dof.ca.gov/redevelopment/ROPS/view.php

Please refer to the ROPS 13-14A schedule that was used to calculate the approved RPTTF amount:

http://www.dof.ca.gov/redevelopment/ROPS/ROPS 13-14A Forms by Successor Agency/

This is Finance's final determination related to the enforceable obligations reported on your ROPS for July 1 through December 31, 2013. Finance's determination is effective for this time period only and should not be conclusively relied upon for future periods. All items listed on a future ROPS are subject to a subsequent review and may be denied even if it was or was not denied on this ROPS or a preceding ROPS. The only exception is for those items that have received a Final and Conclusive determination from Finance pursuant to HSC 34177.5 (i). Finance's review of items that have received a Final and Conclusive determination is limited to confirming the scheduled payments as required by the obligation.

The amount available from the RPTTF is the same as the amount of property tax increment that was available prior to enactment of ABx1 26 and AB 1484. This amount is not and never was an unlimited funding source. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available to the successor agency in the RPTTF.

To the extent proceeds from bonds issued after December 31, 2010, exist and are not encumbered by an enforceable obligation pursuant to 34171 (d), HSC section 34191.4 (c)(2)(B) requires these proceeds be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Frank Davies, Property Tax Manager, County of Orange
California State Controller's Office

RESOLUTION NO. 2012-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, ELECTING TO HAVE THE CITY OF STANTON SERVE AS THE SUCCESSOR AGENCY TO THE STANTON REDEVELOPMENT AGENCY PURSUANT TO CALIFORNIA HEALTH & SAFETY CODE SECTION 34173 AND ELECTING TO HAVE THE CITY OF STANTON AND/OR STANTON HOUSING AUTHORITY RETAIN THE HOUSING ASSETS AND HOUSING FUNCTIONS PREVIOUSLY PERFORMED BY THE STANTION REDEVELOPMENT AGENCY PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176

WHEREAS, the Stanton Redevelopment Agency ("Agency") is a public body, corporate and politic, organized and existing under the California Community Redevelopment Law (Health & Safety Code § 33000 et seq.) ("CRL"); and

WHEREAS, the City of Stanton is a municipal corporation and a general law city under the California Government Code ("City"); and

WHEREAS, the Stanton Housing Authority is a joint powers authority and public body, corporate and politic; and

WHEREAS, on December 29, 2011, in California Redevelopment Association v. Matosantos, Case No. S194861, the California Supreme Court upheld ABX1 26, which dissolves all of the redevelopment agencies in California, and struck down ABX1 27, which allowed redevelopment agencies to remain in existence if City opted in to the "Voluntary Alternative Redevelopment Program" ("VARP"); and

WHEREAS, the City had opted into the VARP by adopting Ordinance Nos. 987 and 988, which by their own terms would be null and void if the VARP was struck down; and

WHEREAS, because the Agency was going to remain in existence, the City was not required to decide whether it wished to be a Successor Agency to the Agency; and

WHEREAS, now that the VARP program has been held unconstitutional by the Court, the City has the option of deciding whether or not it wishes to serve as the Successor Agency to the Agency; and

WHEREAS, in footnote 25 of the Supreme Court's decision, the Court extended the deadline for making the election only to January 13, 2012; and

WHEREAS, the City Council has determined that it is in the best interest of the City of Stanton for the City to serve as the Successor Agency; and

WHEREAS, pursuant to Health & Safety Code Section 34173(d)(1), the City would automatically become the Successor Agency unless it affirmatively elected not to serve

as the Successor Agency by Resolution, but the City wishes to express its intention to serve as the Successor Agency to the Stanton Redevelopment Agency; and

WHEREAS, pursuant to Health & Safety Code Section 34176, the City could either opt to retain the housing assets and functions previously performed by the Stanton Redevelopment Agency or, by default, allow those assets and functions to be assigned to and assumed by the Stanton Housing Authority; and

WHEREAS, the City wishes to express its intention to have the City of Stanton and/or the Stanton Housing Authority assume all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Stanton Redevelopment Agency.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are adopted as the findings of the City Council.

SECTION 2. The City Council hereby affirmatively elects pursuant to Health & Safety Code Section 34173(d)(1) to serve as the Successor Agency to the Stanton Redevelopment Agency.

SECTION 3. The City Council hereby elects to have the City of Stanton and/or the Stanton Housing Authority assume all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Stanton Redevelopment Agency in accordance with Health & Safety Code Section 34176.

SECTION 4. City Manager, or his designee, is hereby directed to file a copy of this resolution with the County Auditor-Controller.

SECTION 5. The City Manager is hereby authorized and directed to take such additional actions, and to execute all documents necessary and appropriate, for the City to transfer the assets of the Stanton Redevelopment Agency to the City, in its capacity as Successor Agency, pursuant to Health & Safety Code Sections 34175 and 34176.

SECTION 6. The City Manager is hereby further authorized and directed to take such other and further actions, and sign such other further documents, as is necessary and proper in order to implement this Resolution in accordance with the requirements of the Health & Safety Code on behalf of the City.

SECTION 7. This resolution shall become effective immediately upon its adoption.

SECTION 8. The Deputy City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

ADOPTED, SIGNED AND APPROVED this 10th day of January, 2012

DAVID J. SHAWVER, MAYOR PRO TEM

APPROVED AS TO FORM:

KIMBERLY HALL BARLOW, CITY ATTORNEY

ATTEST:

I, Patricia A. Vazquez, Deputy City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2012-03 has been duly signed by the Mayor and attested by the Deputy City Clerk, all at a regular meeting of the Stanton City Council, held on January 10, 2012, and that the same was adopted, signed and approved by the following vote to wit:

AYES: Donahue, Ethans, Shawver

NOES: None

ABSENT: Royce, Warren

ABSTAIN: None

PATRICIA A. VAZQUEZ, DEPUTY CITY CLERK

2011 EXTRAORDINARY SESSION
CHAPTER 5X (ASSEMBLY BILL NO. 26X)

Approved by Governor June 28, 2011. Filed with Secretary of State June 29, 2011.

Urgency legislation is effective immediately, Non-urgency legislation will become effective January 1, 2012

DIGEST: Community redevelopment.

(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law provides that an action may be brought to review the validity of the adoption or amendment of a redevelopment plan by an agency, to review the validity of agency findings or determinations, and other agency actions.

This bill would revise the provisions of law authorizing an action to be brought against the agency to determine or review the validity of specified agency actions.

(2) Existing law also requires that if an agency ceases to function, any surplus funds existing after payment of all obligations and indebtedness vest in the community.

The bill would suspend various agency activities and prohibit agencies from incurring indebtedness commencing on the effective date of this act. Effective October 1, 2011, the bill would dissolve all redevelopment agencies and community development agencies in existence and designate successor agencies, as defined, as successor entities. The bill would impose various requirements on the successor agencies and subject successor agency actions to the review of oversight boards, which the bill would establish.

The bill would require county auditor-controllers to conduct an agreed-upon procedures audit of each former redevelopment agency by March 1, 2012. The bill would require the county auditor-controller to determine the amount of property taxes that would have been allocated to each redevelopment agency if the agencies had not been dissolved and deposit this amount in a Redevelopment Property Tax Trust Fund in the county. Revenues in the trust fund would be allocated to various taxing entities in the county and to cover specified expenses of the former agency. By imposing additional duties upon local public officials, the bill would create a state-mandated local program.

(3) The bill would prohibit a redevelopment agency from issuing new bonds, notes, interim certificates, debentures, or other obligations if any legal challenge to invalidate a provision of this act is successful.

(4) The bill would appropriate $500,000 to the Department of Finance from the General Fund for administrative costs associated with the bill.

(5) The bill would provide that its provisions take effect only if specified legislation is enacted in the 2011-12 First Extraordinary Session of the Legislature.

(6) 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.

(7) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(8) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

SYNOPSIS: An act to amend Sections 33500, 33501, 33607.5, and 33607.7 of, and to add Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of, the Health and Safety Code, and to add *Sections 97.401 and 98.2 to the Revenue and Taxation Code*, relating to redevelopment, and making an appropriation therefor, to take effect immediately, bill related to the budget.

NOTICE: [A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED **<A]**
[D> Text within these symbols is deleted **<D]**

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

[*1] SECTION 1.

The Legislature finds and declares all of the following:

(a) The economy and the residents of this state are slowly recovering from the worst recession since the Great Depression.

(b) State and local governments are still facing incredibly significant declines in revenues and increased need for core governmental services.

(c) Local governments across this state continue to confront difficult choices and have had to reduce fire and police protection among other services.

(d) Schools have faced reductions in funding that have caused school districts to increase class size and layoff teachers, as well as make other hurtful cuts.

(e) Redevelopment agencies have expanded over the years in this state. The expansion of redevelopment agencies has increasingly shifted property taxes away from services provided to schools, counties, special districts, and cities.

(f) Redevelopment agencies take in approximately 12 percent of all of the property taxes collected across this state.

(g) It is estimated that under current law, redevelopment agencies will divert $5 billion in property tax revenue from other taxing agencies in the 2011-12 fiscal year.

(h) The Legislature has all legislative power not explicitly restricted to it. The California Constitution does not require that redevelopment agencies must exist and, unlike other entities such as counties, does not limit the Legislature's control over that existence. Redevelopment agencies were created by statute and can therefore be dissolved by statute.

(i) Upon their dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment. Instead, those taxes will be deemed property tax revenues and will be allocated first to successor agencies to make payments on the indebtedness incurred by the dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions.

(j) It is the intent of the Legislature to do all of the following in this act:

(1) Bar existing redevelopment agencies from incurring new obligations, prior to their dissolution.

(2) Allocate property tax revenues to successor agencies for making payments on indebtedness incurred by the redevelopment agency prior to its dissolution and allocate remaining balances in accordance with applicable constitutional and statutory provisions.

(3) Beginning October 1, 2011, allocate these funds according to the existing property tax allocation within each county to make the funds available for cities, counties, special districts, and school and community college districts.

(4) Require successor agencies to expeditiously wind down the affairs of the dissolved redevelopment agencies and to provide the successor agencies with limited authority that extends only to the extent needed to implement a winddown of redevelopment agency affairs.

[*2] SEC. 2. *Section 33500 of the Health and Safety Code* is amended to read:

§ 33500.

(a) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within 90 days after the date of the adoption of the ordinance adopting or amending the plan **[A>**, IF THE ADOPTION OF THE ORDINANCE OCCURRED PRIOR TO JANUARY 1, 2011**<A]** .

(b) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within 90 days after the date on which the agency or the legislative body made those findings or determinations **[A>**, IF THE FINDINGS OR DETERMINATIONS OCCURRED PRIOR TO JANUARY 1, 2011**<A]** .

[A>(C)**<A]** **[A>**NOTWITHSTANDING ANY OTHER LAW, INCLUDING SECTION 33501, AN ACTION MAY BE BROUGHT TO REVIEW THE VALIDITY OF THE ADOPTION OR AMENDMENT OF A REDEVELOPMENT PLAN AT ANY TIME WITHIN TWO YEARS AFTER THE DATE OF THE ADOPTION OF THE ORDINANCE ADOPTING OR AMENDING THE PLAN, IF THE ADOPTION OF THE ORDINANCE OCCURRED AFTER JANUARY 1, 2011.**<A]**

[A>(D)**<A]** **[A>**NOTWITHSTANDING ANY OTHER LAW, INCLUDING SECTION 33501, AN ACTION MAY BE BROUGHT TO REVIEW THE VALIDITY OF ANY FINDINGS OR DETERMINATIONS BY THE AGENCY OR THE LEGISLATIVE BODY AT ANY TIME WITHIN TWO YEARS AFTER THE DATE ON WHICH THE AGENCY OR THE LEGISLATIVE BODY MADE THOSE FINDINGS OR DETERMINATIONS, IF THE FINDINGS OR DETERMINATIONS OCCURRED AFTER JANUARY 1, 2011.**<A]**

[*3] SEC. 3. *Section 33501 of the Health and Safety Code* is amended to read:

§ 33501.

(a) An action may be brought pursuant to Chapter 9 (commencing with *Section 860) of Title 10 of Part 2 of the Code of Civil Procedure* to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including without limiting the generality of the foregoing, the legality and validity of all proceedings theretofore taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds, and for the payment of the principal thereof and interest thereon.

(b) Notwithstanding subdivision (a), an action to determine the validity of a redevelopment plan, or amendment to a redevelopment plan **[A>** THAT WAS ADOPTED PRIOR TO JANUARY 1, 2011,**<A]** may be brought within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(c) **[A>**ANY ACTION THAT IS COMMENCED ON OR AFTER JANUARY 1, 2011, WHICH IS BROUGHT PURSUANT TO CHAPTER 9 (COMMENCING WITH SECTION 860) OF TITLE 10 OF PART 2 OF THE CODE OF CIVIL PROCEDURE TO DETERMINE THE VALIDITY OR LEGALITY OF ANY ISSUE, DOCUMENT, OR ACTION DESCRIBED IN SUBDIVISION (A), MAY BE BROUGHT WITHIN TWO YEARS AFTER ANY TRIGGERING EVENT THAT OCCURRED AFTER JANUARY 1, 2011. **<A]**

[A>(D)**<A]** For the purposes of protecting the interests of the state, the Attorney General and the Department of Finance are interested persons pursuant to *Section 863 of the Code of Civil Procedure* in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

[D>(d)**<D]** **[A>**(e)**<A]** For purposes of contesting the inclusion in a project area of lands that are enforceably restricted, as that term is defined in *Sections 422 and 422.5 of the Revenue and Taxation Code*, or lands that are in agricultural use, as defined in subdivision (b) of *Section 51201 of the Government Code*, the Department of Conservation, the county agricultural commissioner, the county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice, are interested persons pursuant to *Section 863 of the Code of Civil Procedure*, in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

[*4] SEC. 4. *Section 33607.5 of the Health and Safety Code* is amended to read:

§ 33607.5.

(a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan which contains the provisions required by Section 33670, is either: (A) adopted on or after January 1, 1994, including later amendments to these redevelopment plans; or (B) adopted prior to January 1, 1994, but amended, after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 has been deducted from the total amount of tax increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. The payments made pursuant to this section to the affected taxing entities, including the community, shall be allocated among the affected taxing entities, including the community if the community elects to receive payments, in proportion to the percentage share of property taxes each affected taxing entity, including the community, receives during the fiscal year the funds are allocated, which percentage share shall be determined without regard to any amounts allocated to a city, a city and county, or a county pursuant to *Sections 97.68 and 97.70 of the Revenue and Taxation Code*, and without regard to any allocation reductions to a city, a city and county, a county, a special district, or a redevelopment agency pursuant to *Sections 97.71, 97.72, and 97.73 of the Revenue and Taxation Code* and Section 33681.12. The agency shall reduce its payments pursuant to this section to an affected taxing entity by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, 33445.6, 33446, or any other provision of law other than this section for, or in connection with, a public facility owned or leased by that affected taxing agency, except: (A) any amounts the agency has paid directly or indirectly pursuant to an agreement with a taxing entity adopted prior to January 1, 1994; or (B) any amounts that are unrelated to the specific project area or amendment governed by this section. The reduction in a payment by an agency to a school district, community college district, or county office of education, or for special education, shall be subtracted only from the amount that otherwise would be available for use by those entities for educational facilities pursuant to paragraph (4). If the amount of the reduction exceeds the amount that otherwise would have been available for use for educational facilities in any one year, the agency shall reduce its payment in more than one year.

(3) If an agency reduces its payment to a school district, community college district, or county office of education, or for special education, the agency shall do all of the following:

(A) Determine the amount of the total payment that would have been made without the reduction.

(B) Determine the amount of the total payment without the reduction which: (i) would have been considered property taxes; and (ii) would have been available to be used for educational facilities pursuant to paragraph (4).

(C) Reduce the amount available to be used for educational facilities.

(D) Send the payment to the school district, community college district, or county office of education, or for special education, with a statement that the payment is being reduced and including the calculation required by this subdivision showing the amount to be considered property taxes and the amount, if any, available for educational facilities.

(4) (A) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to school districts, 43.3 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of *Section 42238 of the Education Code*, and 56.7 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities **[A>**, INCLUDING, IN THE CASE OF AMOUNTS PAID DURING THE 2011-12 FISCAL YEAR THROUGH THE 2015-16 FISCAL YEAR, INCLUSIVE, LAND ACQUISITION, FACILITY CONSTRUCTION, RECONSTRUCTION, REMODELING, MAINTENANCE, OR DEFERRED MAINTENANCE**<A]** .

(B) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of *Section 84751 of the Education Code*, and 52.5 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities **[A>**, INCLUDING, IN THE CASE OF AMOUNTS PAID DURING THE 2011-12 FISCAL YEAR THROUGH THE 2015-16 FISCAL YEAR, INCLUSIVE, LAND ACQUISITION, FACILITY CONSTRUCTION, RECONSTRUCTION, REMODELING, MAINTENANCE, OR DEFERRED MAINTENANCE**<A]** .

(C) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of *Section 2558 of the Education Code*, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities **[A>**, INCLUDING, IN THE CASE OF AMOUNTS PAID DURING THE 2011-12 FISCAL YEAR THROUGH THE 2015-16 FISCAL YEAR, INCLUSIVE, LAND ACQUISITION, FACILITY CONSTRUCTION, RECONSTRUCTION, REMODELING, MAINTENANCE, OR DEFERRED MAINTENANCE**<A]** .

(D) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section for special education, 19 percent shall be considered to be property taxes for the purposes of *Section 56712 of the Education Code*, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for education facilities **[A>**, INCLUDING, IN THE CASE OF AMOUNTS PAID DURING THE 2011-12 FISCAL YEAR THROUGH THE 2015-16 FISCAL YEAR, INCLUSIVE, LAND ACQUISITION, FACILITY CONSTRUCTION, RECONSTRUCTION, REMODELING, MAINTENANCE, OR DEFERRED MAINTENANCE**<A]** .

(E) If, pursuant to paragraphs (2) and (3), an agency reduces its payments to an educational entity, the calculation made by the agency pursuant to paragraph (3) shall determine the amount considered to be property taxes and the amount available to be used for educational facilities in the year the reduction was made.

(5) Local education agencies that use funds received pursuant to this section for school facilities shall spend these funds at schools that are: (A) within the project area, (B) attended by students from the project area, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, or (D) determined by the governing board of a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, including the community if the community elects to receive a payment, an amount equal to 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. In any fiscal year in which the agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive the amount authorized by this paragraph.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivision (b) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 21 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment revenues.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivisions (b) and (c) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 14 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) Prior to incurring any loans, bonds, or other indebtedness, except loans or advances from the community, the agency may subordinate to the loans, bonds **[A>**, **<A]** or other indebtedness the amount required to be paid to an affected taxing entity by this section, provided that the affected taxing entity has approved these subordinations pursuant to this subdivision.

(2) At the time the agency requests an affected taxing entity to subordinate the amount to be paid to it, the agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service and the payments required by this section, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based

upon substantial evidence, that the agency will not be able to pay the debt payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(f) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected taxing entities may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected taxing entities during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected taxing entities, or to pay for public facilities that will be owned or leased to an affected taxing entity.

(g) As used in this section, a "local education agency" is a school district, a community college district, or a county office of education.

[*5] SEC. 5. *Section 33607.7 of the Health and Safety Code* is amended to read:

§ 33607.7.

(a) This section shall apply to a redevelopment plan amendment for any redevelopment plans adopted prior to January 1, 1994, that increases the limitation on the number of dollars to be allocated to the redevelopment agency or that increases, or eliminates pursuant to paragraph (1) of subdivision (e) of Section 33333.6, the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 33333.6, as those paragraphs read on December 31, 2001, or that lengthens the period during which the redevelopment plan is effective if the redevelopment plan being amended contains the provisions required by subdivision (b) of Section 33670. However, this section shall not apply to those redevelopment plans that add new territory.

(b) If a redevelopment agency adopts an amendment that is governed by the provisions of this section, it shall pay to each affected taxing entity either of the following:

(1) If an agreement exists that requires payments to the taxing entity, the amount required to be paid by an agreement between the agency and an affected taxing entity entered into prior to January 1, 1994.

(2) If an agreement does not exist, the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5, until termination of the redevelopment plan, calculated against the amount of assessed value by which the current year assessed value exceeds an adjusted base year assessed value. The amounts shall be allocated between property taxes and educational facilities **[A>**, INCLUDING, IN THE CASE OF AMOUNTS PAID DURING THE 2011-12 FISCAL YEAR THROUGH THE 2015-16 FISCAL YEAR, INCLUSIVE, LAND ACQUISITION, FACILITY CONSTRUCTION, RECONSTRUCTION, REMODELING, MAINTENANCE, OR DEFERRED MAINTENANCE,**<A]** according to the appropriate formula in paragraph (3) of subdivision (a) of Section 33607.5. In determining the applicable amount under Section 33607.5, the first fiscal year shall be the first fiscal year following the fiscal year in which the adjusted base year value is determined.

(c) The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment. The agency shall commence making these payments pursuant to the terms of the agreement, if applicable, or, if an agreement does not exist, in the first fiscal year following the fiscal year in which the adjusted base year value is determined.

[*6] SEC. 6. Part 1.8 (commencing with Section 34161) is added to Division 24 of the Health and Safety Code, to read:

Part 1.8 RESTRICTIONS ON REDEVELOPMENT AGENCY OPERATIONS
Chapter 1 Suspension of Agency Activities and Prohibition on Creation of New Debts

§ 34161.

Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, no agency shall incur new or expand existing monetary or legal obligations except as provided in this part. All of the provisions of this part shall take effect and be operative on the effective date of the act adding this part.

§ 34162.

(a) Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this act, an agency shall be unauthorized and shall not take any action to incur indebtedness, including, but not limited to, any of the following:

(1) Issue or sell bonds, for any purpose, regardless of the source of repayment of the bonds. As used in this section, the term "bonds," includes, but is not limited to, any bonds, notes, bond anticipation notes, interim certificates, debentures, certificates of participation, refunding bonds, or other obligations issued by an agency pursuant to Part 1 (commencing with Section 33000), and *Section 53583 of the Government Code*, pursuant to any charter city authority or any revenue bond law.

(2) Incur indebtedness payable from prohibited sources of repayment, which include, but are not limited to, income and revenues of an agency's redevelopment projects, taxes allocated to the agency, taxes imposed by the agency pursuant to *Section 7280.5 of the Revenue and Taxation Code*, assessments imposed by the agency, loan repayments made to the agency pursuant to Section 33746, fees or charges imposed by the agency, other revenues of the agency, and any contributions or other financial assistance from the state or federal government.

(3) Refund, restructure, or refinance indebtedness or obligations that existed as of January 1, 2011, including, but not limited to, any of the following:

(A) Refund bonds previously issued by the agency or by another political subdivision of the state, including, but not limited to, those issued by a city, a housing authority, or a nonprofit corporation acting on behalf of a city or a housing authority.

(B) Exercise the right of optional redemption of any of its outstanding bonds or elect to purchase any of its own outstanding bonds.

(C) Modify or amend the terms and conditions, payment schedules, amortization or maturity dates of any of the agency's bonds or other obligations that are outstanding or exist as of January 1, 2011.

(4) Take out or accept loans or advances, for any purpose, from the state or the federal government, any other public agency, or any private lending institution, or from any other source. For purposes of this section, the term "loans" include, but are not limited to, agreements with the community or any other entity for the purpose of refinancing a redevelopment project and moneys advanced to the agency by the community or any other entity for the expenses of redevelopment planning, expenses for dissemination of redevelopment information, other administrative expenses, and overhead of the agency.

(5) Execute trust deeds or mortgages on any real or personal property owned or acquired by it.

(6) Pledge or encumber, for any purpose, any of its revenues or assets. As used in this part, an agency's "revenues and assets" include, but are not limited to, agency tax revenues, redevelopment project revenues, other agency revenues, deeds of trust and mortgages held by the agency, rents, fees, charges, moneys, accounts receivable, contracts rights, and other rights to payment of whatever kind or other real or personal property. As used in this part, to "pledge or encumber" means to make a commitment of, by the grant of a lien on and a security interest in, an agency's revenues or assets, whether by resolution, indenture, trust agreement, loan agreement, lease, installment sale agreement, reimbursement agreement, mortgage, deed of trust, pledge agreement, or similar agreement in which the pledge is provided for or created.

(b) Any actions taken that conflict with this section are void from the outset and shall have no force or effect.

(c) Notwithstanding subdivision (a), a redevelopment agency may issue refunding bonds, which are referred to in this part as Emergency Refunding Bonds, only where all of the following conditions are met:

(1) The issuance of Emergency Refunding Bonds is the only means available to the agency to avoid a default on outstanding agency bonds.

(2) Both the county treasurer and the Treasurer have approved the issuance of Emergency Refunding Bonds.

(3) Emergency Refunding Bonds are issued only to provide funds for any single debt service payment that is due prior to October 1, 2011, and that is more than 20 percent larger than a level debt service payment would be for that bond.

(4) The principal amount of outstanding agency bonds is not increased.

§ 34163.

Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following:

(a) Make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose, including, but not limited to, all of the following:

(1) Loans of moneys or any other thing of value or commitments to provide financing to nonprofit organizations to provide those organizations with financing for the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing or the acquisition of commercial property for lease, each pursuant to Chapter 7.5 (commencing with Section 33741) of Part 1.

(2) Loans of moneys or any other thing of value for residential construction, improvement, or rehabilitation pursuant to Chapter 8 (commencing with Section 33750) of Part 1. These include, but are not limited to, construction loans to purchasers of residential housing, mortgage loans to purchasers of residential housing, and loans to mortgage lenders, or any other entity, to aid in financing pursuant to Chapter 8 (commencing with Section 33750).

(3) The purchase, by an agency, of mortgage or construction loans from mortgage lenders or from any other entities.

(b) Enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private, or any individual or groups of individuals for any purpose, including, but not limited to, loan agreements, passthrough agreements, regulatory agreements, services contracts, leases, disposition and development agreements, joint exercise of powers agreements, contracts for the purchase of capital equipment, agreements for redevelopment activities, including, but not limited to, agreements for planning, design, redesign, development, demolition, alteration, construction, reconstruction, rehabilitation, site remediation, site development or improvement, removal of graffiti, land clearance, and seismic retrofits.

(c) Amend or modify existing agreements, obligations, or commitments with any entity, for any purpose, including, but not limited to, any of the following:

(1) Renewing or extending term of leases or other agreements, except that the agency may extend lease space for its own use to a date not to exceed six months after the effective date of the act adding this part and for a rate no more than 5 percent above the rate the agency currently pays on a monthly basis.

(2) Modifying terms and conditions of existing agreements, obligations, or commitments.

(3) Forgiving all or any part of the balance owed to the agency on existing loans or extend the term or change the terms and conditions of existing loans.

(4) Increasing its deposits to the Low and Moderate Income Housing Fund created pursuant to Section 33334.3 beyond the minimum level that applied to it as of January 1, 2011.

(5) Transferring funds out of the Low and Moderate Income Housing Fund, except to meet the minimum housing-related obligations that existed as of January 1, 2011, to make required payments under Sections 33690 and 33690.5, and to borrow funds pursuant to Section 34168.5.

(d) Dispose of assets by sale, long-term lease, gift, grant, exchange, transfer, assignment, or otherwise, for any purpose, including, but not limited to, any of the following:

(1) Assets, including, but not limited to, real property, deeds of trust, and mortgages held by the agency, moneys, accounts receivable, contract rights, proceeds of insurance claims, grant proceeds, settlement payments, rights to receive rents, and any other rights to payment of whatever kind.

(2) Real property, including, but not limited to, land, land under water and waterfront property, buildings, structures, fixtures, and improvements on the land, any property appurtenant to, or used in connection with, the land, every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens.

(e) Acquire real property by any means for any purpose, including, but not limited to, the purchase, lease, or exercising of an option to purchase or lease, exchange, subdivide, transfer, assume, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise acquire any real property, any interest in real property, and any improvements on it, including the repurchase of developed property previously owned by the agency and the acquisition of real property by eminent domain; provided, however, that nothing in this subdivision is intended to prohibit the acceptance or transfer of title for real property acquired prior to the effective date of this part.

(f) Transfer, assign, vest, or delegate any of its assets, funds, rights, powers, ownership interests, or obligations for any purpose to any entity, including, but not limited to, the community, the legislative body, another member of a joint powers authority, a trustee, a receiver, a partner entity, another agency, a nonprofit corporation, a contractual counterparty, a public body, a limited-equity housing cooperative, the state, a political subdivision of the state, the federal government, any private entity, or an individual or group of individuals.

(g) Accept financial or other assistance from the state or federal government or any public or private source if the acceptance necessitates or is conditioned upon the agency incurring indebtedness as that term is described in this part.

§ 34164.

Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, engage in any of the following redevelopment activities:

(a) Prepare, approve, adopt, amend, or merge a redevelopment plan, including, but not limited to, modifying, extending, or otherwise changing the time limits on the effectiveness of a redevelopment plan.

(b) Create, designate, merge, expand, or otherwise change the boundaries of a project area.

(c) Designate a new survey area or modify, extend, or otherwise change the boundaries of an existing survey area.

(d) Approve or direct or cause the approval of any program, project, or expenditure where approval is not required by law.

(e) Prepare, formulate, amend, or otherwise modify a preliminary plan or cause the preparation, formulation, modification, or amendment of a preliminary plan.

(f) Prepare, formulate, amend, or otherwise modify an implementation plan or cause the preparation, formulation, modification, or amendment of an implementation plan.

(g) Prepare, formulate, amend, or otherwise modify a relocation plan or cause the preparation, formulation, modification, or amendment of a relocation plan where approval is not required by law.

(h) Prepare, formulate, amend, or otherwise modify a redevelopment housing plan or cause the preparation, formulation, modification, or amendment of a redevelopment housing plan.

(i) Direct or cause the development, rehabilitation, or construction of housing units within the community, unless required to do so by an enforceable obligation.

(j) Make or modify a declaration or finding of blight, blighted areas, or slum and blighted residential areas.

(k) Make any new findings or declarations that any areas of blight cannot be remedied or redeveloped by private enterprise alone.

(l) Provide or commit to provide relocation assistance, except where the provision of relocation assistance is required by law.

(m) Provide or commit to provide financial assistance.

§ 34165.

Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, do any of the following:

(a) Enter into new partnerships, become a member in a joint powers authority, form a joint powers authority, create new entities, or become a member of any entity of which it is not currently a member, nor take on nor agree to any new duties or obligations as a member or otherwise of any entity to which the agency belongs or with which it is in any way associated.

(b) Impose new assessments pursuant to *Section 7280.5 of the Revenue and Taxation Code.*

(c) Increase the pay, benefits, or contributions of any sort for any officer, employee, consultant, contractor, or any other goods or service provider that had not previously been contracted.

(d) Provide optional or discretionary bonuses to any officers, employees, consultants, contractors, or any other service or goods providers.

(e) Increase numbers of staff employed by the agency beyond the number employed as of January 1, 2011.

(f) Bring an action pursuant to Chapter 9 (commencing with *Section 860) of Title 10 of Part 2 of the Code of Civil Procedure* to determine the validity of any issuance or proposed issuance of revenue bonds under this chapter and the legality and validity of all proceedings previously taken or proposed in a resolution of an agency to be taken for the authorization, issuance, sale, and delivery of the revenue bonds and for the payment of the principal thereof and interest thereon.

(g) Begin any condemnation proceeding or begin the process to acquire real property by eminent domain.

(h) Prepare or have prepared a draft environmental impact report. This subdivision shall not alter or eliminate any requirements of the California Environmental Quality Act (Division 13 (commencing with *Section 21000) of the Public Resources Code*).

§ 34166.

No legislative body or local governmental entity shall have any statutory authority to create or otherwise establish a new redevelopment agency or community development commission. No chartered city or chartered county shall exercise the powers granted in Part 1 (commencing with Section 33000) to create or otherwise establish a redevelopment agency.

§ 34167.

(a) This part is intended to preserve, to the maximum extent possible, the revenues and assets of redevelopment agencies so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools. It is the intent of the Legislature that redevelopment agencies take no actions that would further deplete the corpus of the agencies' funds regardless of their original source. All provisions of this part shall be construed as broadly as possible to support this intent and to restrict the expenditure of funds to the fullest extent possible.

(b) For purposes of this part, "agency" or "redevelopment agency" means a redevelopment agency created or formed pursuant to Part 1 (commencing with Section 33000) or its predecessor or a community development commission created or formed pursuant to Part 1.7 (commencing with Section 34100) or its predecessor.

(c) Nothing in this part in any way impairs the authority of a community development commission, other than in its authority to act as a redevelopment agency, to take any actions in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates.

(d) For purposes of this part, "enforceable obligation" means any of the following:

(1) Bonds, as defined by Section 33602 and bonds issued pursuant to *Section 5850 of the Government Code*, including the required debt service, reserve set-asides and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the redevelopment agency.

(2) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, including, but not limited to, moneys borrowed from the Low and Moderate Income Housing Fund, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(3) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, and unemployment payments.

(4) Judgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183. Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.

(5) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy.

(6) Contracts or agreements necessary for the continued administration or operation of the redevelopment agency to the extent permitted by this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(e) To the extent that any provision of 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) conflicts with this part, the provisions of this part shall control. Further, if any provision in 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) provides an authority that this part is restricting or eliminating, the restriction and elimination provisions of this part shall control.

(f) Nothing in this part shall be construed to interfere with a redevelopment agency's authority, pursuant to enforceable obligations as defined in this chapter, to (1) make payments due, (2) enforce existing covenants and obligations, or (3) perform its obligations.

(g) The existing terms of any memorandum of understanding with an employee organization representing employees of a redevelopment agency adopted pursuant to the Meyers-Milias-Brown Act that is in force on the effective date of this part shall continue in force until September 30, 2011, unless a new agreement is reached with a recognized employee organization prior to that date.

(h) After the enforceable obligation payment schedule is adopted pursuant to Section 34169, or after 60 days from the effective date of this part, whichever is sooner, the agency shall not make a payment unless it is listed in an adopted enforceable obligation payment schedule, other than payments required to meet obligations with respect to bonded indebtedness.

(i) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(j) For purposes of this part, "auditor-controller" means the officer designated in subdivision (e) of *Section 24000 of the Government Code.*

§ 34167.5.

Commencing on the effective date of the act adding this part, the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency. If such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). Upon receiving such an order from the Controller, an affected local agency shall, as soon as practicable, reverse the transfer and return the applicable assets to the redevelopment agency or, on or after October 1,

2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in the furtherance of the Community Redevelopment Law and is thereby unauthorized.

§ 34168.

(a) Notwithstanding any other law, any action contesting the validity of this part or Part 1.85 (commencing with Section 34170) or challenging acts taken pursuant to these parts shall be brought in the Superior Court of the County of Sacramento.

(b) If any provision of this part or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end, the provisions of this part are severable.

Chapter 2 Redevelopment Agency Responsibilities

§ 34169.

Until successor agencies are authorized pursuant to Part 1.85 (commencing with Section 34170), redevelopment agencies shall do all of the following:

(a) Continue to make all scheduled payments for enforceable obligations, as defined in subdivision (d) of Section 34167.

(b) Perform obligations required pursuant to any enforceable obligations, including, but not limited to, observing covenants for continuing disclosure obligations and those aimed at preserving the tax-exempt status of interest payable on any outstanding agency bonds.

(c) Set aside or maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Consistent with the intent declared in subdivision (a) of Section 34167, preserve all assets, minimize all liabilities, and preserve all records of the redevelopment agency.

(e) Cooperate with the successor agencies, if established pursuant to Part 1.85 (commencing with Section 34170), and provide all records and information necessary or desirable for audits, making of payments required by enforceable obligations, and performance of enforceable obligations by the successor agencies.

(f) Take all reasonable measures to avoid triggering an event of default under any enforceable obligations as defined in subdivision (d) of Section 34167.

(g) (1) Within 60 days of the effective date of this part, adopt an Enforceable Obligation Payment Schedule that lists all of the obligations that are enforceable within the meaning of subdivision (d) of Section 34167 which includes the following information about each obligation:

(A) The project name associated with the obligation.

(B) The payee.

(C) A short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made.

(D) The amount of payments obligated to be made, by month, through December 2011.

(2) Payment schedules for issued bonds may be aggregated, and payment schedules for payments to employees may be aggregated. This schedule shall be adopted at a public meeting and shall be posted on the agency's Internet Web site or, if no Internet Web site exists, on the Internet Web site of the legislative body, if that body has an Internet Web site. The schedule may be amended at any public meeting of the agency. Amendments shall be posted to the Internet Web site for at least three business days before a payment may be made pursuant to an amendment. The Enforceable Obligation Payment Schedule shall be transmitted by mail or electronic means to the county auditor-controller, the Controller, and the Department of Finance. A notification providing the Internet Web site location of the posted schedule and notifications of any amendments shall suffice to meet this requirement.

(h) Prepare a preliminary draft of the initial recognized obligation payment schedule, no later than September 30, 2011, and provide it to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170).

(i) The Department of Finance may review a redevelopment agency action taken pursuant to subdivision (g) or (h). As such, all agency actions shall not be effective for three business days, pending a request for review by the department. Each agency shall designate an official to whom the department may make these requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. In the event that the department requests a review of a given agency action, the department shall have 10 days from the date of its request to approve the agency action or return it to the agency for reconsideration and this action shall not be effective until approved by the department. In the event that the department returns the agency action to the agency for reconsideration, the agency must resubmit the modified action for department approval and the modified action shall not become effective until approved by the department. This subdivision shall apply to a successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170), as a successor entity to a dissolved redevelopment agency, with respect to the preliminary draft of the initial recognized obligation payment schedule.

Chapter 3 Application of Part to Former Participants of the Alternative Voluntary Redevelopment Program

§ 34169.5.

(a) It is the intent of the Legislature that a redevelopment agency, that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), but that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

(b) For purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, the following shall apply:

(1) Any reference to "January 1, 2011," shall be construed to mean January 1 of the year preceding the year that the redevelopment agency became subject to this part, but no earlier than January 1, 2011.

(2) Any reference to a date "60 days from the effective date of this part" shall be construed to mean 60 days from the date that the redevelopment agency becomes subject to this part.

(3) Except as provided in paragraphs (1) and (2), any reference to a date certain shall be construed to be the date, measured from the date that the redevelopment agency became subject to this part, that is equivalent to the duration of time between the effective date of this part and the date certain identified in statute.

[*7] SEC. 7. Part 1.85 (commencing with Section 34170) is added to Division 24 of the Health and Safety Code, to read:

Part 1.85 Dissolution of Redevelopment Agencies and Designation of Successor Agencies
Chapter 1 Effective Date, Creation of Funds, and Definition of Terms

§ 34170.

(a) Unless otherwise specified, all provisions of this part shall become operative on October 1, 2011.

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

§ 34170.5.

(a) The successor agency shall create within its treasury a Redevelopment Obligation Retirement Fund to be administered by the successor agency.

(b) The county auditor-controller shall create within the county treasury a Redevelopment Property Tax Trust Fund for the property tax revenues related to each former redevelopment agency, for administration by the county auditor-controller.

§ 34171.

The following terms shall have the following meanings:

(a) "Administrative budget" means the budget for administrative costs of the successor agencies as provided in Section 34177.

(b) "Administrative cost allowance" means an amount that, subject to the approval of the oversight board, is payable from property tax revenues of up to 5 percent of the property tax allocated to the successor agency for the 2011-12 fiscal year and up to 3 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the successor agency for each fiscal year thereafter; provided, however, that the amount shall not be less than two hundred fifty thousand dollars ($250,000) for any fiscal year or such lesser amount as agreed to by the successor agency. However, the allowance amount shall exclude any administrative costs that can be paid from bond proceeds or from sources other than property tax.

(c) "Designated local authority" shall mean a public entity formed pursuant to subdivision (d) of Section 34173.

(d) (1) "Enforceable obligation" means any of the following:

(A) Bonds, as defined by Section 33602 and bonds issued pursuant to Section 58383 of the Government Code, including the required debt service, reserve set-asides, and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the former redevelopment agency.

(B) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(C) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, unemployment payments, or other obligations conferred through a collective bargaining agreement.

(D) Judgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183. Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.

(E) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy. However, nothing in this act shall prohibit either the successor agency, with the approval or at the direction of the oversight board, or the oversight board itself from terminating any existing agreements or contracts and providing any necessary and required compensation or remediation for such termination.

(F) Contracts or agreements necessary for the administration or operation of the successor agency, in accordance with this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(G) Amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund of a redevelopment agency, which had been deferred as of the effective date of the act adding this part; provided, however, that the repayment schedule is approved by the oversight board.

(2) For purposes of this part, "enforceable obligation" does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency. However, written agreements entered into (A) at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and (B) solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations for purposes of this part. Notwithstanding this paragraph, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it, within two years of the date of creation of the redevelopment agency, may be deemed to be enforceable obligations.

(3) Contracts or agreements between the former redevelopment agency and other public agencies, to perform services or provide funding for governmental or private services or capital projects outside of redevelopment project areas that do not provide benefit to the redevelopment project and thus were not properly authorized under Part 1 (commencing with Section 33000) shall be deemed void on the effective date of this part; provided, however, that such

contracts or agreements for the provision of housing properly authorized under Part 1 (commencing with Section 33000) shall not be deemed void.

(e) "Indebtedness obligations" means bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the redevelopment agency, or by a joint exercise of powers authority created by the redevelopment agency, to third-party investors or bondholders to finance or refinance redevelopment projects undertaken by the redevelopment agency in compliance with the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(f) "Oversight board" shall mean each entity established pursuant to Section 34179.

(g) "Recognized obligation" means an obligation listed in the Recognized Obligation Payment Schedule.

(h) "Recognized Obligation Payment Schedule" means the document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period as provided in subdivision (m) of Section 34177.

(i) "School entity" means any entity defined as such in subdivision (f) of *Section 95 of the Revenue and Taxation Code*.

(j) "Successor agency" means the county, city, or city and county that authorized the creation of each redevelopment agency or another entity as provided in Section 34173.

(k) "Taxing entities" means cities, counties, a city and county, special districts, and school entities, as defined in subdivision (f) of *Section 95 of the Revenue and Taxation Code*, that receive passthrough payments and distributions of property taxes pursuant to the provisions of this part.

Chapter 2 Effect of Redevelopment Agency Dissolution

§ 34172.

(a) (1) All redevelopment agencies and redevelopment agency components of community development agencies created under Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) that were in existence on the effective date of this part are hereby dissolved and shall no longer exist as a public body, corporate or politic. Nothing in this part dissolves or otherwise affects the authority of a community redevelopment commission, other than in its authority to act as a redevelopment agency, in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates. For those other nonredevelopment purposes, the community development commission derives its authority solely from federal or local laws, or from state laws other than the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(2) A community in which an agency has been dissolved under this section may not create a new agency pursuant to 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). However, a community in which the agency has been dissolved and the successor entity has paid off all of the former agency's enforceable obligations may create a new agency pursuant to 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), subject to the tax increment provisions contained in Chapter 3.5 (commencing with Section 34194.5) of Part 1.9 (commencing with Section 34192).

(b) All authority to transact business or exercise powers previously granted under the Community Redevelopment Law (Part 1 (commencing with Section 33000) is hereby withdrawn from the former redevelopment agencies.

(c) Solely for purposes of *Section 16 of Article XVI of the California Constitution*, the Redevelopment Property Tax Trust Fund shall be deemed to be a special fund of the dissolved redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment projects of each redevelopment agency dissolved pursuant to this part.

(d) Revenues equivalent to those that would have been allocated pursuant to subdivision (b) of *Section 16 of Article XVI of the California Constitution* shall be allocated to the Redevelopment Property Tax Trust Fund of each successor agency for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies. Amounts in excess of those necessary to pay obligations of the former rede-

velopment agency shall be deemed to be property tax revenues within the meaning of subdivision (a) of *Section 1 of Article XIII A of the California Constitution.*

§ 34173.

(a) Successor agencies, as defined in this part, are hereby designated as successor entities to the former redevelopment agencies.

(b) Except for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part, all authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law, are hereby vested in the successor agencies.

(c) (1) Where the redevelopment agency was in the form of a joint powers authority, and where the joint powers agreement governing the formation of the joint powers authority addresses the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part and each shall have a share of assets and liabilities based on the provisions of the joint powers agreement.

(2) Where the redevelopment agency was in the form of a joint powers authority, and where the joint powers agreement governing the formation of the joint powers authority does not address the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part, a proportionate share of the assets and liabilities shall be based on the assessed value in the project areas within each entity's jurisdiction, as determined by the county assessor, in its jurisdiction as compared to the assessed value of land within the boundaries of the project areas of the former redevelopment agency.

(d) (1) A city, county, city and county, or the entities forming the joint powers authority that authorized the creation of each redevelopment agency may elect not to serve as a successor agency under this part. A city, county, city and county, or any member of a joint powers authority that elects not to serve as a successor agency under this part must file a copy of a duly authorized resolution of its governing board to that effect with the county auditor-controller no later than one month prior to the effective date of this part.

(2) The determination of the first local agency that elects to become the successor agency shall be made by the county auditor-controller based on the earliest receipt by the county auditor-controller of a copy of a duly adopted resolution of the local agency's governing board authorizing such an election. As used in this section, "local agency" means any city, county, city and county, or special district in the county of the former redevelopment agency.

(3) If no local agency elects to serve as a successor agency for a dissolved redevelopment agency, a public body, referred to herein as a "designated local authority" shall be immediately formed, pursuant to this part, in the county and shall be vested with all the powers and duties of a successor agency as described in this part. The Governor shall appoint three residents of the county to serve as the governing board of the authority. The designated local authority shall serve as successor agency until a local agency elects to become the successor agency in accordance with this section.

(e) The liability of any successor agency, acting pursuant to the powers granted under the act adding this part, shall be limited to the extent of the total sum of property tax revenues it receives pursuant to this part and the value of assets transferred to it as a successor agency for a dissolved redevelopment agency.

§ 34174.

(a) Solely for the purposes of *Section 16 of Article XVI of the California Constitution*, commencing on the effective date of this part, all agency loans, advances, or indebtedness, and interest thereon, shall be deemed extinguished and paid; provided, however, that nothing herein is intended to absolve the successor agency of payment or other obligations due or imposed pursuant to the enforceable obligations; and provided further, that nothing in the act adding this part is intended to be construed as an action or circumstance that may give rise to an event of default under any of the documents governing the enforceable obligations.

(b) Nothing in this part, including, but not limited to, the dissolution of the redevelopment agencies, the designation of successor agencies, and the transfer of redevelopment agency assets and properties, shall be construed as a voluntary or involuntary insolvency of any redevelopment agency for purposes of the indenture, trust indenture, or similar document governing its outstanding bonds.

§ 34175.

(a) It is the intent of this part that pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. It is intended that the cessation of any redevelopment agency shall not affect either the pledge, the legal existence of that pledge, or the stream of revenues available to meet the requirements of the pledge.

(b) All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on October 1, 2011, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of October 1, 2011.

§ 34176.

(a) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city, county, or city and county elects to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the city, county, or city and county.

(b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the agency, excluding any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:

(1) Where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.

(2) Where there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

(3) Where there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.

(c) Commencing on the operative date of this part, the entity assuming the housing functions formerly performed by the redevelopment agency may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000), including, but not limited to, Section 33418.

Chapter 3 Successor Agencies

§ 34177.

Successor agencies are required to do all of the following:

(a) Continue to make payments due for enforceable obligations.

(1) On and after October 1, 2011, and until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligations payment schedule shall be made. The initial enforceable obligation payment schedule shall be the last schedule adopted by the redevelopment agency under Section 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision (e) of Section 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under Section 34169 prior to the successor agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision. The enforceable obligation payment schedule may be amended by the successor agency at any public meeting and shall be subject to the approval of the oversight board as soon as the board has sufficient members to form a quorum.

(2) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(3) Commencing on January 1, 2012, only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency from the funds specified in the Recognized Obligation Payment Schedule. In addition, commencing January 1, 2012, the Recognized Obligation Payment Schedule shall supersede the Statement of Indebtedness, which shall no longer be prepared nor have any effect under the Community Redevelopment Law.

(4) Nothing in the act adding this part is to be construed as preventing a successor agency, with the prior approval of the oversight board, as described in Section 34179, from making payments for enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

(5) From October 1, 2011, to July 1, 2012, a successor agency shall have no authority and is hereby prohibited from accelerating payment or making any lump-sum payments that are intended to prepay loans unless such accelerated repayments were required prior to the effective date of this part.

(b) Maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(c) Perform obligations required pursuant to any enforceable obligation.

(d) Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency. In making the distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(e) Dispose of assets and properties of the former redevelopment agency as directed by the oversight board; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Section 34181. The disposal is to be done expeditiously and in a manner aimed at maximizing value. Proceeds from asset sales and related funds that are no longer needed for approved development projects or to otherwise wind down the affairs of the agency, each as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under Section 34188.

(f) Enforce all former redevelopment agency rights for the benefit of the taxing entities, including, but not limited to, continuing to collect loans, rents, and other revenues that were due to the redevelopment agency.

(g) Effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.

(h) Expeditiously wind down the affairs of the redevelopment agency pursuant to the provisions of this part and in accordance with the direction of the oversight board.

(i) Continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the former redevelopment agency can be transferred to other parties. Bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to defease the bonds.

(j) Prepare a proposed administrative budget and submit it to the oversight board for its approval. The proposed administrative budget shall include all of the following:

(1) Estimated amounts for successor agency administrative costs for the upcoming six-month fiscal period.

(2) Proposed sources of payment for the costs identified in paragraph (1).

(3) Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.

(k) Provide administrative cost estimates, from its approved administrative budget that are to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund, to the county auditor-controller for each six-month fiscal period.

(l) (1) Before each six-month fiscal period, prepare a Recognized Obligation Payment Schedule in accordance with the requirements of this paragraph. For each recognized obligation, the Recognized Obligation Payment Schedule shall identify one or more of the following sources of payment:

(A) Low and Moderate Income Housing Fund.

(B) Bond proceeds.

(C) Reserve balances.

(D) Administrative cost allowance.

(E) The Redevelopment Property Tax Trust Fund, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of this part.

(F) Other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the former redevelopment agency, as approved by the oversight board in accordance with this part.

(2) A Recognized Obligation Payment Schedule shall not be deemed valid unless all of the following conditions have been met:

(A) A draft Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency by November 1, 2011. From October 1, 2011, to July 1, 2012, the initial draft of that schedule shall project the dates and amounts of scheduled payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had such a redevelopment agency not been dissolved, and shall be reviewed and certified, as to its accuracy, by an external auditor designated pursuant to Section 34182.

(B) The certified Recognized Obligation Payment Schedule is submitted to and duly approved by the oversight board.

(C) A copy of the approved Recognized Obligation Payment Schedule is submitted to the county auditor-controller and both the Controller' s office and the Department of Finance and be posted on the successor agency's Internet Web site.

(3) The Recognized Obligation Payment Schedule shall be forward looking to the next six months. The first Recognized Obligation Payment Schedule shall be submitted to the Controller's office and the Department of Finance by December 15, 2011, for the period of January 1, 2012, to June 30, 2012, inclusive. Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred, prior to January 1, 2012, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the successor agency.

§ 34178.

(a) Commencing on the operative date of this part, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency; provided, however, that a successor entity wishing to enter or reenter into agreements with the city, county, or city and county that formed the redevelopment agency that it is succeeding may do so upon obtaining the approval of its oversight board.

(b) Notwithstanding subdivision (a), any of the following agreements are not invalid and may bind the successor agency:

(1) A duly authorized written agreement entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations.

(2) A written agreement between a redevelopment agency and the city, county, or city and county that created it that provided loans or other startup funds for the redevelopment agency that were entered into within two years of the formation of the redevelopment agency.

(3) A joint exercise of powers agreement in which the redevelopment agency is a member of the joint powers authority. However, upon assignment to the successor agency by operation of the act adding this part, the successor agency's rights, duties, and performance obligations under that joint exercise of powers agreement shall be limited by the constraints imposed on successor agencies by the act adding this part.

§ 34178.7.

For purposes of this chapter with regard to a redevelopment agency that becomes subject to this part pursuant to Section 34195, only references to "October 1, 2011," and to the "operative date of this part" shall be modified in the manner described in Section 34191. All other dates shall be modified only as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

Chapter 4 Oversight Boards

§ 34179.

(a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before January 1, 2012. Members shall be selected as follows: (1) One member appointed by the county board of supervisors.

(2) One member appointed by the mayor for the city that formed the redevelopment agency.

(3) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.

(4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public appointed by the county board of supervisors.

(7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time.

(8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.

(9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.

(10) Where a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, where such appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city where such an appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

(b) The Governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by January 15, 2012, or any member position that remains vacant for more than 60 days.

(c) The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board's duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.

(d) Oversight board members shall have personal immunity from suit for their actions taken within the scope of their responsibilities as oversight board members.

(e) A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974.

(f) All notices required by law for proposed oversight board actions shall also be posted on the successor agency's Internet Web site or the oversight board's Internet Web site.

(g) Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

(h) The Department of Finance may review an oversight board action taken pursuant to the act adding this part. As such, all oversight board actions shall not be effective for three business days, pending a request for review by the department. Each oversight board shall designate an official to whom the department may make such requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. In the event that the department requests a review of a given oversight board action, it shall have 10 days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and such oversight board action shall not be effective until approved by the department. In the event that the department returns the oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department.

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with *Section 1000) of the Government Code* shall apply to oversight boards. Notwithstanding *Section 1099 of the Government Code*, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or community college district.

(j) Commencing on and after July 1, 2016, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board appointed as follows:

(1) One member may be appointed by the county board of supervisors.

(2) One member may be appointed by the city selection committee established pursuant to *Section 50270 of the Government Code*. In a city and county, the mayor may appoint one member.

(3) One member may be appointed by the independent special district selection committee established pursuant to *Section 56332 of the Government Code*, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.

(4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the county board of supervisors.

(7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.

(k) The Governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2016, or any member position that remains vacant for more than 60 days.

(l) Commencing on and after July 1, 2016, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (b).

(m) Any oversight board for a given successor agency shall cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid.

§ 34180.

All of the following successor agency actions shall first be approved by the oversight board:

(a) The establishment of new repayment terms for outstanding loans where the terms have not been specified prior to the date of this part.

(b) Refunding of outstanding bonds or other debt of the former redevelopment agency by successor agencies in order to provide for savings or to finance debt service spikes; provided, however, that no additional debt is created and debt service is not accelerated.

(c) Setting aside of amounts in reserves as required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Merging of project areas.

(e) Continuing the acceptance of federal or state grants, or other forms of financial assistance from either public or private sources, where assistance is conditioned upon the provision of matching funds, by the successor entity as successor to the former redevelopment agency, in an amount greater than 5 percent.

(f) (1) If a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained.

(2) If no other agreement is reached on valuation of the retained assets, the value will be the fair market value as of the 2011 property tax lien date as determined by the county assessor.

(g) Establishment of the Recognized Obligation Payment Schedule.

(h) A request by the successor agency to enter into an agreement with the city, county, or city and county that formed the redevelopment agency that it is succeeding.

(i) A request by a successor agency or taxing entity to pledge, or to enter into an agreement for the pledge of, property tax revenues pursuant to subdivision (b) of Section 34178.

§ 34181.

The oversight board shall direct the successor agency to do all of the following:

(a) Dispose of all assets and properties of the former redevelopment agency that were funded by tax increment revenues of the dissolved redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, and fire stations, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value.

(b) Cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations.

(c) Transfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the appropriate entity pursuant to Section 34176.

(d) Terminate any agreement, between the dissolved redevelopment agency and any public entity located in the same county, obligating the redevelopment agency to provide funding for any debt service obligations of the public entity or for the construction, or operation of facilities owned or operated by such public entity, in any instance where the oversight board has found that early termination would be in the best interests of the taxing entities.

(e) Determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the oversight board for its approval. The board may approve any amendments to or early termination of such agreements where it finds that amendments or early termination would be in the best interests of the taxing entities.

Chapter 5 Duties of the Auditor-Controller

§ 34182.

(a) (1) The county auditor-controller shall conduct or cause to be conducted an agreed-upon procedures audit of each redevelopment agency in the county that is subject to this part, to be completed by March 1, 2012.

(2) The purpose of the audits shall be to establish each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's passthrough payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial Recognized Obligation Payment Schedule.

(3) The county auditor-controller may charge the Redevelopment Property Tax Trust Fund for any costs incurred by the county auditor-controller pursuant to this part.

(b) By March 15, 2012, the county auditor-controller shall provide the Controller's office a copy of all audits performed pursuant to this section. The county auditor-controller shall maintain a copy of all documentation and working papers for use by the Controller.

(c) (1) The county auditor-controller shall determine the amount of property taxes that would have been allocated to each redevelopment agency in the county had the redevelopment agency not been dissolved pursuant to the operation of the act adding this part. These amounts are deemed property tax revenues within the meaning of subdivision (a) of *Section 1 of Article XIII A of the California Constitution* and are available for allocation and distribution in accordance with the provisions of the act adding this part. The county auditor-controller shall calculate the property tax revenues using current assessed values on the last equalized roll on August 20, pursuant to *Section 2052 of the Revenue and Taxation Code*, and pursuant to statutory formulas or contractual agreements with other taxing agencies, as of the effective date of this section, and shall deposit that amount in the Redevelopment Property Tax Trust Fund.

(2) Each county auditor-controller shall administer the Redevelopment Property Tax Trust Fund for the benefit of the holders of former redevelopment agency enforceable obligations and the taxing entities that receive passthrough payments and distributions of property taxes pursuant to this part.

(3) In connection with the allocation and distribution by the county auditor-controller of property tax revenues deposited in the Redevelopment Property Tax Trust Fund, in compliance with this part, the county auditor-controller shall prepare estimates of amounts to be allocated and distributed, and provide those estimates to both the entities receiving the distributions and the Department of Finance, no later than November 1 and May 1 of each year.

(4) Each county auditor-controller shall disburse proceeds of asset sales or reserve balances, which have been received from the successor entities pursuant to Sections 34177 and 34187, to the taxing entities. In making such a distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(d) By October 1, 2012, the county auditor-controller shall report the following information to the Controller's office and the Director of Finance:

(1) The sums of property tax revenues remitted to the Redevelopment Property Tax Trust Fund related to each former redevelopment agency.

(2) The sums of property tax revenues remitted to each agency under paragraph (1) of subdivision (a) of Section 34183.

(3) The sums of property tax revenues remitted to each successor agency pursuant to paragraph (2) of subdivision (a) of Section 34183.

(4) The sums of property tax revenues paid to each successor agency pursuant to paragraph (3) of subdivision (a) of Section 34183.

(5) The sums paid to each city, county, and special district, and the total amount allocated for schools pursuant to paragraph (4) of subdivision (a) of Section 34183.

(6) Any amounts deducted from other distributions pursuant to subdivision (b) of Section 34183.

(e) A county auditor-controller may charge the Redevelopment Property Tax Trust Fund for the costs of administering the provisions of this part.

(f) The Controller may audit and review any county auditor-controller action taken pursuant to the act adding this part. As such, all county auditor-controller actions shall not be effective for three business days, pending a request for review by the Controller. In the event that the Controller requests a review of a given county auditor-controller action, he or she shall have 10 days from the date of his or her request to approve the county auditor-controller's action or return it to the county auditor-controller for reconsideration and such county auditor-controller action shall not be effective until approved by the Controller. In the event that the Controller returns the county auditor-controller's action to the county auditor-controller for reconsideration, the county auditor-controller must resubmit the modified action for Controller approval and such modified county auditor-controller action shall not become effective until approved by the Controller.

§ 34183.

(a) Notwithstanding any other law, from October 1, 2011, to July 1, 2012, and for each fiscal year thereafter, the county auditor-controller shall, after deducting administrative costs allowed under Section 34182 and *Section 95.3 of the Revenue and Taxation Code*, allocate moneys in each Redevelopment Property Tax Trust Fund as follows:

(1) Subject to any prior deductions required by subdivision (b), first, the county auditor-controller shall remit from the Redevelopment Property Tax Trust Fund to each local agency and school entity an amount of property tax revenues in an amount equal to that which would have been received under Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections read on January 1, 2011, or pursuant to any passthrough agreement between a redevelopment agency and a taxing jurisdiction that was entered into prior to January 1, 1994, that would be in force during that fiscal year, had the redevelopment agency existed at that time. The amount of the payments made pursuant to this paragraph shall be calculated solely on the basis of passthrough payment obligations, existing prior to the effective date of this part and continuing as obligations of successor entities, shall occur no later than January 16, 2012, and no later than June 1, 2012, and each January 16 and June 1 thereafter. Notwithstanding subdivision (e) of Section 33670, that portion of the taxes in excess of the amount identified in subdivision (a) of Section 33670, which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency.

(2) Second, on January 16, 2012, and June 1, 2012, and each January 16 and June 1 thereafter, to each successor agency for payments listed in its Recognized Obligation Payment Schedule for the six-month fiscal period beginning January 1, 2012, or July 1, 2012, and each January 16 and June 1 thereafter, in the following order of priority:

(A) Debt service payments scheduled to be made for tax allocation bonds.

(B) Payments scheduled to be made on revenue bonds, but only to the extent the revenues pledged for them are insufficient to make the payments and only where the agency's tax increment revenues were also pledged for the repayment of the bonds.

(C) Payments scheduled for other debts and obligations listed in the Recognized Obligation Payment Schedule that are required to be paid from former tax increment revenue.

(3) Third, on January 16, 2012, and June 1, 2012, and each January 16 and June 1 thereafter, to each successor agency for the administrative cost allowance, as defined in Section 34171, for administrative costs set forth in an approved administrative budget for those payments required to be paid from former tax increment revenues.

(4) Fourth, on January 16, 2012, and June 1, 2012, and each January 16 and June 1 thereafter, any moneys remaining in the Redevelopment Property Tax Trust Fund after the payments and transfers authorized by paragraphs (1) to (3), inclusive, shall be distributed to local agencies and school entities in accordance with Section 34188.

(b) If the successor agency reports, no later than December 1, 2011, and May 1, 2012, and each December 1 and May 1 thereafter, to the county auditor-controller that the total amount available to the successor agency from the Redevelopment Property Tax Trust Fund allocation to that successor agency's Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, are insufficient to fund the payments required by paragraphs (1) to (3), inclusive, of subdivision (a) in the next six-month fiscal period, the county auditor-controller shall notify the Controller and the Department of Finance no later than 10 days from the date of that notification. The county auditor-controller shall verify whether the successor agency will have sufficient funds from which to service debts according to the Recognized Obligation Payment Schedule and shall report the findings to the Controller. If the Controller concurs

that there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the amount remaining to be distributed to taxing entities pursuant to paragraph (4), and if that amount is exhausted, from amounts available for distribution for administrative costs in paragraph (3). If an agency, pursuant to the provisions of Section 33492.15, 33492.72, 33607.5, 33671.5, 33681.15, or 33688, made passthrough payment obligations subordinate to debt service payments required for enforceable obligations, funds for servicing bond debt may be deducted from the amounts for passthrough payments under paragraph (1), as provided in those sections, but only to the extent that the amounts remaining to be distributed to taxing entities pursuant to paragraph (4) and the amounts available for distribution for administrative costs in paragraph (3) have all been exhausted.

(c) The county treasurer may loan any funds from the county treasury that are necessary to ensure prompt payments of redevelopment agency debts.

(d) The Controller may recover the costs of audit and oversight required under this part from the Redevelopment Property Tax Trust Fund by presenting an invoice therefor to the county auditor-controller who shall set aside sufficient funds for and disburse the claimed amounts prior to making the next distributions to the taxing jurisdictions pursuant to Section 34188. Subject to the approval of the Director of Finance, the budget of the Controller may be augmented to reflect the reimbursement, pursuant to Section 28.00 of the Budget Act.

§ 34185.

Commencing on January 16, 2012, and on each January 16 and June 1 thereafter, the county auditor-controller shall transfer, from the Redevelopment Property Tax Trust Fund of each successor agency into the Redevelopment Obligation Retirement Fund of that agency, an amount of property tax revenues equal to that specified in the Recognized Obligation Payment Schedule for that successor agency as payable from the Redevelopment Property Tax Trust Fund subject to the limitations of Sections 34173 and 34183.

§ 34186.

Differences between actual payments and past estimated obligations on recognized obligation payment schedules must be reported in subsequent recognized obligation payment schedules and shall adjust the amount to be transferred to the Redevelopment Obligation Retirement Fund pursuant to this part. These estimates and accounts shall be subject to audit by county auditor-controllers and the Controller.

§ 34187.

Commencing January 1, 2012, whenever a recognized obligation that had been identified in the Recognized Payment Obligation Schedule is paid off or retired, either through early payment or payment at maturity, the county auditor-controller shall distribute to the taxing entities, in accordance with the provisions of the Revenue and Taxation Code, all property tax revenues that were associated with the payment of the recognized obligation.

§ 34188.

For all distributions of property tax revenues and other moneys pursuant to this part, the distribution to each taxing entity shall be in an amount proportionate to its share of property tax revenues in the tax rate area in that fiscal year, as follows:

(a) (1) For distributions from the Redevelopment Property Tax Trust Fund, the share of each taxing entity shall be applied to the amount of property tax available in the Redevelopment Property Tax Trust Fund after deducting the amount of any distributions under paragraphs (2) and (3) of subdivision (a) of Section 34183.

(2) For each taxing entity that receives passthrough payments, that agency shall receive the amount of any passthrough payments identified under paragraph (1) of subdivision (a) of Section 34183, in an amount not to exceed the amount that it would receive pursuant to this section in the absence of the passthrough agreement. However, to the extent that the passthrough payments received by the taxing entity are less than the amount that the taxing entity would receive pursuant to this section in the absence of a passthrough agreement, the taxing entity shall receive an additional payment that is equivalent to the difference between those amounts.

(b) Property tax shares of local agencies shall be determined based on property tax allocation laws in effect on the date of distribution, without the revenue exchange amounts allocated pursuant to *Section 97.68 of the Revenue and Taxation Code*, and without the property taxes allocated pursuant to *Section 97.70 of the Revenue and Taxation Code*.

(c) The total school share, including passthroughs, shall be the share of the property taxes that would have been received by school entities, as defined in subdivision (f) of *Section 95 of the Revenue and Taxation Code*, in the jurisdictional territory of the former redevelopment agency, including, but not limited to, the amounts specified in *Sections 97.68 and 97.70 of the Revenue and Taxation Code.*

§ 34188.8.

For purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, a date certain identified in this chapter shall not be subject to Section 34191, except for dates certain in Section 34182 and references to "October 1, 2011," or to the "operative date of this part,". However, for purposes of those redevelopment agencies, a date certain identified in this chapter shall be appropriately modified, as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

Chapter 6 Effect of the Act Adding this Part on the Community Redevelopment Law

§ 34189.

(a) Commencing on the effective date of this part, all provisions of the Community Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies, including, but not limited to, Sections 33445, 33640, 33641, 33645, and subdivision (b) of Section 33670, shall be inoperative, except as those sections apply to a redevelopment agency operating pursuant to Part 1.9 (commencing with Section 34192).

(b) The California Law Revision Commission shall draft a Community Redevelopment Law cleanup bill for consideration by the Legislature no later than January 1, 2013.

(c) To the extent that a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) conflicts with this part, the provisions of this part shall control. Further, if a provision of 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) provides an authority that the act adding this part is restricting or eliminating, the restriction and elimination provisions of the act adding this part shall control.

(d) It is intended that the provisions of this part shall be read in a manner as to avoid duplication of payments.

Chapter 7 Stabilization of Labor and Employment Relations

§ 34190.

(a) It is the intent of the Legislature to stabilize the labor and employment relations of redevelopment agencies and successor agencies in furtherance of and connection with their responsibilities under the act adding this part.

(b) Nothing in the act adding this part is intended to relieve any redevelopment agency of its obligations under Chapter 10 (commencing with *Section 3500) of Division 4 of Title 1 of the Government Code.* Subject to the limitations set forth in Section 34165, prior to its dissolution, a redevelopment agency shall retain the authority to meet and confer over matters within the scope of representation.

(c) A successor agency, as defined in Sections 34171 and 34173, shall constitute a public agency within the meaning of subdivision (c) of *Section 3501 of the Government Code.*

(d) Subject to the limitations set forth in Section 34165, redevelopment agencies, prior to and during their winding down and dissolution, shall retain the authority to bargain over matters within the scope of representation.

(e) In recognition that a collective bargaining agreement represents an enforceable obligation, a successor agency shall become the employer of all employees of the redevelopment agency as of the date of the redevelopment agency's dissolution. If, pursuant to this provision, the successor agency becomes the employer of one or more employees who, as employees of the redevelopment agency, were represented by a recognized employee organization, the successor agency shall be deemed a successor employer and shall be obligated to recognize and to meet and confer with such employee organization. In addition, the successor agency shall retain the authority to bargain over matters within the scope of representation and shall be deemed to have assumed the obligations under any memorandum of understanding in effect between the redevelopment agency and recognized employee organization as of the date of the redevelopment agency's dissolution.

(f) The Legislature finds and declares that the duties and responsibilities of local agency employer representatives under this chapter are substantially similar to the duties and responsibilities required under existing collective bargain-

ing enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs. Furthermore, the Legislature also finds and declares that to the extent the act adding this part provides the funding with which to accomplish the obligations provided herein, the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs.

(g) The transferred memorandum of understanding and the right of any employee organization representing such employees to provide representation shall continue as long as the memorandum of understanding would have been in force, pursuant to its own terms. One or more separate bargaining units shall be created in the successor agency consistent with the bargaining units that had been established in the redevelopment agency. After the expiration of the transferred memorandum of understanding, the successor agency shall continue to be subject to the provisions of the Meyers-Milias-Brown Act.

(h) Individuals formerly employed by redevelopment agencies that are subsequently employed by successor agencies shall, for a minimum of two years, transfer their status and classification in the civil service system of the redevelopment agency to the successor agency and shall not be required to requalify to perform the duties that they previously performed or duties substantially similar in nature and in required qualification to those that they previously performed. Any such individuals shall have the right to compete for employment under the civil service system of the successor agency.

Chapter 8 Application of Part to Former Participants of the Alternative Voluntary Redevelopment Program

§ 34191.

(a) It is the intent of the Legislature that a redevelopment agency that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

(b) Except as otherwise provided by law, for purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, the following shall apply:

(1) Any reference to "January 1, 2011," shall be construed to mean January 1 of the year preceding the year that the redevelopment agency became subject to this part, but no earlier than January 1, 2011.

(2) Any reference to "October 1, 2011," or to the "operative date of this part," shall mean the date that is the equivalent to the "October 1, 2011," identified in Section 34167.5 for that redevelopment agency as determined pursuant to Section 34169.5.

(3) Except as provided in paragraphs (1) and (2), any reference to a date certain shall be construed to be the date, measured from the date that the redevelopment agency became subject to this part, that is equivalent to the duration of time between the operative date of this part and the date certain identified in statute.

[*8] SEC. 8. Section 97.401 is added to the Revenue and Taxation Code, to read:

§ 97.401.

Commencing October 1, 2011, the county auditor shall make the calculations required by Section 97.4 based on the amount deposited on behalf of each former redevelopment agency into the Redevelopment Property Tax Trust Fund pursuant to paragraph (1) of subdivision (c) of *Section 34182 of the Health and Safety Code.* The calculations required by Section 97.4 shall result in cities, counties, and special districts annually remitting to the Educational Revenue Augmentation Fund the same amounts they would have remitted but for the operation of Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with *Section 34170) of Division 24 of the Health and Safety Code.*

[*9] SEC. 9. Section 98.2 is added to the Revenue and Taxation Code, to read:

§ 98.2.

For the 2011-12 fiscal year, and each fiscal year thereafter, the computations provided for in Sections 98 and 98.1 shall be performed in a manner which recognizes that passthrough payments formerly required under the Community Redevelopment Law (Part 1 (commencing with *Section 33000) of Division 24 of the Health and Safety Code*) are continuing to be made under the authority of Part 1.85 (commencing with *Section 34170) of Division 24 of the Health and Safety Code* and those payments shall be recognized in the TEA calculations as though they were made under the

Community Redevelopment Law. Additionally, the computations provided for in Sections 98 and 98.1 shall be performed in a manner that recognizes payments to a Redevelopment Property Tax Trust Fund, established pursuant to *Section 34170.5 of the Health and Safety Code* as if they were payments to a redevelopment agency as provided in subdivision (b) of *Section 33670 of the Health and Safety Code.*

[*10] SEC. 10.

If a legal challenge to invalidate any provision of this act is successful, a redevelopment agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with *Section 33640) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.*

[*11] SEC. 11.

The sum of five hundred thousand dollars ($500,000) is hereby appropriated to the Department of Finance from the General Fund for allocation to the Treasurer, Controller, and Department of Finance for administrative costs associated with this act. The department shall notify the Joint Legislative Budget Committee and the fiscal committees in each house of any allocations under this section no later than 10 days following that allocation.

[*12] SEC. 12.

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. The Legislature expressly intends that the provisions of Part 1.85 (commencing with *Section 34170) of Division 24 of the Health and Safety Code* are severable from the provisions of Part 1.8 (commencing with *Section 34161) of Division 24 of the Health and Safety Code*, and if Part 1.85 is held invalid, then Part 1.8 shall continue in effect.

[*13] SEC. 13.

No reimbursement is required by this act pursuant to *Section 6 of Article XIII B of the California Constitution* because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of *Section 17556 of the Government Code.*

[*14] SEC. 14.

This act shall take effect contingent on the enactment of Assembly Bill 27 of the 2011-12 First Extraordinary Session or Senate Bill 15 of in the 2011-12 First Extraordinary Session and only if the enacted bill adds Part 1.9 (commencing with Section 34192) to Division 24 of the Health and Safety Code.

[*15] SEC. 15.

This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of *Section 10 of Article IV of the California Constitution.*

[*16] SEC. 16.

This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of *Section 12 of Article IV of the California Constitution*, has been identified as related to the budget in the Budget Bill, and shall take effect immediately. 536T-C9B0-R03N-R0F2536T-C9B0-R03N-R0F3-00000-00

2012 REGULAR SESSION
CHAPTER 26 (Assembly Bill No. 1484)

Approved by Governor June 27, 2012. Filed with Secretary of State June 27, 2012.

Urgency legislation is effective immediately, Non-urgency legislation will become effective January 1, 2013

DIGEST: Community redevelopment.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, and, among other things, provides that an action may be brought to review the validity of specified agency actions, findings, or determinations that occurred after January 1, 2011, within 2 years of the triggering event.

This bill would toll the time limit for bringing an action until the Department of Finance issues a finding of completion to the successor agency.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations, as defined, perform obligations required pursuant to any enforceable obligation, dispose of all assets of the former redevelopment agency, and to remit unencumbered balances of redevelopment agency funds, including housing funds, to the county auditor-controller for distribution to taxing entities.

Existing law authorizes the city, county, or city and county that authorized the creation of a redevelopment agency to retain the housing assets, functions, and powers previously performed by the redevelopment agency, excluding amounts on deposit in the Low and Moderate Income Housing Fund.

The bill would modify provisions relating to the transfer of housing responsibilities associated with dissolved redevelopment agencies and would define the term "housing asset" for these purposes. The bill would impose new requirements on successor agencies with regard to the submittal of the Recognized Obligation Payment Schedule, the conducting of a due diligence review to determine the unobligated balances available for transfer to affected taxing entities, and the recovery and subsequent remittance of funds determined to have been transferred absent an enforceable obligation. The bill would authorize the Department of Finance to issue a finding of completion to a successor agency that completes the due diligence review and meets other requirements. Upon receiving a finding of completion, the bill would authorize the successor agency to participate in a loan repayment program and limited property management activities.

Existing law authorizes the Department of Finance and the Controller to require any documents associated with enforceable obligations to be provided to them in a manner of their choosing.

The bill would authorize the county auditor-controller and the department, under specified circumstances, to require the return of funds improperly spent or transferred to a public entity and would authorize the department and the Controller to require the State Board of Equalization and the county auditor-controller to offset sales and use tax and property tax allocations, respectively, to the local agency. The bill would authorize the Controller to review the activities of a successor agency to determine if an improper asset transfer had occurred between the successor agency and the city or county that created the former redevelopment agency, and would require the Controller to order the return of these assets if such an asset transfer did occur.

The bill would impose new requirements on the county auditor-controller relating to the allocation of property tax revenues to affected taxing entities during a specified timeframe. By imposing additional duties upon local public officials, the bill would create a state-mandated local program.

The bill would appropriate up to $22,000,000 to the Department of Finance from the General Fund for costs associated with the bill, as specified.

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 a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

SYNOPSIS: An act to amend *Section 53760.1 of the Government Code*, and to amend Sections 33500, 33501, 34163, 34171, 34173, 34175, 34176, 34177, 34178, 34179, 34180, 34181, 34182, 34183, 34185, 34186, 34187, 34188, and 34189 of, to add Sections 34167.10, 34177.3, 34177.5, 34178.8, 34179.5, 34179.6, 34179.7, 34179.8, 34182.5, 34183.5, 34189.1, 34189.2, and 34189.3 to, to add Chapter 9 (commencing with Section 34191.1) to Part 1.85 of Division 24 of, and to add and repeal *Section 34176.5 of, the Health and Safety Code*, relating to community redevelopment, and making an appropriation therefor, to take effect immediately, bill related to the budget.

NOTICE: [A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED **<A]**
[D> Text within these symbols is deleted **<D]**

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

[*1] SECTION 1. *Section 53760.1 of the Government Code* is amended to read:

§ 53760.1.

As used in this article the following terms have the following meanings:

(a) "Chapter 9" means Chapter 9 (commencing with Section 901) of Title 11 of the United States Code.

(b) "Creditor" means either of the following:

(1) An entity that has a noncontingent claim against a municipality that arose at the time of or before the commencement of the neutral evaluation process and whose claim represents at least five million dollars ($5,000,000) or comprises more than 5 percent of the local public entity's debt or obligations, whichever is less.

(2) An entity that would have a noncontingent claim against the municipality upon the rejection of an executory contract or unexpired lease in a Chapter 9 case and whose claim would represent at least five million dollars ($5,000,000) or comprises more than 5 percent of the local public entity's debt or obligations, whichever is less.

(c) "Debtor" means a local public entity that may file for bankruptcy under Chapter 9.

(d) "Good faith" means participation by a party in the neutral evaluation process with the intent to negotiate toward a resolution of the issues that are the subject of the neutral evaluation process, including the timely provision of complete and accurate information to provide the relevant parties through the neutral evaluation process with sufficient information, in a confidential manner, to negotiate the readjustment of the municipality's debt.

(e) "Interested party" means a trustee, a committee of creditors, an affected creditor, an indenture trustee, a pension fund, a bondholder, a union that, under its collective bargaining agreements, has standing to initiate contract or debt restructuring negotiations with the municipality, or a representative selected by an association of retired employees of the public entity who receive income from the public entity convening the neutral evaluation. A local public entity may invite holders of contingent claims to participate as interested parties in the neutral evaluation if the local public entity determines that the contingency is likely to occur and the claim may represent five million dollars ($5,000,000) or comprise more than 5 percent of the local public entity's debt or obligations, whichever is less.

(f) "Local public entity" means any county, city, district, public authority, public agency, or other entity, without limitation, that is a municipality as defined in Section 101(40) of Title 11 of the United States Code (bankruptcy), or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities **[A>**, AND ALSO INCLUDES A SUCCESSOR AGENCY TO A REDEVELOPMENT AGENCY CREATED PURSUANT TO PART 1.85 (COMMENCING WITH SECTION 34170) OF DIVISION 24 OF THE HEALTH AND SAFETY CODE**<A]** . For purposes of this article, "local public entity" does not include a school district.

(g) "Local public entity representative" means the person or persons designated by the local public agency with authority to make recommendations and to attend the neutral evaluation on behalf of the governing body of the municipality.

(h) "Neutral evaluation" is a form of alternative dispute resolution that may be known as mandatory mediation. A "neutral evaluator" may also be known as a mediator.

[*2] SEC. 2. *Section 33500 of the Health and Safety Code* is amended to read:

§ 33500.

(a) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within 90 days after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred prior to January 1, 2011.

(b) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within 90 days after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred prior to January 1, 2011.

(c) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within two years after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred after January 1, 2011.

(d) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within two years after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred after January 1, 2011.

[A>(E)<A] **[A>THE TIME LIMIT FOR BRINGING AN ACTION UNDER SUBDIVISION (C) OR (D) SHALL BE TOLLED WITH RESPECT TO THE ADOPTIONS, FINDINGS, AND DETERMINATIONS OF ANY FORMER REDEVELOPMENT AGENCY OR ITS LEGISLATIVE BODY UNTIL THE DEPARTMENT OF FINANCE HAS ISSUED A FINDING OF COMPLETION TO THE SUCCESSOR AGENCY OF THAT FORMER REDEVELOPMENT AGENCY PURSUANT TO SECTION 34179.7. SUBDIVISIONS (C) AND (D) SHALL NOT APPLY TO ANY ADOPTION, FINDING, OR DETERMINATION OF ANY FORMER REDEVELOPMENT AGENCY OR ITS LEGISLATIVE BODY AFTER THE DEPARTMENT HAS ISSUED A FINDING OF COMPLETION TO THE SUCCESSOR AGENCY OF THAT FORMER REDEVELOPMENT AGENCY PURSUANT TO SECTION 34179.7.<A]**

[*3] SEC. 3. *Section 33501 of the Health and Safety Code* is amended to read:

§ 33501.

(a) An action may be brought pursuant to Chapter 9 (commencing with *Section 860) of Title 10 of Part 2 of the Code of Civil Procedure* to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including without limiting the generality of the foregoing, the legality and validity of all proceedings theretofore taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds, and for the payment of the principal thereof and interest thereon.

(b) Notwithstanding subdivision (a), an action to determine the validity of a redevelopment plan, or amendment to a redevelopment plan that was adopted prior to January 1, 2011, may be brought within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(c) Any action that is commenced on or after January 1, 2011, which is brought pursuant to Chapter 9 (commencing with *Section 860) of Title 10 of Part 2 of the Code of Civil Procedure* to determine the validity or legality of any issue, document, or action described in subdivision (a), may be brought within two years after any triggering event that occurred after January 1, 2011. **[A>** THE TIME LIMIT FOR BRINGING AN ACTION UNDER THIS SUBDIVISION SHALL BE TOLLED WITH RESPECT TO THE VALIDITY OR LEGALITY OF ANY ISSUE, DOCUMENT, OR ACTION DESCRIBED IN SUBDIVISION (A) OF ANY FORMER REDEVELOPMENT AGENCY OR ITS LEGISLATIVE BODY UNTIL THE DEPARTMENT OF FINANCE HAS ISSUED A FINDING OF COMPLETION TO

THE SUCCESSOR AGENCY OF THAT FORMER REDEVELOPMENT AGENCY PURSUANT TO SECTION 34179.7. THIS SUBDIVISION SHALL NOT APPLY TO ANY ADOPTION, FINDING, OR DETERMINATION OF ANY FORMER REDEVELOPMENT AGENCY OR ITS LEGISLATIVE BODY AFTER THE DEPARTMENT HAS ISSUED A FINDING OF COMPLETION TO THE SUCCESSOR AGENCY OF THAT FORMER REDEVELOPMENT AGENCY PURSUANT TO SECTION 34179.7.**<A]**

(d) For the purposes of protecting the interests of the state, the Attorney General and the Department of Finance are interested persons pursuant to *Section 863 of the Code of Civil Procedure* in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

(e) For purposes of contesting the inclusion in a project area of lands that are enforceably restricted, as that term is defined in *Sections 422 and 422.5 of the Revenue and Taxation Code*, or lands that are in agricultural use, as defined in subdivision (b) of *Section 51201 of the Government Code*, the Department of Conservation, the county agricultural commissioner, the county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice, are interested persons pursuant to *Section 863 of the Code of Civil Procedure*, in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

[*4] SEC. 4. *Section 34163 of the Health and Safety Code* is amended to read:

§ 34163.

Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following:

(a) Make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose, including, but not limited to, all of the following:

(1) Loans of moneys or any other thing of value or commitments to provide financing to nonprofit organizations to provide those organizations with financing for the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing or the acquisition of commercial property for lease, each pursuant to Chapter 7.5 (commencing with Section 33741) of Part 1.

(2) Loans of moneys or any other thing of value for residential construction, improvement, or rehabilitation pursuant to Chapter 8 (commencing with Section 33750) of Part 1. These include, but are not limited to, construction loans to purchasers of residential housing, mortgage loans to purchasers of residential housing, and loans to mortgage lenders, or any other entity, to aid in financing pursuant to Chapter 8 (commencing with Section 33750).

(3) The purchase, by an agency, of mortgage or construction loans from mortgage lenders or from any other entities.

(b) Enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private, or any individual or groups of individuals for any purpose, including, but not limited to, loan agreements, passthrough agreements, regulatory agreements, services contracts, leases, disposition and development agreements, joint exercise of powers agreements, contracts for the purchase of capital equipment, agreements for redevelopment activities, including, but not limited to, agreements for planning, design, redesign, development, demolition, alteration, construction, reconstruction, rehabilitation, site remediation, site development or improvement, removal of graffiti, land clearance, and seismic retrofits.

(c) Amend or modify existing agreements, obligations, or commitments with any entity, for any purpose, including, but not limited to, any of the following:

(1) Renewing or extending term of leases or other agreements, except that the agency may extend lease space for its own use to a date not to exceed six months after the effective date of the act adding this part and for a rate no more than 5 percent above the rate the agency currently pays on a monthly basis.

(2) Modifying terms and conditions of existing agreements, obligations, or commitments.

(3) Forgiving all or any part of the balance owed to the agency on existing loans or extend the term or change the terms and conditions of existing loans.

(4) [D>Increasing its<D] [A>MAKING ANY FUTURE<A] deposits to the Low and Moderate Income Housing Fund created pursuant to Section 33334.3 [D> beyond the minimum level that applied to it as of January 1, 2011<D].

(5) Transferring funds out of the Low and Moderate Income Housing Fund, except to meet the minimum housing-related obligations that existed as of January 1, 2011, to make required payments under Sections 33690 and 33690.5, and to borrow funds pursuant to Section 34168.5.

(d) Dispose of assets by sale, long-term lease, gift, grant, exchange, transfer, assignment, or otherwise, for any purpose, including, but not limited to, any of the following:

(1) Assets, including, but not limited to, real property, deeds of trust, and mortgages held by the agency, moneys, accounts receivable, contract rights, proceeds of insurance claims, grant proceeds, settlement payments, rights to receive rents, and any other rights to payment of whatever kind.

(2) Real property, including, but not limited to, land, land under water and waterfront property, buildings, structures, fixtures, and improvements on the land, any property appurtenant to, or used in connection with, the land, every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens.

(e) Acquire real property by any means for any purpose, including, but not limited to, the purchase, lease, or exercising of an option to purchase or lease, exchange, subdivide, transfer, assume, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise acquire any real property, any interest in real property, and any improvements on it, including the repurchase of developed property previously owned by the agency and the acquisition of real property by eminent domain; provided, however, that nothing in this subdivision is intended to prohibit the acceptance or transfer of title for real property acquired prior to the effective date of this part.

(f) Transfer, assign, vest, or delegate any of its assets, funds, rights, powers, ownership interests, or obligations for any purpose to any entity, including, but not limited to, the community, the legislative body, another member of a joint powers authority, a trustee, a receiver, a partner entity, another agency, a nonprofit corporation, a contractual counterparty, a public body, a limited-equity housing cooperative, the state, a political subdivision of the state, the federal government, any private entity, or an individual or group of individuals.

(g) Accept financial or other assistance from the state or federal government or any public or private source if the acceptance necessitates or is conditioned upon the agency incurring indebtedness as that term is described in this part.

[*5] SEC. 5. Section 34167.10 is added to the Health and Safety Code, to read:

§ 34167.10.

(a) Notwithstanding any other law, for purposes of this part and Part 1.85 (commencing with Section 34170), the definition of a city, county, or city and county includes, but is not limited to, the following entities:

(1) Any reporting entity of the city, county, or city and county for purposes of its comprehensive annual financial report or similar report.

(2) Any component unit of the city, county, or city and county.

(3) Any entity which is controlled by the city, county, or city and county, or for which the city, county, or city and county is financially responsible or accountable.

(b) The following factors shall be considered in determining that an entity is controlled by the city, county, or city and county, and are therefore included in the definition of a city, county, or city and county for purposes of this part and Part 1.85 (commencing with Section 34170):

(1) The city, county, or city and county exercises substantial municipal control over the entity's operations, revenues, or expenditures.

(2) The city, county, or city and county has ownership or control over the entity's property or facilities.

(3) The city, county, or city and county and the entity share common or overlapping governing boards, or coterminous boundaries.

(4) The city, county, or city and county was involved in the creation or formation of the entity.

(5) The entity performs functions customarily or historically performed by municipalities and financed thorough levies of property taxes.

(6) The city, county, or city and county provides administrative and related business support for the entity, or assumes the expenses incurred in the normal daily operations of the entity.

(c) For purposes of this section, it shall not be relevant that the entity is formed as a separate legal entity, nonprofit corporation, or otherwise, or is not subject to the constitution debt limitation otherwise applicable to a city, county, or city and county. The provisions in this section are declarative of existing law as the entities described herein are and were intended to be included within the requirements of this part and Part 1.85 (commencing with Section 34170) and any attempt to determine otherwise would thwart the intent of these two parts.

[*6] SEC. 6. *Section 34171 of the Health and Safety Code* is amended to read:

§ 34171.

The following terms shall have the following meanings:

(a) "Administrative budget" means the budget for administrative costs of the successor agencies as provided in Section 34177.

(b) "Administrative cost allowance" means an amount that, subject to the approval of the oversight board, is payable from property tax revenues of up to 5 percent of the property tax allocated to the successor agency **[D>**for the 2011-12 fiscal year**<D] [A>**ON THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE COVERING THE PERIOD JANUARY 1, 2012, THROUGH JUNE 30, 2012,**<A]** and up to 3 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the successor agency for each fiscal year thereafter; provided, however, that the amount shall not be less than two hundred fifty thousand dollars ($250,000) **[A>**, UNLESS THE OVERSIGHT BOARD REDUCES THIS AMOUNT, **<A]** for any fiscal year or such lesser amount as agreed to by the successor agency. However, the allowance amount shall exclude **[A>**, AND SHALL NOT APPLY TO, **<A]** any administrative costs that can be paid from bond proceeds or from sources other than property tax. **[A>** ADMINISTRATIVE COST ALLOWANCES SHALL EXCLUDE ANY LITIGATION EXPENSES RELATED TO ASSETS OR OBLIGATIONS, SETTLEMENTS AND JUDGMENTS, AND THE COSTS OF MAINTAINING ASSETS PRIOR TO DISPOSITION. EMPLOYEE COSTS ASSOCIATED WITH WORK ON SPECIFIC PROJECT IMPLEMENTATION ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION INSPECTION, PROJECT MANAGEMENT, OR ACTUAL CONSTRUCTION, SHALL BE CONSIDERED PROJECT-SPECIFIC COSTS AND SHALL NOT CONSTITUTE ADMINISTRATIVE COSTS.**<A]**

(c) "Designated local authority" shall mean a public entity formed pursuant to subdivision (d) of Section 34173.

(d) (1) "Enforceable obligation" means any of the following:

(A) Bonds, as defined by Section 33602 and bonds issued pursuant to **[A>**CHAPTER 10.5 (COMMENCING WITH **<A]** Section **[D>**58383**<D] [A>**5850) OF DIVISION 6 OF TITLE 1**<A]** of the Government Code, including the required debt service, reserve set-asides, and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the former redevelopment agency. **[A>** A RESERVE MAY BE HELD WHEN REQUIRED BY THE BOND INDENTURE OR WHEN THE NEXT PROPERTY TAX ALLOCATION WILL BE INSUFFICIENT TO PAY ALL OBLIGATIONS DUE UNDER THE PROVISIONS OF THE BOND FOR THE NEXT PAYMENT DUE IN THE FOLLOWING HALF OF THE CALENDAR YEAR.**<A]**

(B) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(C) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, unemployment payments, or other obligations conferred through a collective bargaining agreement. **[A>** COSTS INCURRED TO FULFILL COLLECTIVE BARGAINING AGREEMENTS FOR LAYOFFS OR TERMINATIONS OF CITY EMPLOYEES WHO PERFORMED WORK DIRECTLY ON BEHALF OF THE FORMER REDEVELOPMENT AGENCY SHALL BE CONSIDERED ENFORCEABLE OBLIGATIONS PAYABLE FROM PROPERTY TAX FUNDS. THE OBLIGATIONS TO EMPLOYEES SPECIFIED IN THIS SUBPARAGRAPH SHALL REMAIN ENFORCEABLE OBLIGATIONS PAYABLE FROM PROPERTY

TAX FUNDS FOR ANY EMPLOYEE TO WHOM THOSE OBLIGATIONS APPLY IF THAT EMPLOYEE IS TRANSFERRED TO THE ENTITY ASSUMING THE HOUSING FUNCTIONS OF THE FORMER REDEVELOPMENT AGENCY PURSUANT TO SECTION 34176. THE SUCCESSOR AGENCY OR DESIGNATED LOCAL AUTHORITY SHALL ENTER INTO AN AGREEMENT WITH THE HOUSING ENTITY TO REIMBURSE IT FOR ANY COSTS OF THE EMPLOYEE OBLIGATIONS.<A]

(D) Judgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183. Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.

(E) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy. However, nothing in this act shall prohibit either the successor agency, with the approval or at the direction of the oversight board, or the oversight board itself from terminating any existing agreements or contracts and providing any necessary and required compensation or remediation for such termination. [A> TITLES OF OR HEADINGS USED ON OR IN A DOCUMENT SHALL NOT BE RELEVANT IN DETERMINING THE EXISTENCE OF AN ENFORCEABLE OBLIGATION.<A]

(F) Contracts or agreements necessary for the administration or operation of the successor agency, in accordance with this part, including, but not limited to, [A>AGREEMENTS CONCERNING LITIGATION EXPENSES RELATED TO ASSETS OR OBLIGATIONS, SETTLEMENTS AND JUDGEMENTS, AND THE COSTS OF MAINTAINING ASSETS PRIOR TO DISPOSITION, AND <A] agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(G) Amounts borrowed from [A>,<A] or payments owing to [A>,<A] the Low and Moderate Income Housing Fund of a redevelopment agency, which had been deferred as of the effective date of the act adding this part; provided, however, that the repayment schedule is approved by the oversight board. [A> REPAYMENTS SHALL BE TRANSFERRED TO THE LOW AND MODERATE INCOME HOUSING ASSET FUND ESTABLISHED PURSUANT TO SUBDIVISION (D) OF SECTION 34176 AS A HOUSING ASSET AND SHALL BE USED IN A MANNER CONSISTENT WITH THE AFFORDABLE HOUSING REQUIREMENTS OF THE COMMUNITY REDEVELOPMENT LAW (PART 1 (COMMENCING WITH SECTION 33000)).<A]

(2) For purposes of this part, "enforceable obligation" does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency. However, written agreements entered into (A) at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and (B) solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations for purposes of this part. Notwithstanding this paragraph, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it, within two years of the date of creation of the redevelopment agency, may be deemed to be enforceable obligations.

(3) Contracts or agreements between the former redevelopment agency and other public agencies, to perform services or provide funding for governmental or private services or capital projects outside of redevelopment project areas that do not provide benefit to the redevelopment project and thus were not properly authorized under Part 1 (commencing with Section 33000) shall be deemed void on the effective date of this part; provided, however, that such contracts or agreements for the provision of housing properly authorized under Part 1 (commencing with Section 33000) shall not be deemed void.

(e) "Indebtedness obligations" means bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the redevelopment agency, or by a joint exercise of powers authority created by the redevelopment agency, to third-party investors or bondholders to finance or refinance redevelopment projects undertaken by the redevelopment agency in compliance with the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(f) "Oversight board" shall mean each entity established pursuant to Section 34179.

(g) "Recognized obligation" means an obligation listed in the Recognized Obligation Payment Schedule.

(h) "Recognized Obligation Payment Schedule" means the document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period as provided in subdivision (m) of Section 34177.

(i) "School entity" means any entity defined as such in subdivision (f) of *Section 95 of the Revenue and Taxation Code*.

(j) "Successor agency" means the **[D>**county, city, or city and county that authorized the creation of each**<D]** **[A>**SUCCESSOR ENTITY TO THE FORMER**<A]** redevelopment agency **[D>**or another entity as provided**<D]** **[A>**AS DESCRIBED**<A]** in Section 34173.

(k) "Taxing entities" means cities, counties, a city and county, special districts, and school entities, as defined in subdivision (f) of *Section 95 of the Revenue and Taxation Code*, that receive passthrough payments and distributions of property taxes pursuant to the provisions of this part.

[A>(L)**<A]** **[A>**"PROPERTY TAXES" INCLUDE ALL PROPERTY TAX REVENUES, INCLUDING THOSE FROM UNITARY AND SUPPLEMENTAL AND ROLL CORRECTIONS APPLICABLE TO TAX INCREMENT.**<A]**

[A>(M)**<A]** **[A>**"DEPARTMENT" MEANS THE DEPARTMENT OF FINANCE UNLESS THE CONTEXT CLEARLY REFERS TO ANOTHER STATE AGENCY.**<A]**

[A>(N)**<A]** **[A>**"SPONSORING ENTITY" MEANS THE CITY, COUNTY, OR CITY AND COUNTY, OR OTHER ENTITY THAT AUTHORIZED THE CREATION OF EACH REDEVELOPMENT AGENCY.**<A]**

[A>(O)**<A]** **[A>**"FINAL JUDICIAL DETERMINATION" MEANS A FINAL JUDICIAL DETERMINATION MADE BY ANY STATE COURT THAT IS NOT APPEALED, OR BY A COURT OF APPELLATE JURISDICTION THAT IS NOT FURTHER APPEALED, IN AN ACTION BY ANY PARTY.**<A]**

[*7] SEC. 7. *Section 34173 of the Health and Safety Code* is amended to read:

§ 34173.

(a) Successor agencies, as defined in this part, are hereby designated as successor entities to the former redevelopment agencies.

(b) Except for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part, all authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law, are hereby vested in the successor agencies.

(c) (1) **[D>**Where**<D]** **[A>**IF**<A]** the redevelopment agency was in the form of a joint powers authority, and **[D>**where**<D]** **[A>**IF**<A]** the joint powers agreement governing the formation of the joint powers authority addresses the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part and each shall have a share of assets and liabilities based on the provisions of the joint powers agreement.

(2) **[D>**Where**<D]** **[A>**IF**<A]** the redevelopment agency was in the form of a joint powers authority, and **[D>**where**<D]** **[A>**IF**<A]** the joint powers agreement governing the formation of the joint powers authority does not address the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part, a proportionate share of the assets and liabilities shall be based on the assessed value in the project areas within each entity's jurisdiction, as determined by the county assessor, in its jurisdiction as compared to the assessed value of land within the boundaries of the project areas of the former redevelopment agency.

(d) (1) A city, county, city and county, or the entities forming the joint powers authority that authorized the creation of each redevelopment agency may elect not to serve as a successor agency under this part. A city, county, city and county, or any member of a joint powers authority that elects not to serve as a successor agency under this part must file a copy of a duly authorized resolution of its governing board to that effect with the county auditor-controller no later than January 13, 2012.

(2) The determination of the first local agency that elects to become the successor agency shall be made by the county auditor-controller based on the earliest receipt by the county auditor-controller of a copy of a duly adopted reso-

lution of the local agency's governing board authorizing such an election. As used in this section, "local agency" means any city, county, city and county, or special district in the county of the former redevelopment agency.

(3) [A>(A)<A] If no local agency elects to serve as a successor agency for a dissolved redevelopment agency, a public body, referred to herein as a "designated local authority" shall be immediately formed, pursuant to this part, in the county and shall be vested with all the powers and duties of a successor agency as described in this part. The Governor shall appoint three residents of the county to serve as the governing board of the authority. The designated local authority shall serve as successor agency until a local agency elects to become the successor agency in accordance with this section. [A>(B)<A] [A>DESIGNATED LOCAL AUTHORITY MEMBERS ARE PROTECTED BY THE IMMUNITIES APPLICABLE TO PUBLIC ENTITIES AND PUBLIC EMPLOYEES GOVERNED BY PART 1 (COMMENCING WITH SECTION 810) AND PART 2 (COMMENCING WITH SECTION 814) OF DIVISION 3.6 OF TITLE 1 OF THE GOVERNMENT CODE.<A] [A>(4)<A] [A>A CITY, COUNTY, OR CITY AND COUNTY, OR THE ENTITIES FORMING THE JOINT POWERS AUTHORITY THAT AUTHORIZED THE CREATION OF A REDEVELOPMENT AGENCY AND THAT ELECTED NOT TO SERVE AS THE SUCCESSOR AGENCY UNDER THIS PART, MAY SUBSEQUENTLY REVERSE THIS DECISION AND AGREE TO SERVE AS THE SUCCESSOR AGENCY PURSUANT TO THIS SECTION. ANY REVERSAL OF THIS DECISION SHALL NOT BECOME EFFECTIVE FOR 60 DAYS AFTER NOTICE HAS BEEN GIVEN TO THE CURRENT SUCCESSOR AGENCY AND THE OVERSIGHT BOARD AND SHALL NOT INVALIDATE ANY ACTION OF THE SUCCESSOR AGENCY OR OVERSIGHT BOARD TAKEN PRIOR TO THE EFFECTIVE DATE OF THE TRANSFER OF RESPONSIBILITY.<A]

(e) The liability of any successor agency, acting pursuant to the powers granted under the act adding this part, shall be limited to the extent of the total sum of property tax revenues it receives pursuant to this part and the value of assets transferred to it as a successor agency for a dissolved redevelopment agency.

[A>(F)<A] [A>ANY EXISTING CLEANUP PLANS AND LIABILITY LIMITS AUTHORIZED UNDER THE POLANCO REDEVELOPMENT ACT (ARTICLE 12.5 (COMMENCING WITH SECTION 33459) OF CHAPTER 4 OF PART 1) SHALL BE TRANSFERRED TO THE SUCCESSOR AGENCY AND MAY BE TRANSFERRED TO THE SUCCESSOR HOUSING ENTITY AT THAT ENTITY'S REQUEST.<A]

[A>(G)<A] [A>A SUCCESSOR AGENCY IS A SEPARATE PUBLIC ENTITY FROM THE PUBLIC AGENCY THAT PROVIDES FOR ITS GOVERNANCE AND THE TWO ENTITIES SHALL NOT MERGE. THE LIABILITIES OF THE FORMER REDEVELOPMENT AGENCY SHALL NOT BE TRANSFERRED TO THE SPONSORING ENTITY AND THE ASSETS SHALL NOT BECOME ASSETS OF THE SPONSORING ENTITY. A SUCCESSOR AGENCY HAS ITS OWN NAME, CAN BE SUED, AND CAN SUE. ALL LITIGATION INVOLVING A REDEVELOPMENT AGENCY SHALL AUTOMATICALLY BE TRANSFERRED TO THE SUCCESSOR AGENCY. THE SEPARATE FORMER REDEVELOPMENT AGENCY EMPLOYEES SHALL NOT AUTOMATICALLY BECOME SPONSORING ENTITY EMPLOYEES OF THE SPONSORING ENTITY AND THE SUCCESSOR AGENCY SHALL RETAIN ITS OWN COLLECTIVE BARGAINING STATUS. AS SUCCESSOR ENTITIES, SUCCESSOR AGENCIES SUCCEED TO THE ORGANIZATIONAL STATUS OF THE FORMER REDEVELOPMENT AGENCY, BUT WITHOUT ANY LEGAL AUTHORITY TO PARTICIPATE IN REDEVELOPMENT ACTIVITIES, EXCEPT TO COMPLETE ANY WORK RELATED TO AN APPROVED ENFORCEABLE OBLIGATION. EACH SUCCESSOR AGENCY SHALL BE DEEMED TO BE A LOCAL ENTITY FOR PURPOSES OF THE RALPH M. BROWN ACT (CHAPTER 9 (COMMENCING WITH SECTION 54950) OF PART 1 OF DIVISION 2 OF TITLE 5 OF THE GOVERNMENT CODE).<A]

[A>(H)<A] [A>THE CITY, COUNTY, OR CITY AND COUNTY THAT AUTHORIZED THE CREATION OF A REDEVELOPMENT AGENCY MAY LOAN OR GRANT FUNDS TO A SUCCESSOR AGENCY FOR ADMINISTRATIVE COSTS, ENFORCEABLE OBLIGATIONS, OR PROJECT-RELATED EXPENSES AT THE CITY'S DISCRETION, BUT THE RECEIPT AND USE OF THESE FUNDS SHALL BE REFLECTED ON THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE OR THE ADMINISTRATIVE BUDGET AND THEREFORE ARE SUBJECT TO THE OVERSIGHT AND APPROVAL OF THE OVERSIGHT BOARD. AN ENFORCEABLE OBLIGATION SHALL BE DEEMED TO BE CREATED FOR THE REPAYMENT OF THOSE LOANS.<A]

[A>(I)<A] [A>AT THE REQUEST OF THE CITY, COUNTY, OR CITY AND COUNTY, NOTWITHSTANDING SECTION 33205, ALL LAND USE RELATED PLANS AND FUNCTIONS OF THE FORMER REDEVELOPMENT AGENCY ARE HEREBY TRANSFERRED TO THE CITY, COUNTY, OR CITY AND COUNTY THAT AUTHORIZED THE CREATION OF A REDEVELOPMENT AGENCY; PROVIDED, HOWEVER, THAT THE

CITY, COUNTY, OR CITY AND COUNTY SHALL NOT CREATE A NEW PROJECT AREA, ADD TERRITORY TO, OR EXPAND OR CHANGE THE BOUNDARIES OF A PROJECT AREA, OR TAKE ANY ACTION THAT WOULD INCREASE THE AMOUNT OF OBLIGATED PROPERTY TAX (FORMERLY TAX INCREMENT) NECESSARY TO FULFILL ANY EXISTING ENFORCEABLE OBLIGATION BEYOND WHAT WAS AUTHORIZED AS OF JUNE 27, 2011.<A]

[*8] SEC. 8. *Section 34175 of the Health and Safety Code* is amended to read:

§ 34175.

(a) It is the intent of this part that pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. It is intended that the cessation of any redevelopment agency shall not affect either the pledge, the legal existence of that pledge, or the stream of revenues available to meet the requirements of the pledge.

(b) All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012. [A> ANY LEGAL OR CONTRACTUAL RESTRICTIONS ON THE USE OF THESE FUNDS OR ASSETS SHALL ALSO BE TRANSFERRED TO THE SUCCESSOR AGENCY.<A]

[*9] SEC. 9. *Section 34176 of the Health and Safety Code* is amended to read:

§ 34176.

(a) [A>(1)<A] The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city, county, or city and county elects to retain the [D>responsibility for performing<D] [A>AUTHORITY TO PERFORM<A] housing functions previously performed by a redevelopment agency, all rights, powers, duties, [D>and <D]obligations, [A> AND HOUSING ASSETS, AS DEFINED IN SUBDIVISION (E),<A] excluding any amounts on deposit in the Low and Moderate Income Housing Fund [A> AND ENFORCEABLE OBLIGATIONS RETAINED BY THE SUCCESSOR AGENCY<A] , shall be transferred to the city, county, or city and county. [A>(2)<A] [A>THE ENTITY ASSUMING THE HOUSING FUNCTIONS OF THE FORMER REDEVELOPMENT AGENCY SHALL SUBMIT TO THE DEPARTMENT OF FINANCE BY AUGUST 1, 2012, A LIST OF ALL HOUSING ASSETS THAT CONTAINS AN EXPLANATION OF HOW THE ASSETS MEET THE CRITERIA SPECIFIED IN SUBDIVISION (E). THE DEPARTMENT OF FINANCE SHALL PRESCRIBE THE FORMAT FOR THE SUBMISSION OF THE LIST. THE LIST SHALL INCLUDE ASSETS TRANSFERRED BETWEEN FEBRUARY 1, 2012, AND THE DATE UPON WHICH THE LIST IS CREATED. THE DEPARTMENT SHALL HAVE UP TO 30 DAYS FROM THE DATE OF RECEIPT OF THE LIST TO OBJECT TO ANY OF THE ASSETS OR TRANSFERS OF ASSETS IDENTIFIED ON THE LIST. IF THE DEPARTMENT OF FINANCE OBJECTS TO ASSETS ON THE LIST, THE ENTITY ASSUMING THE HOUSING FUNCTIONS OF THE FORMER REDEVELOPMENT AGENCY MAY REQUEST A MEET AND CONFER PROCESS WITHIN FIVE BUSINESS DAYS OF RECEIVING THE DEPARTMENT OBJECTION. IF THE TRANSFERRED ASSET IS DEEMED NOT TO BE A HOUSING ASSET AS DEFINED IN SUBDIVISION (E), IT SHALL BE RETURNED TO THE SUCCESSOR AGENCY AND THE PROVISION OF SECTION 34178.8 MAY APPLY. IF A HOUSING ASSET HAS BEEN PREVIOUSLY PLEDGED TO PAY FOR BONDED INDEBTEDNESS, THE SUCCESSOR AGENCY SHALL MAINTAIN CONTROL OF THE ASSET IN ORDER TO PAY FOR THE BOND DEBT.<A]

(b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, [D>liabilities, <D]duties, and obligations associated with the housing activities of the agency, excluding [A>ENFORCEABLE OBLIGATIONS RETAINED BY THE SUCCESSOR AGENCY AND <A] any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:

(1) [D>Where<D] [A>IF<A] there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.

(2) [D>Where<D] [A>IF<A] there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

(3) [D>Where<D] [A>IF<A] there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.

(c) Commencing on the operative date of this part, the entity [D>assuming<D] [A>THAT ASSUMES<A] the housing functions formerly performed by the redevelopment agency [A>AND RECEIVES THE TRANSFERRED HOUSING ASSETS <A] may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section [D>33000)<D] [A>33000))<A] , including, but not limited to, Section 33418.

[A>(D)<A] [A>EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 34191.4, ANY FUNDS TRANSFERRED TO THE CITY, COUNTY, OR CITY AND COUNTY OR DESIGNATED ENTITY PURSUANT TO THIS SECTION, TOGETHER WITH ANY FUNDS GENERATED FROM HOUSING ASSETS, AS DEFINED IN SUBDIVISION (E), SHALL BE MAINTAINED IN A SEPARATE LOW AND MODERATE INCOME HOUSING ASSET FUND WHICH IS HEREBY CREATED IN THE ACCOUNTS OF THE ENTITY ASSUMING THE HOUSING FUNCTIONS PURSUANT TO THIS SECTION. FUNDS IN THIS ACCOUNT SHALL BE USED IN ACCORDANCE WITH APPLICABLE HOUSING-RELATED PROVISIONS OF THE COMMUNITY REDEVELOPMENT LAW (PART 1 (COMMENCING WITH SECTION 33000)).<A]

[A>(E)<A] [A>FOR PURPOSES OF THIS PART, "HOUSING ASSET" INCLUDES ALL OF THE FOLLOWING:<A]

[A>(1)<A] [A>ANY REAL PROPERTY, INTEREST IN, OR RESTRICTION ON THE USE OF REAL PROPERTY, WHETHER IMPROVED OR NOT, AND ANY PERSONAL PROPERTY PROVIDED IN RESIDENCES, INCLUDING FURNITURE AND APPLIANCES, ALL HOUSING-RELATED FILES AND LOAN DOCUMENTS, OFFICE SUPPLIES, SOFTWARE LICENSES, AND MAPPING PROGRAMS, THAT WERE ACQUIRED FOR LOW- AND MODERATE-INCOME HOUSING PURPOSES, EITHER BY PURCHASE OR THROUGH A LOAN, IN WHOLE OR IN PART, WITH ANY SOURCE OF FUNDS.<A]

[A>(2)<A] [A>ANY FUNDS THAT ARE ENCUMBERED BY AN ENFORCEABLE OBLIGATION TO BUILD OR ACQUIRE LOW- AND MODERATE-INCOME HOUSING, AS DEFINED BY THE COMMUNITY REDEVELOPMENT LAW (PART 1 (COMMENCING WITH SECTION 33000)) UNLESS REQUIRED IN THE BOND COVENANTS TO BE USED FOR REPAYMENT PURPOSES OF THE BOND.<A]

[A>(3)<A] [A>ANY LOAN OR GRANT RECEIVABLE, FUNDED FROM THE LOW AND MODERATE INCOME HOUSING FUND, FROM HOMEBUYERS, HOMEOWNERS, NONPROFIT OR FOR-PROFIT DEVELOPERS, AND OTHER PARTIES THAT REQUIRE OCCUPANCY BY PERSONS OF LOW OR MODERATE INCOME AS DEFINED BY THE COMMUNITY REDEVELOPMENT LAW (PART 1 (COMMENCING WITH SECTION 33000)).<A]

[A>(4)<A] [A>ANY FUNDS DERIVED FROM RENTS OR OPERATION OF PROPERTIES ACQUIRED FOR LOW- AND MODERATE-INCOME HOUSING PURPOSES BY OTHER PARTIES THAT WERE FINANCED WITH ANY SOURCE OF FUNDS, INCLUDING RESIDUAL RECEIPT PAYMENTS FROM DEVELOPERS, CONDITIONAL GRANT REPAYMENTS, COST SAVINGS AND PROCEEDS FROM REFINANCING, AND PRINCIPAL AND INTEREST PAYMENTS FROM HOMEBUYERS SUBJECT TO ENFORCEABLE INCOME LIMITS.<A]

[A>(5)<A] [A>A STREAM OF RENTS OR OTHER PAYMENTS FROM HOUSING TENANTS OR OPERATORS OF LOW- AND MODERATE-INCOME HOUSING FINANCED WITH ANY SOURCE OF FUNDS THAT ARE USED TO MAINTAIN, OPERATE, AND ENFORCE THE AFFORDABILITY OF HOUSING OR FOR ENFORCEABLE OBLIGATIONS ASSOCIATED WITH LOW- AND MODERATE-INCOME HOUSING.<A]

[A>(6)<A] [A>(A)<A] [A>REPAYMENTS OF LOANS OR DEFERRALS OWED TO THE LOW AND MODERATE INCOME HOUSING FUND PURSUANT TO SUBPARAGRAPH (G) OF PARAGRAPH (1) OF SUBDIVISION (D) OF SECTION 34171, WHICH SHALL BE USED CONSISTENT WITH THE AFFORDABLE HOUSING REQUIREMENTS IN THE COMMUNITY REDEVELOPMENT LAW (PART 1 (COMMENCING WITH SECTION 33000)).<A]

[A>(B)<A] [A>LOAN OR DEFERRAL REPAYMENTS SHALL NOT BE MADE PRIOR TO THE 2013-14 FISCAL YEAR. BEGINNING IN THE 2013-14 FISCAL YEAR, THE MAXIMUM REPAYMENT AMOUNT

AUTHORIZED EACH FISCAL YEAR FOR REPAYMENTS MADE PURSUANT TO THIS PARAGRAPH AND SUBDIVISION (B) OF SECTION 34191.4 COMBINED SHALL BE EQUAL TO ONE-HALF OF THE INCREASE BETWEEN THE AMOUNT DISTRIBUTED TO TAXING ENTITIES PURSUANT TO PARAGRAPH (4) OF SUBDIVISION (A) OF SECTION 34183 IN THAT FISCAL YEAR AND THE AMOUNT DISTRIBUTED TO TAXING ENTITIES PURSUANT TO THAT PARAGRAPH IN THE 2012-13 BASE YEAR. LOAN OR DEFERRAL REPAYMENTS MADE PURSUANT TO THIS PARAGRAPH SHALL TAKE PRIORITY OVER AMOUNTS TO BE REPAID PURSUANT TO SUBDIVISION (B) OF SECTION 34191.4.<A]

[A>(F)<A] [A>IF A DEVELOPMENT INCLUDES BOTH LOW- AND MODERATE-INCOME HOUSING THAT MEETS THE DEFINITION OF A HOUSING ASSET UNDER SUBDIVISION (E) AND OTHER TYPES OF PROPERTY USE, INCLUDING, BUT NOT LIMITED TO, COMMERCIAL USE, GOVERNMENTAL USE, OPEN SPACE, AND PARKS, THE OVERSIGHT BOARD SHALL CONSIDER THE OVERALL VALUE TO THE COMMUNITY AS WELL AS THE BENEFIT TO TAXING ENTITIES OF KEEPING THE ENTIRE DEVELOPMENT INTACT OR DIVIDING THE TITLE AND CONTROL OVER THE PROPERTY BETWEEN THE HOUSING SUCCESSOR AND THE SUCCESSOR AGENCY OR OTHER PUBLIC OR PRIVATE AGENCIES. THE DISPOSITION OF THOSE ASSETS MAY BE ACCOMPLISHED BY A REVENUE-SHARING ARRANGEMENT AS APPROVED BY THE OVERSIGHT BOARD ON BEHALF OF THE AFFECTED TAXING ENTITIES.<A]

[A>(G)<A] [A>(1)<A] [A>(A)<A] [A>THE ENTITY ASSUMING THE HOUSING FUNCTIONS PURSUANT TO THIS SECTION MAY DESIGNATE THE USE OF AND COMMIT INDEBTEDNESS OBLIGATION PROCEEDS THAT REMAIN AFTER THE SATISFACTION OF ENFORCEABLE OBLIGATIONS THAT HAVE BEEN APPROVED IN A RECOGNIZED OBLIGATION PAYMENT SCHEDULE AND THAT ARE CONSISTENT WITH THE INDEBTEDNESS OBLIGATION COVENANTS. THE PROCEEDS SHALL BE DERIVED FROM INDEBTEDNESS OBLIGATIONS THAT WERE ISSUED FOR THE PURPOSES OF AFFORDABLE HOUSING PRIOR TO JANUARY 1, 2011, AND WERE BACKED BY THE LOW AND MODERATE INCOME HOUSING FUND. ENFORCEABLE OBLIGATIONS MAY BE SATISFIED BY THE CREATION OF RESERVES FOR THE PROJECTS THAT ARE THE SUBJECT OF THE ENFORCEABLE OBLIGATION THAT ARE CONSISTENT WITH THE CONTRACTUAL OBLIGATIONS FOR THOSE PROJECTS, OR BY EXPENDING FUNDS TO COMPLETE THE PROJECTS.<A]

[A>(B)<A] [A>THE ENTITY ASSUMING THE HOUSING FUNCTIONS PURSUANT TO THIS SECTION SHALL PROVIDE NOTICE TO THE SUCCESSOR AGENCY OF ANY DESIGNATIONS OF USE OR COMMITMENTS OF FUNDS SPECIFIED IN SUBPARAGRAPH (A) THAT IT WISHES TO MAKE AT LEAST 20 DAYS BEFORE THE DEADLINE FOR SUBMISSION OF THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE TO THE OVERSIGHT BOARD. COMMITMENTS AND DESIGNATIONS SHALL NOT BE VALID AND BINDING ON ANY PARTY UNTIL THEY ARE INCLUDED IN AN APPROVED AND VALID RECOGNIZED OBLIGATION PAYMENT SCHEDULE. THE REVIEW OF THESE DESIGNATIONS AND COMMITMENTS BY THE SUCCESSOR AGENCY, OVERSIGHT BOARD, AND DEPARTMENT OF FINANCE SHALL BE LIMITED TO A DETERMINATION THAT THE DESIGNATIONS AND COMMITMENTS ARE CONSISTENT WITH BOND COVENANTS AND THAT THERE ARE SUFFICIENT FUNDS AVAILABLE.<A]

[A>(2)<A] [A>FUNDS SHALL BE USED AND COMMITTED IN A MANNER CONSISTENT WITH THE PURPOSES OF THE LOW AND MODERATE INCOME HOUSING ASSET FUND. NOTWITHSTANDING ANY OTHER LAW, THE SUCCESSOR AGENCY SHALL RETAIN AND EXPEND THE EXCESS HOUSING OBLIGATION PROCEEDS AT THE DISCRETION OF THE SUCCEEDING HOUSING ENTITY, PROVIDED THAT THE SUCCESSOR AGENCY ENSURES THAT THE PROCEEDS ARE EXPENDED IN A MANNER CONSISTENT WITH THE INDEBTEDNESS OBLIGATION COVENANTS AND WITH ANY REQUIREMENTS RELATING TO THE TAX STATUS OF THOSE OBLIGATIONS. THE AMOUNT EXPENDED SHALL NOT EXCEED THE AMOUNT OF INDEBTEDNESS OBLIGATION PROCEEDS AVAILABLE AND SUCH EXPENDITURE SHALL CONSTITUTE THE CREATION OF EXCESS HOUSING PROCEEDS EXPENDITURES TO BE PAID FROM THE EXCESS PROCEEDS. EXCESS HOUSING PROCEEDS EXPENDITURES SHALL BE LISTED SEPARATELY ON THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE SUBMITTED BY THE SUCCESSOR AGENCY.<A]

[*10] SEC. 10. Section 34176.5 is added to the Health and Safety Code, to read:

§ 34176.5.

(a) Notwithstanding any other law, the Director of Finance is authorized to contract with auditors, lawyers, and other types of advisors and consultants to assist, advise, and represent the director and the Department of Finance in any matter or action arising out of or contemplated by this part or Part 1.8 (commencing with Section 34161). In furtherance of this authorization, *Sections 14827.1, 14827.2, and 14838 of the Government Code*, and Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of and *Section 10295 of, the Public Contract Code* shall not apply to any agreement entered into by the director pursuant to this section.

(b) In addition to the waivers of statute provided in subdivision (a), *Section 6072 of the Business and Professions Code* shall not apply to the legal services agreement entered into by the director pursuant to this section.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

[*11] SEC. 11. *Section 34177 of the Health and Safety Code* is amended to read:

§ 34177.

Successor agencies are required to do all of the following:

(a) Continue to make payments due for enforceable obligations.

(1) On and after February 1, 2012, and until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligations payment schedule shall be made. The initial enforceable obligation payment schedule shall be the last schedule adopted by the redevelopment agency under Section 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision **[D>**(e)**<D] [A>**(D)**<A]** of Section 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under Section 34169 prior to the successor agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision. The enforceable obligation payment schedule may be amended by the successor agency at any public meeting and shall be subject to the approval of the oversight board as soon as the board has sufficient members to form a quorum. **[A>** *IN RECOGNITION OF THE FACT THAT THE TIMING OF THE CALIFORNIA SUPREME COURT'S RULING IN THE CASE CALIFORNIA REDEVELOPMENT ASSOCIATION V. MATOSANTOS (2011) 53 CAL.4TH 231* DELAYED THE PREPARATION BY SUCCESSOR AGENCIES AND THE APPROVAL BY OVERSIGHT BOARDS OF THE JANUARY 1, 2012, THROUGH JUNE 30, 2012, RECOGNIZED OBLIGATION PAYMENT SCHEDULE, A SUCCESSOR AGENCY MAY AMEND THE ENFORCEABLE OBLIGATION PAYMENT SCHEDULE TO AUTHORIZE THE CONTINUED PAYMENT OF ENFORCEABLE OBLIGATIONS UNTIL THE TIME THAT THE JANUARY 1, 2012, THROUGH JUNE 30, 2012, RECOGNIZED OBLIGATION PAYMENT SCHEDULE HAS BEEN APPROVED BY THE OVERSIGHT BOARD AND BY THE DEPARTMENT OF FINANCE**<A]** .

(2) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(3) Commencing on **[D>**May 1, 2012**<D] [A>**THE DATE THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE IS VALID PURSUANT TO SUBDIVISION (L)**<A]** , only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency from the funds specified in the Recognized Obligation Payment Schedule. In addition, **[D>**commencing May 1, 2012**<D] [A>**AFTER IT BECOMES VALID**<A]** , the Recognized Obligation Payment Schedule shall supersede the Statement of Indebtedness, which shall no longer be prepared nor have any effect under the Community Redevelopment Law **[A>** (PART 1 (COMMENCING WITH SECTION 33000))**<A]** .

(4) Nothing in the act adding this part is to be construed as preventing a successor agency, with the prior approval of the oversight board, as described in Section 34179, from making payments for enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

(5) From February 1, 2012, to July 1, 2012, a successor agency shall have no authority and is hereby prohibited from accelerating payment or making any lump-sum payments that are intended to prepay loans unless such accelerated repayments were required prior to the effective date of this part.

(b) Maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(c) Perform obligations required pursuant to any enforceable obligation.

(d) Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency. In making the distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(e) Dispose of assets and properties of the former redevelopment agency as directed by the oversight board; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Section 34181. The disposal is to be done expeditiously and in a manner aimed at maximizing value. Proceeds from asset sales and related funds that are no longer needed for approved development projects or to otherwise wind down the affairs of the agency, each as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under Section 34188. [A> THE REQUIREMENTS OF THIS SUBDIVISION SHALL NOT APPLY TO A SUCCESSOR AGENCY THAT HAS BEEN ISSUED A FINDING OF COMPLETION BY THE DEPARTMENT OF FINANCE PURSUANT TO SECTION 34179.7.<A]

(f) Enforce all former redevelopment agency rights for the benefit of the taxing entities, including, but not limited to, continuing to collect loans, rents, and other revenues that were due to the redevelopment agency.

(g) Effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.

(h) Expeditiously wind down the affairs of the redevelopment agency pursuant to the provisions of this part and in accordance with the direction of the oversight board.

(i) Continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the former redevelopment agency can be transferred to other parties. Bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to defease the bonds.

(j) Prepare a proposed administrative budget and submit it to the oversight board for its approval. The proposed administrative budget shall include all of the following:

(1) Estimated amounts for successor agency administrative costs for the upcoming six-month fiscal period.

(2) Proposed sources of payment for the costs identified in paragraph (1).

(3) Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.

(k) Provide administrative cost estimates, from its approved administrative budget that are to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund, to the county auditor-controller for each six-month fiscal period.

(l) (1) Before each six-month fiscal period, prepare a Recognized Obligation Payment Schedule in accordance with the requirements of this paragraph. For each recognized obligation, the Recognized Obligation Payment Schedule shall identify one or more of the following sources of payment:

(A) Low and Moderate Income Housing Fund.

(B) Bond proceeds.

(C) Reserve balances.

(D) Administrative cost allowance.

(E) The Redevelopment Property Tax Trust Fund, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of this part.

(F) Other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the former redevelopment agency, as approved by the oversight board in accordance with this part.

(2) A Recognized Obligation Payment Schedule shall not be deemed valid unless all of the following conditions have been met:

(A) A [D>draft <D]Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency [D> by March 1, 2012. From October 1, 2011, to July 1, 2012,<D] [A>.<A] The initial [D>draft of that <D]schedule shall project the dates and amounts of scheduled payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had [D>such<D] [A>THE<A] a redevelopment agency not been dissolved [D>, and shall be reviewed and certified, as to its accuracy, by an external auditor designated pursuant to Section 34182<D].

(B) The [D>certified <D]Recognized Obligation Payment Schedule is submitted to and duly approved by the oversight board. [A> THE SUCCESSOR AGENCY SHALL SUBMIT A COPY OF THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE TO THE COUNTY ADMINISTRATIVE OFFICER, THE COUNTY AUDITOR-CONTROLLER, AND THE DEPARTMENT OF FINANCE AT THE SAME TIME THAT THE SUCCESSOR AGENCY SUBMITS THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE TO THE OVERSIGHT BOARD FOR APPROVAL.<A]

(C) A copy of the approved Recognized Obligation Payment Schedule is submitted to the county auditor-controller and both the Controller's office and the Department of Finance and be posted on the successor agency's Internet Web site.

(3) The Recognized Obligation Payment Schedule shall be forward looking to the next six months. The first Recognized Obligation Payment Schedule shall be submitted to the Controller's office and the Department of Finance by April 15, 2012, for the period of January 1, 2012, to June 30, 2012, inclusive. [A>THIS RECOGNIZED OBLIGATION PAYMENT SCHEDULE SHALL INCLUDE ALL PAYMENTS MADE BY THE FORMER REDEVELOPMENT AGENCY BETWEEN JANUARY 1, 2012, THROUGH JANUARY 31, 2012, AND SHALL INCLUDE ALL PAYMENTS PROPOSED TO BE MADE BY THE SUCCESSOR AGENCY FROM FEBRUARY 1, 2012, THROUGH JUNE 30, 2012. <A] Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred, prior to January 1, 2012, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the successor agency.

[A>(M)<A] [A>THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF JANUARY 1, 2013, TO JUNE 30, 2013, SHALL BE SUBMITTED BY THE SUCCESSOR AGENCY, AFTER APPROVAL BY THE OVERSIGHT BOARD, NO LATER THAN SEPTEMBER 1, 2012. COMMENCING WITH THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE COVERING THE PERIOD JULY 1, 2013, THROUGH DECEMBER 31, 2013, SUCCESSOR AGENCIES SHALL SUBMIT AN OVERSIGHT BOARD-APPROVED RECOGNIZED OBLIGATION PAYMENT SCHEDULE TO THE DEPARTMENT OF FINANCE AND TO THE COUNTY AUDITOR-CONTROLLER NO FEWER THAN 90 DAYS BEFORE THE DATE OF PROPERTY TAX DISTRIBUTION. THE DEPARTMENT OF FINANCE SHALL MAKE ITS DETERMINATION OF THE ENFORCEABLE OBLIGATIONS AND THE AMOUNTS AND FUNDING SOURCES OF THE ENFORCEABLE OBLIGATIONS NO LATER THAN 45 DAYS AFTER THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE IS SUBMITTED. WITHIN FIVE BUSINESS DAYS OF THE DEPARTMENT'S DETERMINATION, A SUCCESSOR AGENCY MAY REQUEST ADDITIONAL REVIEW BY THE DEPARTMENT AND AN OPPORTUNITY TO MEET AND CONFER ON DISPUTED ITEMS. THE MEET AND CONFER PERIOD MAY VARY; AN UNTIMELY SUBMITTAL OF A RECOGNIZED OBLIGATION PAYMENT SCHEDULE MAY RESULT IN A MEET AND CONFER PERIOD OF LESS THAN 30 DAYS. THE DEPARTMENT SHALL NOTIFY THE SUCCESSOR AGENCY AND THE COUNTY AUDITOR-CONTROLLERS AS TO THE OUTCOME OF ITS REVIEW AT LEAST 15 DAYS BEFORE THE DATE OF PROPERTY TAX DISTRIBUTION.<A]

[A>(1)<A] [A>THE SUCCESSOR AGENCY SHALL SUBMIT A COPY OF THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE TO THE DEPARTMENT OF FINANCE ELECTRONICALLY, AND THE SUCCESSOR AGENCY SHALL COMPLETE THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE IN THE MANNER PROVIDED FOR BY THE DEPARTMENT. A SUCCESSOR AGENCY SHALL BE IN NONCOMPLI-

ANCE WITH THIS PARAGRAPH IF IT ONLY SUBMITS TO THE DEPARTMENT AN ELECTRONIC MESSAGE OR A LETTER STATING THAT THE OVERSIGHT BOARD HAS APPROVED A RECOGNIZED OBLIGATION PAYMENT SCHEDULE.<A]

[A>(2)<A] [A>IF A SUCCESSOR AGENCY DOES NOT SUBMIT A RECOGNIZED OBLIGATION PAYMENT SCHEDULE BY THE DEADLINES PROVIDED IN THIS SUBDIVISION, THE CITY, COUNTY, OR CITY AND COUNTY THAT CREATED THE REDEVELOPMENT AGENCY SHALL BE SUBJECT TO A CIVIL PENALTY EQUAL TO TEN THOUSAND DOLLARS ($10,000) PER DAY FOR EVERY DAY THE SCHEDULE IS NOT SUBMITTED TO THE DEPARTMENT. THE CIVIL PENALTY SHALL BE PAID TO THE COUNTY AUDITOR-CONTROLLER FOR ALLOCATION TO THE TAXING ENTITIES UNDER SECTION 34183. IF A SUCCESSOR AGENCY FAILS TO SUBMIT A RECOGNIZED OBLIGATION PAYMENT SCHEDULE BY THE DEADLINE, ANY CREDITOR OF THE SUCCESSOR AGENCY OR THE DEPARTMENT OF FINANCE OR ANY AFFECTED TAXING ENTITY SHALL HAVE STANDING TO AND MAY REQUEST A WRIT OF MANDATE TO REQUIRE THE SUCCESSOR AGENCY TO IMMEDIATELY PERFORM THIS DUTY. THOSE ACTIONS MAY BE FILED ONLY IN THE COUNTY OF SACRAMENTO AND SHALL HAVE PRIORITY OVER OTHER CIVIL MATTERS. ADDITIONALLY, IF AN AGENCY DOES NOT SUBMIT A RECOGNIZED OBLIGATION PAYMENT SCHEDULE WITHIN TEN DAYS OF THE DEADLINE, THE MAXIMUM ADMINISTRATIVE COST ALLOWANCE FOR THAT PERIOD SHALL BE REDUCED BY 25 PERCENT.<A]

[A>(3)<A] [A>IF A SUCCESSOR AGENCY FAILS TO SUBMIT TO THE DEPARTMENT AN OVERSIGHT BOARD-APPROVED RECOGNIZED OBLIGATION PAYMENT SCHEDULE THAT COMPLIES WITH ALL REQUIREMENTS OF THIS SUBDIVISION WITHIN FIVE BUSINESS DAYS OF THE DATE UPON WHICH THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE IS TO BE USED TO DETERMINE THE AMOUNT OF PROPERTY TAX ALLOCATIONS, THE DEPARTMENT MAY DETERMINE IF ANY AMOUNT SHOULD BE WITHHELD BY THE COUNTY AUDITOR-CONTROLLER FOR PAYMENTS FOR ENFORCEABLE OBLIGATIONS FROM DISTRIBUTION TO TAXING ENTITIES, PENDING APPROVAL OF A RECOGNIZED OBLIGATION PAYMENT SCHEDULE. THE COUNTY AUDITOR-CONTROLLER SHALL DISTRIBUTE THE PORTION OF ANY OF THE SUMS WITHHELD PURSUANT TO THIS PARAGRAPH TO THE AFFECTED TAXING ENTITIES IN ACCORDANCE WITH PARAGRAPH (4) OF SUBDIVISION (A) OF SECTION 34183 UPON NOTICE BY THE DEPARTMENT THAT A PORTION OF THE WITHHELD BALANCES ARE IN EXCESS OF THE AMOUNT OF ENFORCEABLE OBLIGATIONS. THE COUNTY AUDITOR-CONTROLLER SHALL DISTRIBUTE WITHHELD FUNDS TO THE SUCCESSOR AGENCY ONLY IN ACCORDANCE WITH A RECOGNIZED OBLIGATION PAYMENT SCHEDULE APPROVED BY THE DEPARTMENT. COUNTY AUDITOR-CONTROLLERS SHALL LACK THE AUTHORITY TO WITHHOLD ANY OTHER AMOUNTS FROM THE ALLOCATIONS PROVIDED FOR UNDER SECTION 34183 OR 34188 UNLESS REQUIRED BY A COURT ORDER.<A]

[A>(N)<A] [A>CAUSE A POSTAUDIT OF THE FINANCIAL TRANSACTIONS AND RECORDS OF THE SUCCESSOR AGENCY TO BE MADE AT LEAST ANNUALLY BY A CERTIFIED PUBLIC ACCOUNTANT.<A]

[*12] SEC. 12. Section 34177.3 is added to the Health and Safety Code, to read:

§ 34177.3.

(a) Successor agencies shall lack the authority to, and shall not, create new enforceable obligations under the authority of the Community Redevelopment Law (Part 1 (commencing with Section 33000)) or begin new redevelopment work, except in compliance with an enforceable obligation that existed prior to June 28, 2011.

(b) Successor agencies may create enforceable obligations to conduct the work of winding down the redevelopment agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance.

(c) Successor agencies shall lack the authority to, and shall not, transfer any powers or revenues of the successor agency to any other party, public or private, except pursuant to an enforceable obligation on a Recognized Obligation Payment Schedule approved by the department. Any such transfers of authority or revenues that are not made pursuant to an enforceable obligation on a Recognized Obligation Payment Schedule approved by the Department of Finance are hereby declared to be void, and the successor agency shall take action to reverse any of those transfers. The Controller may audit any transfer of authority or revenues prohibited by this section and may order the prompt return of any money or other things of value from the receiving party.

(d) Redevelopment agencies that resolved to participate in the Voluntary Alternative Redevelopment Program under Chapter 6 of the First Extraordinary Session of the Statutes of 2011 were and are subject to the provisions of Part 1.8 (commencing with Section 34161). Any actions taken by redevelopment agencies to create obligations after June 27, 2011, are ultra vires and do not create enforceable obligations.

(e) The Legislature finds and declares that the provisions of this section are declaratory of existing law.

[*13] SEC. 13. Section 34177.5 is added to the Health and Safety Code, to read:

§ 34177.5.

(a) In addition to the powers granted to each successor agency, and notwithstanding anything in the act adding this part, including, but not limited to, Sections 34162 and 34189, a successor agency shall have the authority, rights, and powers of the redevelopment agency to which it succeeded solely for the following purposes:

(1) For the purpose of issuing bonds or incurring other indebtedness to refund the bonds or other indebtedness of its former redevelopment agency or of the successor agency to provide savings to the successor agency, provided that (A) the total interest cost to maturity on the refunding bonds or other indebtedness plus the principal amount of the refunding bonds or other indebtedness shall not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded plus the remaining principal of the bonds or other indebtedness to be refunded, and (B) the principal amount of the refunding bonds or other indebtedness shall not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves, and to pay related costs of issuance. If the foregoing conditions are satisfied, the initial principal amount of the refunding bonds or other indebtedness may be greater than the outstanding principal amount of the bonds or other indebtedness to be refunded. The successor agency may pledge to the refunding bonds or other indebtedness the revenues pledged to the bonds or other indebtedness being refunded, and that pledge, when made in connection with the issuance of such refunding bonds or other indebtedness, shall have the same lien priority as the pledge of the bonds or other obligations to be refunded, and shall be valid, binding, and enforceable in accordance with its terms.

(2) For the purpose of issuing bonds or other indebtedness to finance debt service spikes, including balloon maturities, provided that (A) the existing indebtedness is not accelerated, except to the extent necessary to achieve substantially level debt service, and (B) the principal amount of the bonds or other indebtedness shall not exceed the amount required to finance the debt service spikes, including establishing customary debt service reserves and paying related costs of issuance.

(3) For the purpose of amending an existing enforceable obligation under which the successor agency is obligated to reimburse a political subdivision of the state for the payment of debt service on a bond or other obligation of the political subdivision, or to pay all or a portion of the debt service on the bond or other obligation of the political subdivision to provide savings to the successor agency, provided that (A) the enforceable obligation is amended in connection with a refunding of the bonds or other obligations of the political subdivision so that the enforceable obligation will apply to the refunding bonds or other refunding indebtedness of the political subdivision, (B) the total interest cost to maturity on the refunding bonds or other indebtedness plus the principal amount of the refunding bonds or other indebtedness shall not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded plus the remaining principal of the bonds or other indebtedness to be refunded, and (C) the principal amount of the refunding bonds or other indebtedness shall not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves and to pay related costs of issuance. The pledge set forth in that amended enforceable obligation, when made in connection with the execution of the amendment of the enforceable obligation, shall have the same lien priority as the pledge in the enforceable obligation prior to its amendment and shall be valid, binding, and enforceable in accordance with its terms.

(4) For the purpose of issuing bonds or incurring other indebtedness to make payments under enforceable obligations when the enforceable obligations include the irrevocable pledge of property tax increment, formerly tax increment revenues prior to the effective date of this part, or other funds and the obligation to issue bonds secured by that pledge. The successor agency may pledge to the bonds or other indebtedness the property tax revenues and other funds described in the enforceable obligation, and that pledge, when made in connection with the issuance of the bonds or the incurring of other indebtedness, shall be valid, binding, and enforceable in accordance with its terms. This paragraph shall not be deemed to authorize a successor agency to increase the amount of property tax revenues pledged under an enforceable obligation or to pledge any property tax revenue not already pledged pursuant to an enforceable obligation. This paragraph does not constitute a change in, but is declaratory of, the existing law.

(b) The refunding bonds authorized under this section may be issued under the authority of Article 11 (commencing with *Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code*, and the refunding bonds may be sold at public or private sale, or to a joint powers authority pursuant to the Marks-Roos Local Bond Pooling Act (Article 4 (commencing with *Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code*).

(c) (1) Prior to incurring any bonds or other indebtedness pursuant to this section, the successor agency may subordinate to the bonds or other indebtedness the amount required to be paid to an affected taxing entity pursuant to paragraph (1) of subdivision (a) of Section 34183, provided that the affected taxing entity has approved the subordinations pursuant to this subdivision.

(2) At the time the successor agency requests an affected taxing entity to subordinate the amount to be paid to it, the successor agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service on the bonds or other indebtedness and the payments required by paragraph (1) of subdivision (a) of Section 34183, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the successor agency will not be able to pay the debt service payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(d) An action may be brought pursuant to Chapter 9 (commencing with *Section 860) of Title 10 of Part 2 of the Code of Civil Procedure* to determine the validity of bonds or other obligations authorized by this section, the pledge of revenues to those bonds or other obligations authorized by this section, the legality and validity of all proceedings heretofore taken and, as provided in the resolution of the legislative body of the successor agency authorizing the bonds or other obligations authorized by this section, proposed to be taken for the authorization, execution, issuance, sale, and delivery of the bonds or other obligations authorized by this section, and for the payment of debt service on the bonds or the payment of amounts under other obligations authorized by this section. Subdivision (c) of Section 33501 shall not apply to any such action. The Department of Finance shall be notified of the filing of any action as an affected party.

(e) Notwithstanding any other law, including, but not limited to, Section 33501, an action to challenge the issuance of bonds, the incurrence of indebtedness, the amendment of an enforceable obligation, or the execution of a financing agreement by a successor agency shall be brought within 30 days after the date on which the oversight board approves the resolution of the successor agency approving the issuance of bonds, the incurrence of indebtedness, the amendment of an enforceable obligation, or the execution of a financing agreement authorized under this section.

(f) The actions authorized in this section shall be subject to the approval of the oversight board, as provided in Section 34180. Additionally, an oversight board may direct the successor agency to commence any of the transactions described in subdivision (a) so long as the successor agency is able to recover its related costs in connection with the transaction. After a successor agency, with approval of the oversight board, issues any bonds, incurs any indebtedness, or executes an amended enforceable obligation pursuant to subdivision (a), the oversight board shall not unilaterally approve any amendments to or early termination of the bonds, indebtedness, or enforceable obligation. If, under the authority granted to it by subdivision (h) of Section 34179, the Department of Finance either reviews and approves or fails to request review within five business days of an oversight board approval of an action authorized by this section, the scheduled payments on the bonds or other indebtedness shall be listed in the Recognized Obligation Payment Schedule and shall not be subject to further review and approval by the department or the Controller. The department may extend its review time to 60 days for actions authorized in this section and may seek the assistance of the Treasurer in evaluating proposed actions under this section.

(g) Any bonds, indebtedness, or amended enforceable obligation authorized by this section shall be considered indebtedness incurred by the dissolved redevelopment agency, with the same legal effect as if the bonds, indebtedness, financing agreement, or amended enforceable obligation had been issued, incurred, or entered into prior to June 29, 2011, in full conformity with the applicable provisions of the Community Redevelopment Law that existed prior to that date, shall be included in the successor agency's Recognized Obligation Payment Schedule, and shall be secured by a pledge of, and lien on, and shall be repaid from moneys deposited from time to time in the Redevelopment Property Tax Trust Fund established pursuant to subdivision (c) of Section 34172, as provided in paragraph (2) of subdivision (a) of Section 34183. Property tax revenues pledged to any bonds, indebtedness, or amended enforceable obligations authorized by this section are taxes allocated to the successor agency pursuant to subdivision (b) of Section 33670 and *Section 16 of Article XVI of the California Constitution.*

(h) The successor agency shall make diligent efforts to ensure that the lowest long-term cost financing is obtained. The financing shall not provide for any bullets or spikes and shall not use variable rates. The successor agency shall make use of an independent financial advisor in developing financing proposals and shall make the work products of the financial advisor available to the Department of Finance at its request.

(i) If an enforceable obligation provides for an irrevocable commitment of property tax revenue and where allocation of such revenues is expected to occur over time, the successor agency may petition the Department of Finance to provide written confirmation that its determination of such enforceable obligation as approved in a Recognized Obligation Payment Schedule is final and conclusive, and reflects the department's approval of subsequent payments made pursuant to the enforceable obligation. If the confirmation is granted, then the department's review of such payments in future Recognized Obligation Payment Schedules shall be limited to confirming that they are required by the prior enforceable obligation.

(j) The successor agency may request that the department provide a written determination to waive the two-year statute of limitations on an action to review the validity of the adoption or amendment of a redevelopment plan pursuant to subdivision (c) of Section 33500 or on any findings or determinations made by the agency pursuant to subdivision (d) of Section 33500. The department at its discretion may provide a waiver if it determines it is necessary for the agency to fulfill an enforceable obligation.

[*14] SEC. 14. *Section 34178 of the Health and Safety Code* is amended to read:

§ 34178.

(a) Commencing on the operative date of this part, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency; provided, however, that a successor entity wishing to enter or reenter into agreements with the city, county, or city and county that formed the redevelopment agency that it is succeeding may do so upon obtaining the approval of its oversight board. **[A> A SUCCESSOR AGENCY OR AN OVERSIGHT BOARD SHALL NOT EXERCISE THE POWERS GRANTED BY THIS SUBDIVISION TO RESTORE FUNDING FOR AN ENFORCEABLE OBLIGATION THAT WAS DELETED OR REDUCED BY THE DEPARTMENT OF FINANCE PURSUANT TO SUBDIVISION (H) OF SECTION 34179 UNLESS IT REFLECTS THE DECISIONS MADE DURING THE MEET AND CONFER PROCESS WITH THE DEPARTMENT OF FINANCE OR PURSUANT TO A COURT ORDER.<A]**

(b) Notwithstanding subdivision (a), any of the following agreements are not invalid and may bind the successor agency:

(1) A duly authorized written agreement entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations.

(2) A written agreement between a redevelopment agency and the city, county, or city and county that created it that provided loans or other startup funds for the redevelopment agency that were entered into within two years of the formation of the redevelopment agency.

(3) A joint exercise of powers agreement in which the redevelopment agency is a member of the joint powers authority. However, upon assignment to the successor agency by operation of the act adding this part, the successor agency's rights, duties, and performance obligations under that joint exercise of powers agreement shall be limited by the constraints imposed on successor agencies by the act adding this part.

[*15] SEC. 15. Section 34178.8 is added to the Health and Safety Code, to read:

§ 34178.8.

Commencing on the effective date of the act adding this section, the Controller shall review the activities of successor agencies in the state to determine if an asset transfer has occurred after January 31, 2012, between the successor agency and the city, county, or city and county that created a redevelopment agency, or any other public agency, that was not made pursuant to an enforceable obligation on an approved and valid Recognized Obligation Payment Schedule. If such an asset transfer did occur, to the extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the successor agency. Upon receiving that order from the Controller, an affected local agency shall, as soon as practicable, reverse the transfer and return the applicable assets to the successor agency. This section shall not apply to housing assets as defined in subdivision (e) of Section 34176.

[*16] SEC. 16. *Section 34179 of the Health and Safety Code* is amended to read:

§ 34179.

(a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before May 1, 2012. Members shall be selected as follows:

(1) One member appointed by the county board of supervisors.

(2) One member appointed by the mayor for the city that formed the redevelopment agency.

(3) **[A>(A)<A]** One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188. **[A>(B)<A]** **[A>ON OR AFTER THE EFFECTIVE DATE OF THIS SUBPARAGRAPH, THE COUNTY AUDITOR-CONTROLLER MAY DETERMINE WHICH IS THE LARGEST SPECIAL DISTRICT FOR PURPOSES OF THIS SECTION.<A]**

(4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public appointed by the county board of supervisors.

(7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time. **[A> IN THE CASE WHERE CITY OR COUNTY EMPLOYEES PERFORMED ADMINISTRATIVE DUTIES OF THE FORMER REDEVELOPMENT AGENCY, THE APPOINTMENT SHALL BE MADE FROM THE RECOGNIZED EMPLOYEE ORGANIZATION REPRESENTING THOSE EMPLOYEES. IF A RECOGNIZED EMPLOYEE ORGANIZATION DOES NOT EXIST FOR EITHER THE EMPLOYEES OF THE FORMER REDEVELOPMENT AGENCY OR THE CITY OR COUNTY EMPLOYEES PERFORMING ADMINISTRATIVE DUTIES OF THE FORMER REDEVELOPMENT AGENCY, THE APPOINTMENT SHALL BE MADE FROM AMONG THE EMPLOYEES OF THE SUCCESSOR AGENCY. IN VOTING TO APPROVE A CONTRACT AS AN ENFORCEABLE OBLIGATION, A MEMBER APPOINTED PURSUANT TO THIS PARAGRAPH SHALL NOT BE DEEMED TO BE INTERESTED IN THE CONTRACT BY VIRTUE OF BEING AN EMPLOYEE OF THE SUCCESSOR AGENCY OR COMMUNITY FOR PURPOSES OF SECTION 1090 OF THE GOVERNMENT CODE.<A]**

(8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.

(9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.

(10) **[D>Where<D] [A>IF<A]** a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, **[D>where such<D] [A>** IF THAT**<A]** appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city **[D>**where such an**<D] [A>**IF THAT**<A]** appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

(b) The Governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by May 15, 2012, or any member position that remains vacant for more than 60 days.

(c) The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board's duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.

(d) Oversight board members [D>shall have personal immunity from suit for their actions taken within the scope of their responsibilities as oversight board members<D] [A>ARE PROTECTED BY THE IMMUNITIES APPLICABLE TO PUBLIC ENTITIES AND PUBLIC EMPLOYEES GOVERNED BY PART 1 (COMMENCING WITH SECTION 810) AND PART 2 (COMMENCING WITH SECTION 814) OF DIVISION 3.6 OF TITLE 1 OF THE GOVERNMENT CODE<A] .

(e) A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974. [A> ALL ACTIONS TAKEN BY THE OVERSIGHT BOARD SHALL BE ADOPTED BY RESOLUTION.<A]

(f) All notices required by law for proposed oversight board actions shall also be posted on the successor agency's Internet Web site or the oversight board's Internet Web site.

(g) Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

(h) The Department of Finance may review an oversight board action taken pursuant to [D>the act adding <D]this part. [D>As such, all oversight board actions shall not be effective for three business days, pending a request for review by the department. <D] [A>WRITTEN NOTICE AND INFORMATION ABOUT ALL ACTIONS TAKEN BY AN OVERSIGHT BOARD SHALL BE PROVIDED TO THE DEPARTMENT BY ELECTRONIC MEANS AND IN A MANNER OF THE DEPARTMENT'S CHOOSING. AN ACTION SHALL BECOME EFFECTIVE FIVE BUSINESS DAYS AFTER NOTICE IN THE MANNER SPECIFIED BY THE DEPARTMENT IS PROVIDED UNLESS THE DEPARTMENT REQUESTS A REVIEW. <A] Each oversight board shall designate an official to whom the department may make [D>such<D] [A>THOSE<A] requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. [A>EXCEPT AS OTHERWISE PROVIDED IN THIS PART, <A] in the event that the department requests a review of a given oversight board action, it shall have [D>10<D] [A>40<A] days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and [D>such<D] [A>THE<A] oversight board action shall not be effective until approved by the department. In the event that the department returns the oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department. [A> IF THE DEPARTMENT REVIEWS A RECOGNIZED OBLIGATION PAYMENT SCHEDULE, THE DEPARTMENT MAY ELIMINATE OR MODIFY ANY ITEM ON THAT SCHEDULE PRIOR TO ITS APPROVAL. THE COUNTY AUDITOR-CONTROLLER SHALL REFLECT THE ACTIONS OF THE DEPARTMENT IN DETERMINING THE AMOUNT OF PROPERTY TAX REVENUES TO ALLOCATE TO THE SUCCESSOR AGENCY. THE DEPARTMENT SHALL PROVIDE NOTICE TO THE SUCCESSOR AGENCY AND THE COUNTY AUDITOR-CONTROLLER AS TO THE REASONS FOR ITS ACTIONS. TO THE EXTENT THAT AN OVERSIGHT BOARD CONTINUES TO DISPUTE A DETERMINATION WITH THE DEPARTMENT, ONE OR MORE FUTURE RECOGNIZED OBLIGATION SCHEDULES MAY REFLECT ANY RESOLUTION OF THAT DISPUTE. THE DEPARTMENT MAY ALSO AGREE TO AN AMENDMENT TO A RECOGNIZED OBLIGATION PAYMENT SCHEDULE TO REFLECT A RESOLUTION OF A DISPUTED ITEM; HOWEVER, THIS SHALL NOT AFFECT A PAST ALLOCATION OF PROPERTY TAX OR CREATE A LIABILITY FOR ANY AFFECTED TAXING ENTITY.<A]

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with *Section 1000) of the Government Code* shall apply to oversight boards. Notwithstanding *Section 1099 of the Government Code*, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or community college district.

(j) Commencing on and after July 1, 2016, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board appointed as follows:

(1) One member may be appointed by the county board of supervisors.

(2) One member may be appointed by the city selection committee established pursuant to *Section 50270 of the Government Code*. In a city and county, the mayor may appoint one member.

(3) One member may be appointed by the independent special district selection committee established pursuant to *Section 56332 of the Government Code*, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.

(4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the county board of supervisors.

(7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.

(k) The Governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2016, or any member position that remains vacant for more than 60 days.

(l) Commencing on and after July 1, 2016, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (b).

(m) Any oversight board for a given successor agency shall cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid.

[A>(N)<A] [A>AN OVERSIGHT BOARD MAY DIRECT A SUCCESSOR AGENCY TO PROVIDE ADDITIONAL LEGAL OR FINANCIAL ADVICE THAN WHAT WAS GIVEN BY AGENCY STAFF.<A]

[A>(O)<A] [A>AN OVERSIGHT BOARD IS AUTHORIZED TO CONTRACT WITH THE COUNTY OR OTHER PUBLIC OR PRIVATE AGENCIES FOR ADMINISTRATIVE SUPPORT.<A]

[A>(P)<A] [A>ON MATTERS WITHIN THE PURVIEW OF THE OVERSIGHT BOARD, DECISIONS MADE BY THE OVERSIGHT BOARD SUPERSEDE THOSE MADE BY THE SUCCESSOR AGENCY OR THE STAFF OF THE SUCCESSOR AGENCY.<A]

[*17] SEC. 17. Section 34179.5 is added to the Health and Safety Code, to read:

§ 34179.5.

(a) In furtherance of subdivision (d) of Section 34177, each successor agency shall employ a licensed accountant, approved by the county auditor-controller and with experience and expertise in local government accounting, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities. As an alternative, an audit provided by the county auditor-controller that provides the information required by this section may be used to comply with this section with the concurrence of the oversight board.

(b) For purposes of this section the following terms shall have the following meanings:

(1) "Cash" and "cash equivalents" includes, but is not limited to, cash in hand, bank deposits, Local Agency Investment Fund deposits, deposits in the city or county treasury or any other pool, marketable securities, commercial paper, United States Treasury bills, banker's acceptances, payables on demand and amounts due from other parties as defined in subdivision (c), and any other money owned by the successor agency.

(2) "Enforceable obligation" includes any of the items listed in subdivision (d) of Section 34171, contracts detailing specific work to be performed that were entered into by the former redevelopment agency prior to June 28, 2011,

with a third party that is other than the city, county, or city and county that created the former redevelopment agency, and indebtedness obligations as defined in subdivision (e) of Section 34171.

(3) "Transferred" means the transmission of money to another party that is not in payment for goods or services or an investment or where the payment is de minimus. Transfer also means where the payments are ultimately merely a restriction on the use of the money.

(c) At a minimum, the review required by this section shall include the following:

(1) The dollar value of assets transferred from the former redevelopment agency to the successor agency on or about February 1, 2012.

(2) The dollar value of assets and cash and cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to the city, county, or city and county that formed the redevelopment agency and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.

(3) The dollar value of any cash or cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to any other public agency or private party and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.

(4) The review shall provide expenditure and revenue accounting information and identify transfers and funding sources for the 2010-11 and 2011-12 fiscal years that reconciles balances, assets, and liabilities of the successor agency on June 30, 2012 to those reported to the Controller for the 2009-10 fiscal year.

(5) A separate accounting for the balance for the Low and Moderate Income Housing Fund for all other funds and accounts combined shall be made as follows:

(A) A statement of the total value of each fund as of June 30, 2012.

(B) An itemized statement listing any amounts that are legally restricted as to purpose and cannot be provided to taxing entities. This could include the proceeds of any bonds, grant funds, or funds provided by other governmental entities that place conditions on their use.

(C) An itemized statement of the values of any assets that are not cash or cash equivalents. This may include physical assets, land, records, and equipment. For the purpose of this accounting, physical assets may be valued at purchase cost or at any recently estimated market value. The statement shall list separately housing-related assets.

(D) An itemized listing of any current balances that are legally or contractually dedicated or restricted for the funding of an enforceable obligation that identifies the nature of the dedication or restriction and the specific enforceable obligation. In addition, the successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements. If a review finds that future revenues together with dedicated or restricted balances are insufficient to fund future obligations and thus retention of current balances is required, it shall identify the amount of current balances necessary for retention. The review shall also detail the projected property tax revenues and other general purpose revenues to be received by the successor agency, together with both the amount and timing of the bond debt service payments of the successor agency, for the period in which the oversight board anticipates the successor agency will have insufficient property tax revenue to pay the specified obligations.

(E) An itemized list and analysis of any amounts of current balances that are needed to satisfy obligations that will be placed on the Recognized Obligation Payment Schedules for the current fiscal year.

(6) The review shall total the net balances available after deducting the total amounts described in subparagraphs (B) to (E), inclusive, of paragraph (5). The review shall add any amounts that were transferred as identified in paragraphs (2) and (3) of subdivision (c) if an enforceable obligation to make that transfer did not exist. The resulting sum shall be available for allocation to affected taxing entities pursuant to Section 34179.6. It shall be a rebuttable presumption that cash and cash equivalent balances available to the successor agency are available and sufficient to disburse the amount determined in this paragraph to taxing entities. If the review finds that there are insufficient cash balances to transfer or that cash or cash equivalents are specifically obligated to the purposes described in subparagraphs (B), (D), and (E) of paragraph (5) in such amounts that there is insufficient cash to provide the full amount determined pursuant to this paragraph, that amount shall be demonstrated in an additional itemized schedule.

[*18] SEC. 18. Section 34179.6 is added to the Health and Safety Code, to read:

§ 34179.6.

The review required pursuant to Section 34179.5 shall be submitted to the oversight board for review. The successor agency shall submit a copy of the Recognized Obligation Payment Schedule to the county administrative officer, the county auditor-controller, and the Department of Finance at the same time that the successor agency submits the review to the oversight board for review.

(a) By October 1, 2012, each successor agency shall provide to the oversight board, the county auditor-controller, the Controller, and the Department of Finance the results of the review conducted pursuant to Section 34179.5 for the Low and Moderate Income Housing Fund and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities. By December 15, 2012, each successor agency shall provide to the oversight board, the county auditor-controller, the Controller, and the department the results of the review conducted pursuant to Section 34179.5 for all of the other fund and account balances and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities. The department may request any supporting documentation and review results to assist in its review under subdivision (d). The department may specify the form and manner information about the review shall be provided to it.

(b) Upon receipt of the review, the oversight board shall convene a public comment session to take place at least five business days before the oversight board holds the approval vote specified in subdivision (c). The oversight board also shall consider any opinions offered by the county auditor-controller on the review results submitted by the successor agencies.

(c) By October 15, 2012, for the Low and Moderate Income Housing Fund and by January 15, 2013, for all other funds and accounts, the oversight board shall review, approve, and transmit to the department and the county auditor-controller the determination of the amount of cash and cash equivalents that are available for disbursement to taxing entities as determined according to the method provided in Section 34179.5. The oversight board may adjust any amount provided in the review to reflect additional information and analysis. The review and approval shall occur in public sessions. The oversight board may request from the successor agency any materials it deems necessary to assist in its review and approval of the determination. The oversight board shall be empowered to authorize a successor agency to retain assets or funds identified in subparagraphs (B) to (E), inclusive, of paragraph (5) of subdivision (c) of Section 34179.5. An oversight board that makes that authorization also shall identify to the department the amount of funds authorized for retention, the source of those funds, and the purposes for which those funds are being retained. The determination and authorization to retain funds and assets shall be subject to the review and approval of the department pursuant to subdivision (d).

(d) The department may adjust any amount associated with the determination of the resulting amount described in paragraph (6) of subdivision (c) of Section 34179.5 based on its analysis and information provided by the successor agency and others. The department shall consider any findings or opinions of the county auditor-controllers and the Controller. The department shall complete its review of the determinations provided pursuant to subdivision (c) no later than November 9, 2012, for the Low and Moderate Income Housing Fund and also shall notify the oversight board and the successor agency of its decision to overturn any decision of the oversight board to authorize a successor agency to retain assets or funds made pursuant to subdivision (c). The department shall complete its review of the determinations provided pursuant to subdivision (c) no later than April 1, 2013, for the other funds and accounts and also shall notify the oversight board and the successor agency of its decision to overturn any oversight board authorizations made pursuant to subdivision (c). The department shall provide the oversight board and the successor agency an explanation of its basis for overturning or modifying any findings, determinations, or authorizations of the oversight board made pursuant to subdivision (c).

(e) The successor agency and the entity or entities that created the former redevelopment agency may request to meet and confer with the department to resolve any disputes regarding the amounts or sources of funds identified as determined by the department. The request shall be made within five business days of the transmission, and no later than November 16, 2012, for the determination regarding the Low and Moderate Income Housing Fund, to the successor agency or the designated local authority of the department's determination, decisions, and explanations and shall be accompanied by an explanation and documentation of the basis of the dispute. The department shall meet and confer with the requesting party and modify its determinations and decisions accordingly. The department shall either confirm or modify its determinations and decisions within 30 days of the request to meet and confer.

(f) Each successor agency shall transmit to the county auditor-controller the amount of funds required pursuant to the determination of the department within five working days of receipt of the notification under subdivision (c) or (e) if a meet and confer request is made. Successor agencies shall make diligent efforts to recover any money determined to have been transferred without an enforceable obligation as described in paragraphs (2) and (3) of subdivision (c) of Section 34179.5. The department shall notify the county auditor-controllers of its actions and the county auditor-controllers shall disburse the funds received from successor agencies to taxing entities pursuant to Section 34188 within five working days of receipt. Amounts received after November 28, 2012, and April 10, 2013, may be held and disbursed with the regular payments to taxing entities pursuant to Section 34183.

(g) By December 1, 2012, the county auditor-controller shall provide the department a report specifying the amount submitted by each successor agency pursuant to subdivision (d) for low- and moderate-income housing funds, and specifically noting those successor agencies that failed to remit the full required amount. By April 20, 2013, the county auditor-controller shall provide the department a report detailing the amount submitted by each successor agency pursuant to subdivision (d) for all other funds and accounts, and specifically noting those successor agencies that failed to remit the full required amount.

(h) If a successor agency fails to remit to the county auditor-controller the sums identified in subdivisions (d) and (f), by the deadlines specified in those subdivisions, the following remedies are available:

(1) (A) If the successor agency cannot promptly recover the funds that have been transferred to another public agency without an enforceable obligation as described in paragraphs (2) and (3) of subdivision (c) of Section 34179.5, the funds may be recovered through an offset of sales and use tax or property tax allocations to the local agency to which the funds were transferred. To recover such funds, the Department of Finance may order the State Board of Equalization to make an offset pursuant to subdivision (a) of Section 34179.8. If the Department of Finance does not order a sales tax offset, the county auditor-controller may reduce the property tax allocations to any local agency in the county that fails to repay funds pursuant to subdivision (c) of Section 34179.8.

(B) The county auditor-controller and the department shall each have the authority to demand the return of funds improperly spent or transferred to a private person or other private entity. If funds are not repaid within 60 days, they may be recovered through any lawful means of collection and are subject to a ten percent penalty plus interest at the rate charged for late personal income tax payments from the date the improper payment was made to the date the money is repaid.

(C) If the city, county, or city and county that created the former redevelopment agency is also performing the duties of the successor agency, the Department of Finance may order an offset to the distribution provided to the sales and use tax revenue to that agency pursuant to subdivision (a) of Section 34179.8. This offset shall be equal to the amount the successor fails to remit pursuant to subdivision (f). If the Department of Finance does not order a sales tax offset, the county auditor-controller may reduce the property tax allocations of the city, county, or city and county that created the former redevelopment agency pursuant to subdivision (c) of Section 34179.8.

(D) The department and the county auditor-controller shall coordinate their actions undertaken pursuant to this paragraph.

(2) Alternatively or in addition to the remedies provided in paragraph (1), the department may direct the county auditor-controller to deduct the unpaid amount from future allocations of property tax to the successor agency under Section 34183 until the amount of payment required pursuant to subdivision (d) is accomplished.

(3) If the Department of Finance determines that payment of the full amount required under subdivision (d) is not currently feasible or would jeopardize the ability of the successor agency to pay enforceable obligations in a timely manner, it may agree to an installment payment plan.

(i) (1) If a legal action contesting a withholding effectuated by the State Board of Equalization pursuant to subparagraphs (B), (C), or (B) and (C) of paragraph (2) of subdivision (b) of Section 34183.5 is successful and results in a final judicial determination, the court shall order the state to pay to the prevailing party a penalty equal to a percentage of the amount of funds found by the court to be improperly withheld, as provided in Section 34179.8. This percentage shall be equivalent to the number of months the funds have been found by the court to be improperly withheld, not to exceed 10 percent.

(2) If a legal action contesting an offset effectuated by the State Board of Equalization or the county auditor-controller pursuant to subdivision (h) is successful and results in a final judicial determination, the court shall order the

state or the county auditor-controller to pay to the prevailing party a penalty equal to 10 percent of the amount of funds found by the court to be improperly offset, as provided in Section 34179.8.

(j) If a legal challenge to invalidate any provision in subdivision (h) or subparagraph (B) or (C), or subparagraphs (B) and (C) of paragraph (2) of subdivision (b) of Section 34183.5 is successful and results in a final judicial determination, the invalidated provision shall become inoperative and subdivision (i) shall become inoperative with respect to the invalidated provision.

[*19] SEC. 19. Section 34179.7 is added to the Health and Safety Code, to read:

§ 34179.7.

Upon full payment of the amounts determined in subdivision (d) or (e) of Section 34179.6 as reported by the county auditor-controller pursuant to subdivision (g) of Section 34179.6 and of any amounts due as determined by Section 34183.5, or upon a final judicial determination of the amounts due and confirmation that those amounts have been paid by the county auditor-controller, the department shall issue, within five business days, a finding of completion of the requirements of Section 34179.6 to the successor agency.

[*20] SEC. 20. Section 34179.8 is added to the Health and Safety Code, to read:

§ 34179.8.

(a) If an offset or withholding of sales and use tax is ordered by the Department of Finance pursuant to this part, the State Board of Equalization shall reduce the distribution of sales and use taxes collected under Chapter 1 (commencing with *Section 7200) of Part 1.5 of Division 2 of the Revenue and Taxation Code* to the entity that is the subject of the offset or withholding and shall direct the Controller to issue a warrant in the amount of any offset pursuant to subdivision (h) of Section 34179.6 to the county auditor-controller. The county auditor-controller shall distribute this amount to the taxing entities for the former redevelopment area according to Section 34188.

(b) (1) If a court has issued a final judicial determination or the department determines that some or all of the amount collected through the offset of sales and use tax has been paid by another means and no additional amount is owed, the court or the department shall notify the State Board of Equalization of that determination. Upon notification, the State Board of Equalization shall reverse the relevant amount of sales and use tax offset, add any penalty payable under subdivision (i) of Section 34179.6, and adjust the next distribution of sales and use tax to the affected local entity by reducing the allocation of tax to the General Fund and increasing the distribution to the local entity by that sum.

(2) The board shall inform the Controller of the reversal of the offset of sales and use tax undertaken pursuant to paragraph (1). The Controller shall send a demand for payment to the county auditor-controller for the amount of the offset reversal, excluding any penalty amount determined by the court pursuant to subdivision (i) of Section 34179.6 to be applicable to the offset. The auditor-controller shall reduce allocations to taxing entities in the next distributions under Section 34188 until the amount of the reversed offset is recovered and shall pay such recovered amounts to the State Controller for deposit in the General Fund.

(c) (1) If an offset of property tax is ordered by the county auditor-controller pursuant to this part, the auditor-controller shall reduce the distribution of property taxes to the entity that is the subject of the offset and shall distribute the amount to the taxing entities for the former redevelopment area according to Section 34188.

(2) If a court has issued a final judicial determination or the department determines that some or all of the amount collected through the offset made pursuant to paragraph (1) has been paid by another means and no additional amount is owed, the court or the department shall notify the county auditor-controller of that determination. Upon notification, the county auditor-controller shall reverse the relevant amount of property tax revenues offset in the next distribution of property tax to the affected local entity by reducing the allocation of tax to the taxing entities of the former redevelopment area under Section 34188 and increasing the distribution of property taxes to the local entity that was subject to the offset.

[*21] SEC. 21. *Section 34180 of the Health and Safety Code* is amended to read:

§ 34180.

All of the following successor agency actions shall first be approved by the oversight board:

(a) The establishment of new repayment terms for outstanding loans where the terms have not been specified prior to the date of this part. **[A>** AN OVERSIGHT BOARD SHALL NOT HAVE THE AUTHORITY TO REESTABLISH LOAN AGREEMENTS BETWEEN THE SUCCESSOR AGENCY AND THE CITY, COUNTY, OR CITY AND COUNTY THAT FORMED THE REDEVELOPMENT AGENCY EXCEPT AS PROVIDED IN CHAPTER 9 (COMMENCING WITH SECTION 34191.1).**<A]**

(b) **[D>**Refunding of outstanding bonds or other debt of the former redevelopment agency by successor agencies in order to provide for savings or to finance debt service spikes; provided, however, that no additional debt is created and debt service is not accelerated.**<D] [A>**THE ISSUANCE OF BONDS OR OTHER INDEBTEDNESS OR THE PLEDGE OR AGREEMENT FOR THE PLEDGE OF PROPERTY TAX REVENUES (FORMERLY TAX INCREMENT PRIOR TO THE EFFECTIVE DATE OF THIS PART) PURSUANT TO SUBDIVISION (A) OF SECTION 34177.5.**<A]**

(c) Setting aside of amounts in reserves as required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Merging of project areas.

(e) Continuing the acceptance of federal or state grants, or other forms of financial assistance from either public or private sources, **[D>**where**<D] [A>**IF THAT**<A]** assistance is conditioned upon the provision of matching funds, by the successor entity as successor to the former redevelopment agency, in an amount greater than 5 percent.

(f) (1) If a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained.

(2) If no other agreement is reached on valuation of the retained assets, the value will be the fair market value as of the 2011 property tax lien date as determined by **[D>**the county assessor**<D] [A>**AN INDEPENDENT APPRAISER APPROVED BY THE OVERSIGHT BOARD**<A]** .

(g) Establishment of the Recognized Obligation Payment Schedule.

(h) A request by the successor agency to enter into an agreement with the city, county, or city and county that formed the redevelopment agency that it is succeeding. **[A>** AN OVERSIGHT BOARD SHALL NOT HAVE THE AUTHORITY TO REESTABLISH LOAN AGREEMENTS BETWEEN THE SUCCESSOR AGENCY AND THE CITY, COUNTY, OR CITY AND COUNTY THAT FORMED THE REDEVELOPMENT AGENCY EXCEPT AS PROVIDED IN CHAPTER 9 (COMMENCING WITH SECTION 34191.1). ANY ACTIONS TO REESTABLISH ANY OTHER AGREEMENTS THAT ARE IN FURTHERANCE OF ENFORCEABLE OBLIGATIONS, WITH THE CITY, COUNTY, OR CITY AND COUNTY THAT FORMED THE REDEVELOPMENT AGENCY ARE INVALID UNTIL THEY ARE INCLUDED IN AN APPROVED AND VALID RECOGNIZED OBLIGATION PAYMENT SCHEDULE.**<A]**

(i) A request by a successor agency or taxing entity to pledge, or to enter into an agreement for the pledge of, property tax revenues pursuant to subdivision (b) of Section 34178.

[A>(J)**<A] [A>**ANY DOCUMENT SUBMITTED BY A SUCCESSOR AGENCY TO AN OVERSIGHT BOARD FOR APPROVAL BY ANY PROVISION OF THIS PART SHALL ALSO BE SUBMITTED TO THE COUNTY ADMINISTRATIVE OFFICER, THE COUNTY AUDITOR-CONTROLLER, AND THE DEPARTMENT OF FINANCE AT THE SAME TIME THAT THE SUCCESSOR AGENCY SUBMITS THE DOCUMENT TO THE OVERSIGHT BOARD.**<A]**

[*22] SEC. 22. *Section 34181 of the Health and Safety Code* is amended to read:

§ 34181.

The oversight board shall direct the successor agency to do all of the following:

(a) Dispose of all assets and properties of the former redevelopment agency **[D>** that were funded by tax increment revenues of the dissolved redevelopment agency**<D]**; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, **[A>**POLICE **<A]** and fire stations, **[A>**LIBRARIES, AND LOCAL

AGENCY ADMINISTRATIVE BUILDINGS, <A] to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value. [A> ASSET DISPOSITION MAY BE ACCOMPLISHED BY A DISTRIBUTION OF INCOME TO TAXING ENTITIES PROPORTIONATE TO THEIR PROPERTY TAX SHARE FROM ONE OR MORE PROPERTIES THAT MAY BE TRANSFERRED TO A PUBLIC OR PRIVATE AGENCY FOR MANAGEMENT PURSUANT TO THE DIRECTION OF THE OVER-SIGHT BOARD.<A]

(b) Cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations.

(c) Transfer housing [D>responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the appropriate entity<D] [A>ASSETS<A] pursuant to Section 34176.

(d) Terminate any agreement, between the dissolved redevelopment agency and any public entity located in the same county, obligating the redevelopment agency to provide funding for any debt service obligations of the public entity or for the construction, or operation of facilities owned or operated by such public entity, in any instance where the oversight board has found that early termination would be in the best interests of the taxing entities.

(e) Determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the oversight board for its approval. The board may approve any amendments to or early termination of [D>such agreements where<D] [A>THOSE AGREEMENTS IF<A] it finds that amendments or early termination would be in the best interests of the taxing entities.

[A>(F)<A] [A>ALL ACTIONS TAKEN PURSUANT TO SUBDIVISIONS (A) AND (C) SHALL BE APPROVED BY RESOLUTION OF THE OVERSIGHT BOARD AT A PUBLIC MEETING AFTER AT LEAST 10 DAYS' NOTICE TO THE PUBLIC OF THE SPECIFIC PROPOSED ACTIONS. THE ACTIONS SHALL BE SUBJECT TO REVIEW BY THE DEPARTMENT OF FINANCE PURSUANT TO SECTION 34179 EXCEPT THAT THE DEPARTMENT MAY EXTEND ITS REVIEW PERIOD BY UP TO 60 DAYS. IF THE DEPARTMENT DOES NOT OBJECT TO AN ACTION SUBJECT TO THIS SECTION, AND IF NO ACTION CHALLENGING AN ACTION IS COMMENCED WITHIN 60 DAYS OF THE APPROVAL OF THE ACTION BY THE OVERSIGHT BOARD, THE ACTION OF THE OVERSIGHT BOARD SHALL BE CONSIDERED FINAL AND CAN BE RELIED UPON AS CONCLUSIVE BY ANY PERSON. IF AN ACTION IS BROUGHT TO CHALLENGE AN ACTION INVOLVING TITLE TO OR AN INTEREST IN REAL PROPERTY, A NOTICE OF PENDENCY OF ACTION SHALL BE RECORDED BY THE CLAIMANT AS PROVIDED IN TITLE 4.5 (COMMENCING WITH SECTION 405) OF PART 2 OF THE CODE OF CIVIL PROCEDURE WITHIN A 60-DAY PERIOD.<A]

[*23] SEC. 23. *Section 34182 of the Health and Safety Code* is amended to read:

§ 34182.

(a) (1) The county auditor-controller shall conduct or cause to be conducted an agreed-upon procedures audit of each redevelopment agency in the county that is subject to this part, to be completed by [D>July<D] [A>OCTOBER<A] 1, 2012.

(2) The purpose of the audits shall be to establish each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's passthrough payment obligations to other taxing [D>agencies<D] [A>ENTITIES<A], and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency [D>and certify<D] [A>PURSUANT TO<A] the initial Recognized Obligation Payment Schedule.

(3) The county auditor-controller may charge the Redevelopment Property Tax Trust Fund for any costs incurred by the county auditor-controller pursuant to this part.

(b) By [D>July 15<D] [A>OCTOBER 5<A], 2012, the county auditor-controller shall provide the Controller's office [A>AND THE DEPARTMENT OF FINANCE <A] a copy of all audits performed pursuant to this section. The county auditor-controller shall maintain a copy of all documentation and working papers for use by the Controller.

(c) (1) The county auditor-controller shall determine the amount of property taxes that would have been allocated to each redevelopment agency in the county had the redevelopment agency not been dissolved pursuant to the operation of the act adding this part. These amounts are deemed property tax revenues within the meaning of subdivision (a) of *Section 1 of Article XIII A of the California Constitution* and are available for allocation and distribution in accordance with the provisions of the act adding this part. The county auditor-controller shall calculate the property tax revenues using current assessed values on the last equalized roll on August 20, pursuant to *Section 2052 of the Revenue and Taxation Code*, and pursuant to statutory formulas or contractual agreements with other taxing **[D>**agencies**<D]** **[A>**ENTITIES**<A]** , as of the effective date of this section, and shall deposit that amount in the Redevelopment Property Tax Trust Fund.

(2) Each county auditor-controller shall administer the Redevelopment Property Tax Trust Fund for the benefit of the holders of former redevelopment agency enforceable obligations and the taxing entities that receive passthrough payments and distributions of property taxes pursuant to this part.

(3) In connection with the allocation and distribution by the county auditor-controller of property tax revenues deposited in the Redevelopment Property Tax Trust Fund, in compliance with this part, the county auditor-controller shall prepare estimates of amounts **[A>**OF PROPERTY TAX **<A]** to be allocated and **[A><A]** distributed **[A>**AND THE AMOUNTS OF PASSTHROUGH PAYMENTS TO BE MADE IN THE UPCOMING SIX-MONTH PERIOD**<A]** , and provide those estimates to both the entities receiving the distributions and the Department of Finance, no later than **[D>**November 1 and May**<D]** **[A>**OCTOBER 1 AND APRIL**<A]** 1 of each year.

(4) Each county auditor-controller shall disburse proceeds of asset sales or reserve balances, which have been received from the successor entities pursuant to Sections 34177 and 34187, to the taxing entities. In making such a distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(d) By October 1, 2012, the county auditor-controller shall report the following information to the Controller's office and the Director of Finance:

(1) The sums of property tax revenues remitted to the Redevelopment Property Tax Trust Fund related to each former redevelopment agency.

(2) The sums of property tax revenues remitted to each agency under paragraph (1) of subdivision (a) of Section 34183.

(3) The sums of property tax revenues remitted to each successor agency pursuant to paragraph (2) of subdivision (a) of Section 34183.

(4) The sums of property tax revenues paid to each successor agency pursuant to paragraph (3) of subdivision (a) of Section 34183.

(5) The sums paid to each city, county, and special district, and the total amount allocated for schools pursuant to paragraph (4) of subdivision (a) of Section 34183.

(6) Any amounts deducted from other distributions pursuant to subdivision (b) of Section 34183.

(e) A county auditor-controller may charge the Redevelopment Property Tax Trust Fund for the costs of administering the provisions of this part.

(f) The Controller may audit and review any county auditor-controller action taken pursuant to the act adding this part. As such, all county auditor-controller actions shall not be effective for three business days, pending a request for review by the Controller. In the event that the Controller requests a review of a given county auditor-controller action, he or she shall have 10 days from the date of his or her request to approve the county auditor-controller's action or return it to the county auditor-controller for reconsideration and **[D>**such county auditor-controller**<D]** **[A>**THE COUNTY AUDITOR-CONTROLLER'S**<A]** action shall not be effective until approved by the Controller. In the event that the Controller returns the county auditor-controller's action to the county auditor-controller for reconsideration, the county auditor-controller must resubmit the modified action for Controller approval and **[D>**such**<D]** **[A>**THE**<A]** modified county **[D>**auditor-controller**<D]** **[A>**AUDITOR-CONTROLLER'S**<A]** action shall not become effective until approved by the Controller.

[*24] SEC. 24. Section 34182.5 is added to the Health and Safety Code, to read:

§ 34182.5.

A county auditor-controller may review the Recognized Obligation Payment Schedules and object to the inclusion of any items that are not demonstrated to be enforceable obligations and may object to the funding source proposed for any items. This review may take place prior to the submission of the Recognized Obligation Payment Schedule to the oversight board or subsequent to oversight board action. The county auditor-controller shall promptly transmit notice of any of those objections to the successor agency, the oversight board, and the Department of Finance. Notice shall be given at least 60 days prior to an allocation date specified in Section 34183, except that for the January 1, 2013 to June 30, 2013 Recognized Obligation Payment Schedule, notice shall be given no later than October 1, 2012. If an oversight board disputes the finding of the county auditor-controller, it may refer the matter to the Department of Finance for a determination of what will be approved for inclusion in the Recognized Obligation Payment Schedule.

[*25] SEC. 25. *Section 34183 of the Health and Safety Code* is amended to read:

§ 34183.

(a) Notwithstanding any other law, from February 1, 2012, to July 1, 2012, and for each fiscal year thereafter, the county auditor-controller shall, after deducting administrative costs allowed under Section 34182 and *Section 95.3 of the Revenue and Taxation Code*, allocate moneys in each Redevelopment Property Tax Trust Fund as follows:

(1) Subject to any prior deductions required by subdivision (b), first, the county auditor-controller shall remit from the Redevelopment Property Tax Trust Fund to each local agency and school entity an amount of property tax revenues in an amount equal to that which would have been received under Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections read on January 1, 2011, or pursuant to any passthrough agreement between a redevelopment agency and a taxing **[D>**jurisdiction**<D] [A>**ENTITY**<A]** that was entered into prior to January 1, 1994, that would be in force during that fiscal year, had the redevelopment agency existed at that time. The amount of the payments made pursuant to this paragraph shall be calculated solely on the basis of passthrough payment obligations, existing prior to the effective date of this part and continuing as obligations of successor entities, shall occur no later than May 16, 2012, and no later than June 1, 2012, and each January **[D>**16**<D] [A>**2**<A]** and June 1 thereafter. Notwithstanding subdivision (e) of Section 33670, that portion of the taxes in excess of the amount identified in subdivision (a) of Section 33670, which are attributable to a tax rate levied by a taxing **[D>**agency**<D] [A>**ENTITY**<A]** for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing **[D>**agency**<D] [A>**ENTITY**<A]** . **[A>** THE AMOUNT OF PASSTHROUGH PAYMENTS COMPUTED PURSUANT TO THIS SECTION, INCLUDING ANY PASSTHROUGH AGREEMENTS, SHALL BE COMPUTED AS THOUGH THE REQUIREMENT TO SET ASIDE FUNDS FOR THE LOW AND MODERATE INCOME HOUSING FUND WAS STILL IN EFFECT.**<A]**

(2) Second, on **[D>**May 16, 2012, and **<D]**June 1, 2012, and each January **[D>**16**<D] [A>**2**<A]** and June 1 thereafter, to each successor agency for payments listed in its Recognized Obligation Payment Schedule for the six-month fiscal period beginning January 1, 2012, **[D>**or**<D] [A>**AND**<A]** July 1, 2012, and each January **[D>**16**<D] [A>**2**<A]** and June 1 thereafter, in the following order of priority:

(A) Debt service payments scheduled to be made for tax allocation bonds.

(B) Payments scheduled to be made on revenue bonds, but only to the extent the revenues pledged for them are insufficient to make the payments and only **[D>**where**<D] [A>**IF**<A]** the agency's tax increment revenues were also pledged for the repayment of the bonds.

(C) Payments scheduled for other debts and obligations listed in the Recognized Obligation Payment Schedule that are required to be paid from former tax increment revenue.

(3) Third, on **[D>**May 16, 2012, and **<D]**June 1, 2012, and each January **[D>**16**<D] [A>**2**<A]** and June 1 thereafter, to each successor agency for the administrative cost allowance, as defined in Section 34171, for administrative costs set forth in an approved administrative budget for those payments required to be paid from former tax increment revenues.

(4) Fourth, on **[D>**May 16, 2012, and **<D]**June 1, 2012, and each January **[D>**16**<D] [A>**2**<A]** and June 1 thereafter, any moneys remaining in the Redevelopment Property Tax Trust Fund after the payments and transfers au-

thorized by paragraphs (1) to (3), inclusive, shall be distributed to local agencies and school entities in accordance with Section 34188.

(b) If the successor agency reports, no later than April 1, 2012, and May 1, 2012, and each December 1 and May 1 thereafter, to the county auditor-controller that the total amount available to the successor agency from the Redevelopment Property Tax Trust Fund allocation to that successor agency's Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, are insufficient to fund the payments required by paragraphs (1) to (3), inclusive, of subdivision (a) in the next six-month fiscal period, the county auditor-controller shall notify the Controller and the Department of Finance no later than 10 days from the date of that notification. The county auditor-controller shall verify whether the successor agency will have sufficient funds from which to service debts according to the Recognized Obligation Payment Schedule and shall report the findings to the Controller. If the Controller concurs that there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the amount remaining to be distributed to taxing entities pursuant to paragraph (4), and if that amount is exhausted, from amounts available for distribution for administrative costs in paragraph (3). If an agency, pursuant to the provisions of Section 33492.15, 33492.72, 33607.5, 33671.5, 33681.15, or 33688 **[A>** OR AS EXPRESSLY PROVIDED IN A PASSTHROUGH AGREEMENT ENTERED INTO PURSUANT TO SECTION 33401**<A]** , made passthrough payment obligations subordinate to debt service payments required for enforceable obligations, funds for servicing bond debt may be deducted from the amounts for passthrough payments under paragraph (1), as provided in those sections, but only to the extent that the amounts remaining to be distributed to taxing entities pursuant to paragraph (4) and the amounts available for distribution for administrative costs in paragraph (3) have all been exhausted.

(c) The county treasurer may loan any funds from the county treasury **[A>**TO THE REDEVELOPMENT PROPERTY TAX TRUST FUND OF THE SUCCESSOR AGENCY FOR THE PURPOSE OF PAYING AN ITEM APPROVED ON THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE AT THE REQUEST OF THE DEPARTMENT OF FINANCE **<A]** that are necessary to ensure prompt payments of redevelopment agency debts. **[A>** AN ENFORCEABLE OBLIGATION IS CREATED FOR REPAYMENT OF THOSE LOANS.**<A]**

(d) The Controller may recover the costs of audit and oversight required under this part from the Redevelopment Property Tax Trust Fund by presenting an invoice therefor to the county auditor-controller who shall set aside sufficient funds for and disburse the claimed amounts prior to making the next distributions to the taxing **[D>**jurisdictions**<D]** **[A>**ENTITIES**<A]** pursuant to Section 34188. Subject to the approval of the Director of Finance, the budget of the Controller may be augmented to reflect the reimbursement, pursuant to Section 28.00 of the Budget Act.

[A>(E)**<A]** **[A>**WITHIN 10 DAYS OF EACH DISTRIBUTION OF PROPERTY TAX, THE COUNTY AUDITOR-CONTROLLER SHALL PROVIDE A REPORT TO THE DEPARTMENT REGARDING THE DISTRIBUTION FOR EACH SUCCESSOR AGENCY THAT INCLUDES INFORMATION ON THE TOTAL AVAILABLE FOR ALLOCATION, THE PASSTHROUGH AMOUNTS AND HOW THEY WERE CALCULATED, THE AMOUNTS DISTRIBUTED TO SUCCESSOR AGENCIES, AND THE AMOUNTS DISTRIBUTED TO TAXING ENTITIES IN A MANNER AND FORM SPECIFIED BY THE DEPARTMENT. THIS REPORTING REQUIREMENT SHALL ALSO APPLY TO DISTRIBUTIONS REQUIRED UNDER SUBDIVISION (B) OF SECTION 34183.5.**<A]**

[*26] SEC. 26. Section 34183.5 is added to the Health and Safety Code, to read:

§ 34183.5.

(a) The Legislature hereby finds and declares that due to the delayed implementation of this part due to the California Supreme Court's ruling in the case *California Redevelopment Association v. Matosantos et al. (2011) 53 Cal.4th 231,* some disruption to the intended application of this part and other law with respect to passthrough payments may have occurred.

(1) If a redevelopment agency or successor agency did not pay any portion of an amount owed for the 2011-12 fiscal year to an affected taxing entity pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, or pursuant to any passthrough agreement entered into before January 1, 1994, between a redevelopment agency and an affected taxing entity, and to the extent the county auditor-controller did not remit the amounts owed for passthrough payments during the 2011-12 fiscal year, the county auditor-controller shall make the required payments to the taxing entities owed passthrough payments and shall reduce the amounts to which the successor agency would otherwise be entitled pursuant to paragraph (2) of subdivision (a) of Section 34183 at the next allocation of property tax under this

part, subject to the provisions of subdivision (b) of Section 34183. If the amount of available property tax allocation to the successor agency is not sufficient to make the required payment, the county auditor-controller shall continue to reduce allocations to the successor agency under paragraph (2) of subdivision (a) of Section 34183 until the time that the owed amount is fully paid. Alternately, the county auditor-controller may accept payment from the successor agency's reserve funds for payments of passthrough payments owed as defined in this subdivision.

(2) If a redevelopment agency did not pay any portion of the amount owed for the 2011-12 fiscal year to an affected taxing entity pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, or pursuant to any passthrough agreement entered into before January 1, 1994, between a redevelopment agency and an affected taxing entity, but the county auditor-controller did pay the difference that was owing, the auditor controller shall deduct from the next allocation of property tax to the successor agency under paragraph (2) of subdivision (a) of Section 34183, the amount of the payment made on behalf of the successor agency by the county auditor-controller, not to exceed one-half the amount of passthrough payments owed for the 2011-12 fiscal year. If the amount of available property tax allocation to the successor agency is not sufficient to make the required deduction, the county auditor-controller shall continue to reduce allocations to the successor agency under paragraph (2) of subdivision (a) of Section 34183 until the time that the amount is fully deducted. Alternatively, the auditor-controller may accept payment from the successor agency's reserve funds for deductions of passthrough payments owed as defined in this subdivision. Amounts reduced from successor agency payments under this paragraph are available for the purposes of paragraphs (2) to (4), inclusive, of subdivision (a) of Section 34183 for the six-month period for which the property tax revenues are being allocated.

(b) In recognition of the fact that county auditor-controllers were unable to make the payments required by paragraph (4) of subdivision (a) of Section 34183 for the period January 1, 2012, through June 30, 2012, on January 16, 2012, due to the California Supreme Court's ruling in the case of *California Redevelopment Association v. Matosantos (2011) 53 Cal.4th 231,* in addition to taking the actions specified in Section 34183 with respect to the June 1 property tax allocations, county auditor-controllers should have made allocations as provided in paragraph (1).

(1) From the allocations made on June 1, 2012, for the Recognized Obligation Payment Schedule covering the period July 1, 2012, through December 31, 2012, deduct from the amount that otherwise would be deposited in the Redevelopment Property Tax Trust Fund on behalf of the successor agency an amount equivalent to the amount that each affected taxing entity was entitled to pursuant to paragraph (4) of subdivision (a) of Section 34183 for the period January 1, 2012, through June 30, 2012. The amount to be retained by taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 for the January 1, 2012, through June 30, 2012, period is determined based on the Recognized Obligation Payment Schedule approved by the Department of Finance pursuant to subdivision (h) of Section 34179 and any amount determined to be owed pursuant to subdivision (b). Any amounts so computed shall not be offset by any shortages in funding for recognized obligations for the period covering July 1, 2012, through December 31, 2012.

(2) (A) If an affected taxing entity has not received the full amount to which it was entitled pursuant to paragraph (4) of subdivision (a) of Section 34183 of the property tax distributed for the period January 1, 2012, through June 30, 2012, and paragraph (1), no later than July 9, 2012, the county auditor-controller shall determine the amount, if any, that is owed by each successor agency to taxing entities and send a demand for payment from the funds of the successor agency for the amount owed to taxing entities if it has distributed the June 1, 2012, allocation to the successor agencies. No later than July 12, 2012, successor agencies shall make payment of the amounts demanded to the county auditor-controller for deposit into the Redevelopment Property Tax Trust Fund and subsequent distribution to taxing entities. No later than July 16, 2012, the county auditor-controller shall make allocations of all money received by that date from successor agencies in amounts owed to taxing entities under this paragraph to taxing entities in accordance with Section 34183. The county auditor-controller shall make allocations of any money received after that date under this paragraph within five business days of receipt. These duties are not discretionary and shall be carried out with due diligence.

(B) If a county auditor-controller fails to determine the amounts owed to taxing entities and present a demand for payment by July 9, 2012, to the successor agencies, the Department of Finance or any affected taxing entity may request a writ of mandate to require the county auditor-controller to immediately perform this duty. Such actions may be filed only in the County of Sacramento and shall have priority over other civil matters. Any county in which the county auditor-controller fails to perform the duties under this paragraph shall be subject to a civil penalty of 10 percent of the amount owed to taxing entities plus 1.5 percent of the amount owed to taxing entities for each month that the duties are not performed. The civil penalties shall be payable to the taxing entities under Section 34183. Additionally, any county in which the county auditor-controller fails to make the required determinations and demands for payment under this paragraph by July 9, 2012, or fails to distribute the full amount of funds received from successor agencies as required by this paragraph shall not receive the distribution of sales and use tax scheduled for July 18, 2012, or any subsequent

payment, up to the amount owed to taxing entities, until the county auditor-controller performs the duties required by this paragraph.

(C) If a successor agency fails to make the payment demanded under subparagraph (A) by July 12, 2012, the Department of Finance or any affected taxing entity may file for a writ of mandate to require the successor agency to immediately make this payment. Such actions may be filed only in the County of Sacramento and shall have priority over other civil matters. Any successor agency that fails to make payment by July 12, 2012, under this paragraph shall be subject to a civil penalty of 10 percent of the amount owed to taxing entities plus one and one-half percent of the amount owed to taxing entities for each month that the payments are not made. Additionally, the city or county or city and county that created the redevelopment agency shall also be subject to a civil penalty of 10 percent of the amount owed to taxing entities plus 1.5 percent of the amount owed to taxing entities for each month the payment is late. The civil penalties shall be payable to the taxing entities under Section 34183. If the Department of Finance finds that the imposition of penalties will jeopardize the payment of enforceable obligations it may request the court to waive some or all of the penalties. A successor agency that does not pay the amount required under this subparagraph by July 12, 2012, shall not pay any obligations other than bond debt service until full payment is made to the county auditor-controller. Additionally, any city, county or city and county that created the redevelopment agency that fails to make the required payment under this paragraph by July 12, 2012, shall not receive the distribution of sales and use tax scheduled for July 18, 2012, or any subsequent payment, up to the amount owed to taxing entities, until the payment required by this paragraph is made.

(D) The Legislature hereby finds and declares that time is of the essence. Funds that should have been received and were expected and spent in anticipation of receipt by community colleges, schools, counties, cities, and special districts have not been received resulting in significant fiscal impact to the state and taxing entities. Continued delay and uncertainly whether funds will be received warrants the availability of extraordinary relief as authorized herein.

(3) If an affected taxing entity has not received the full amount to which it was entitled pursuant to paragraph (4) of subdivision (a) of Section 34183 for the period January 1, 2012, through June 30, 2012, and paragraph (1), the county auditor-controller shall reapply the provisions of paragraph (1) to each subsequent property tax allocation until such time as the affected taxing entity has received the full amount to which it was entitled pursuant to paragraph (4) of subdivision (a) of Section 34183 for the period January 1, 2012, through June 30, 2012.

[*27] SEC. 27. *Section 34185 of the Health and Safety Code* is amended to read:

§ 34185.

Commencing on **[D>**May 16**<D] [A>**JUNE 1**<A]** , 2012, and on each January **[D>**16**<D] [A>**2**<A]** and June 1 thereafter, the county auditor-controller shall transfer, from the Redevelopment Property Tax Trust Fund of each successor agency into the Redevelopment Obligation Retirement Fund of that agency, an amount of property tax revenues equal to that specified in the Recognized Obligation Payment Schedule for that successor agency as payable from the Redevelopment Property Tax Trust Fund subject to the limitations of **[D>**Sections 34173 and**<D] [A>**SUBDIVISION (L) OF SECTION 34177 AND SECTION**<A]** 34183.

[*28] SEC. 28. *Section 34186 of the Health and Safety Code* is amended to read:

§ 34186. **[A>**(A)**<A]** Differences between actual payments and past estimated obligations on recognized obligation payment schedules **[D>**must**<D] [A>**SHALL**<A]** be reported in subsequent recognized obligation payment schedules and shall adjust the amount to be transferred to the Redevelopment Obligation Retirement Fund pursuant to this part. These estimates and accounts shall be subject to audit by county auditor-controllers and the Controller.

[A>(B)**<A]** **[A>**DIFFERENCES BETWEEN ACTUAL PASSTHROUGH OBLIGATIONS AND PROPERTY TAX AMOUNTS AND THE AMOUNTS USED BY THE COUNTY AUDITOR-CONTROLLER IN DETERMINING THE AMOUNTS TO BE ALLOCATED UNDER SECTIONS 34183 AND 34188 FOR A PRIOR SIX-MONTH PERIOD SHALL BE APPLIED AS ADJUSTMENTS TO THE PROPERTY TAX AND PASSTHROUGH AMOUNTS IN SUBSEQUENT PERIODS AS THEY BECOME KNOWN. COUNTY AUDITOR-CONTROLLERS SHALL NOT DELAY PAYMENTS UNDER THIS PART TO SUCCESSOR AGENCIES OR TAXING ENTITIES BASED ON PENDING TRANSACTIONS, DISPUTES, OR FOR ANY OTHER REASON, OTHER THAN A COURT ORDER, AND SHALL USE THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE APPROVED BY THE DEPARTMENT OF FINANCE AND THE MOST CURRENT DATA FOR PASSTHROUGHS AND PROPERTY TAX AVAILABLE PRIOR TO THE STATUTORY DISTRIBUTION DATES TO MAKE THE ALLOCATIONS REQUIRED ON THE DATES REQUIRED.**<A]**

[*29] SEC. 29. *Section 34187 of the Health and Safety Code* is amended to read:

§ 34187. **[A>(A)<A] [A>(1)<A]** Commencing May 1, 2012, whenever a recognized obligation that had been identified in the Recognized Payment Obligation Schedule is paid off or retired, either through early payment or payment at maturity, the county auditor-controller shall distribute to the taxing entities, in accordance with the provisions of the Revenue and Taxation Code, all property tax revenues that were associated with the payment of the recognized obligation.

[A>(2)<A] **[A>NOTWITHSTANDING PARAGRAPH (1), THE DEPARTMENT OF FINANCE MAY AUTHORIZE A SUCCESSOR AGENCY TO RETAIN PROPERTY TAX THAT OTHERWISE WOULD BE DISTRIBUTED TO AFFECTED TAXING ENTITIES PURSUANT TO THIS SUBDIVISION, TO THE EXTENT THE DEPARTMENT DETERMINES THE SUCCESSOR AGENCY REQUIRES THOSE FUNDS FOR THE PAYMENT OF ENFORCEABLE OBLIGATIONS. UPON MAKING A DETERMINATION, THE DEPARTMENT SHALL PROVIDE THE COUNTY AUDITOR-CONTROLLER WITH INFORMATION DETAILING THE AMOUNTS THAT IT HAS AUTHORIZED THE SUCCESSOR AGENCY TO RETAIN. UPON DETERMINING THE SUCCESSOR AGENCY NO LONGER REQUIRES ADDITIONAL FUNDS PURSUANT TO THIS SUBDIVISION, THE DEPARTMENT SHALL NOTIFY THE SUCCESSOR AGENCY AND THE COUNTY AUDITOR-CONTROLLER. THE COUNTY AUDITOR-CONTROLLER SHALL THEN DISTRIBUTE THE FUNDS IN QUESTION TO THE AFFECTED TAXING ENTITIES IN ACCORDANCE WITH THE PROVISIONS OF THE REVENUE AND TAXATION CODE.<A]**

[A>(B)<A] **[A>WHEN ALL OF THE DEBT OF A REDEVELOPMENT AGENCY HAS BEEN RETIRED OR PAID OFF, THE SUCCESSOR AGENCY SHALL DISPOSE OF ALL REMAINING ASSETS AND TERMINATE ITS EXISTENCE WITHIN ONE YEAR OF THE FINAL DEBT PAYMENT. WHEN THE SUCCESSOR AGENCY IS TERMINATED, ALL PASSTHROUGH PAYMENT OBLIGATIONS SHALL CEASE AND NO PROPERTY TAX SHALL BE ALLOCATED TO THE REDEVELOPMENT PROPERTY TAX TRUST FUND FOR THAT AGENCY.<A]**

[*30] SEC. 30. *Section 34188 of the Health and Safety Code* is amended to read:

§ 34188.

For all distributions of property tax revenues and other moneys pursuant to this part, the distribution to each taxing entity shall be in an amount proportionate to its share of property tax revenues in the tax rate area in that fiscal year, as follows:

(a) (1) For distributions from the Redevelopment Property Tax Trust Fund, the share of each taxing entity shall be applied to the amount of property tax available in the Redevelopment Property Tax Trust Fund after deducting the amount of any distributions under paragraphs (2) and (3) of subdivision (a) of Section 34183.

(2) For each taxing entity that receives passthrough payments, that agency shall receive the amount of any passthrough payments identified under paragraph (1) of subdivision (a) of Section 34183, in an amount not to exceed the amount that it would receive pursuant to this section in the absence of the passthrough agreement. However, to the extent that the passthrough payments received by the taxing entity are less than the amount that the taxing entity would receive pursuant to this section in the absence of a passthrough agreement, the taxing entity shall receive an additional payment that is equivalent to the difference between those amounts.

(b) Property tax shares of local agencies shall be determined based on property tax allocation laws in effect on the date of distribution, without the revenue exchange amounts allocated pursuant to *Section 97.68 of the Revenue and Taxation Code*, and without the property taxes allocated pursuant to *Section 97.70 of the Revenue and Taxation Code*.

(c) The total school share, including passthroughs, shall be the share of the property taxes that would have been received by school entities, as defined in subdivision (f) of *Section 95 of the Revenue and Taxation Code*, in the jurisdictional territory of the former redevelopment agency, including, but not limited to, the amounts specified in *Sections 97.68 and 97.70 of the Revenue and Taxation Code*.

[A>(D)<A] **[A>THIS SECTION SHALL NOT BE CONSTRUED TO INCREASE ANY ALLOCATIONS OF EXCESS, ADDITIONAL, OR REMAINING FUNDS THAT WOULD OTHERWISE HAVE BEEN ALLOCATED TO CITIES, COUNTIES, CITIES AND COUNTIES, OR SPECIAL DISTRICTS PURSUANT TO CLAUSE (I) OF SUBPARAGRAPH (B) OF PARAGRAPH (4) OF SUBDIVISION (D) OF SECTION 97.2, CLAUSE (I) OF SUB-**

PARAGRAPH (B) OF PARAGRAPH (4) OF SUBDIVISION (D) OF SECTION 97.3, OR ARTICLE 4 (COMMENCING WITH SECTION 98) OF CHAPTER 6 OF PART 0.5 OF DIVISION 1, OF THE REVENUE AND TAXATION CODE, HAD THIS SECTION NOT BEEN ENACTED.<A]

[*31] SEC. 31. *Section 34189 of the Health and Safety Code* is amended to read:

§ 34189.

(a) Commencing on the effective date of this part, all provisions of the Community Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies, including, but not limited to, Sections 33445, 33640, 33641, 33645, and subdivision (b) of Section 33670, shall be inoperative, except as those sections apply to a redevelopment agency operating pursuant to Part 1.9 (commencing with Section 34192).

[D>(b) The California Law Revision Commission shall draft a Community Redevelopment Law cleanup bill for consideration by the Legislature no later than January 1, 2013. **<D]**

[D>(c)**<D] [A>**(b)**<A]** To the extent that a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) conflicts with this part, the provisions of this part shall control. Further, if a provision of 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) provides an authority that the act adding this part is restricting or eliminating, the restriction and elimination provisions of the act adding this part shall control.

[D>(d)**<D] [A>**(c)**<A]** It is intended that the provisions of this part shall be read in a manner as to avoid duplication of payments.

[*32] SEC. 32. Section 34189.1 is added to the Health and Safety Code, to read:

§ 34189.1.

No party, public or private, may pursue, nor does a court have jurisdiction over, a validation action with respect to any action of a redevelopment agency or a successor agency to a redevelopment agency that took place on or after January 1, 2011, unless the Department of Finance and the Controller, representing interests of the State of California and each of the taxing entities who could be affected financially by the action, has been properly noticed. All actions shall be filed in the County of Sacramento.

[*33] SEC. 33. Section 34189.2 is added to the Health and Safety Code, to read:

§ 34189.2.

A successor agency or any party to an enforceable obligation as defined under this part shall properly notice the state with respect to a validation action involving any enforceable obligation or matter of title to an asset that belonged to a redevelopment agency. For such an action to be properly filed, both the Controller and the Director of Finance shall be noticed and actions shall be filed in the County of Sacramento.

[*34] SEC. 34. Section 34189.3 is added to the Health and Safety Code, to read:

§ 34189.3.

An action contesting any act taken or determinations or decisions made pursuant to this part or Part 1.8 (commencing with Section 34161) may be brought in superior court and shall be filed in the County of Sacramento.

[*35] SEC. 35. Chapter 9 (commencing with Section 34191.1) is added to Part 1.85 of Division 24 of the Health and Safety Code, to read:

Chapter 9 Postcompliance Provisions

§ 34191.1.

The provisions of this chapter shall apply to a successor agency upon that agency's receipt of a finding of completion by the Department of Finance pursuant to Section 34179.7.

§ 34191.3.

Notwithstanding Section 34191.1, the requirements specified in subdivision (e) of Section 34177 and subdivision (a) of Section 34181 shall be suspended, except as those provisions apply to the transfers for governmental use, until the

Department of Finance has approved a long-range property management plan pursuant to subdivision (b) of Section 34191.5, at which point the plan shall govern, and supersede all other provisions relating to, the disposition and use of the real property assets of the former redevelopment agency. If the department has not approved a plan by January 1, 2015, subdivision (e) of Section 34177 and subdivision (a) of Section 34181 shall be operative with respect to that successor agency.

§ 34191.4.

The following provisions shall apply to any successor agency that has been issued a finding of completion by the Department of Finance:

(a) All real property and interests in real property identified in subparagraph (C) of paragraph (5) of subdivision (c) of Section 34179.5 shall be transferred to the Community Redevelopment Property Trust Fund of the successor agency upon approval by the Department of Finance of the long-range property management plan submitted by the successor agency pursuant to subdivision (b) of Section 34191.7 unless that property is subject to the requirements of any existing enforceable obligation.

(b) (1) Notwithstanding subdivision (d) of Section 34171, upon application by the successor agency and approval by the oversight board, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created by the redevelopment agency shall be deemed to be enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes.

(2) If the oversight board finds that the loan is an enforceable obligation, the accumulated interest on the remaining principal amount of the loan shall be recalculated from origination at the interest rate earned by funds deposited into the Local Agency Investment Fund. The loan shall be repaid to the city, county, or city and county in accordance with a defined schedule over a reasonable term of years at an interest rate not to exceed the interest rate earned by funds deposited into the Local Agency Investment Fund. The annual loan repayments provided for in the recognized obligations payment schedules shall be subject to all of the following limitations:

(A) Loan repayments shall not be made prior to the 2013-14 fiscal year. Beginning in the 2013-14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made pursuant to this subdivision and paragraph (7) of subdivision (e) of Section 34176 combined shall be equal to one-half of the increase between the amount distributed to the taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012-13 base year. Loan or deferral repayments made pursuant to this subdivision shall be second in priority to amounts to be repaid pursuant to paragraph (7) of subdivision (e) of Section 34176.

(B) Repayments received by the city, county or city and county that formed the redevelopment agency shall first be used to retire any outstanding amounts borrowed and owed to the Low and Moderate Income Housing Fund of the former redevelopment agency for purposes of the Supplemental Educational Revenue Augmentation Fund and shall be distributed to the Low and Moderate Income Housing Asset Fund established by subdivision (d) of Section 34176.

(C) Twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to the Low and Moderate Income Housing Asset Fund, after all outstanding loans from the Low and Moderate Income Housing Fund for purposes of the Supplemental Educational Revenue Augmentation Fund have been paid.

(c) (1) Bond proceeds derived from bonds issued on or before December 31, 2010, shall be used for the purposes for which the bonds were sold.

(2) (A) Notwithstanding Section 34177.3 or any other conflicting provision of law, bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations shall thereafter be expended in a manner consistent with the original bond covenants. Enforceable obligations may be satisfied by the creation of reserves for projects that are the subject of the enforceable obligation and that are consistent with the contractual obligations for those projects, or by expending funds to complete the projects. An expenditure made pursuant to this paragraph shall constitute the creation of excess bond proceeds obligations to be paid from the excess proceeds. Excess bond proceeds obligations shall be listed separately on the Recognized Obligation Payment Schedule submitted by the successor agency.

(B) If remaining bond proceeds cannot be spent in a manner consistent with the bond covenants pursuant to subparagraph (A), the proceeds shall be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

§ 34191.5.

(a) There is hereby established a Community Redevelopment Property Trust Fund, administered by the successor agency, to serve as the repository of the former redevelopment agency's real properties identified in subparagraph (C) of paragraph (5) of subdivision (c) of Section 34179.5.

(b) The successor agency shall prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency. The report shall be submitted to the oversight board and the Department of Finance for approval no later than six months following the issuance to the successor agency of the finding of completion.

(c) The long-range property management plan shall do all of the following:

(1) Include an inventory of all properties in the trust. The inventory shall consist of all of the following information:

(A) The date of the acquisition of the property and the value of the property at that time, and an estimate of the current value of the property.

(B) The purpose for which the property was acquired.

(C) Parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.

(D) An estimate of the current value of the parcel including, if available, any appraisal information.

(E) An estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.

(F) The history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.

(G) A description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.

(H) A brief history of previous development proposals and activity, including the rental or lease of property.

(2) Address the use or disposition of all of the properties in the trust. Permissible uses include the retention of the property for governmental use pursuant to subdivision (a) of Section 34181, the retention of the property for future development, the sale of the property, or the use of the property to fulfill an enforceable obligation. The plan shall separately identify and list properties in the trust dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation. With respect to the use or disposition of all other properties, all of the following shall apply:

(A) If the plan directs the use or liquidation of the property for a project identified in an approved redevelopment plan, the property shall transfer to the city, county, or city and county.

(B) If the plan directs the liquidation of the property or the use of revenues generated from the property, such as lease or parking revenues, for any purpose other than to fulfill an enforceable obligation or other than that specified in subparagraph (A), the proceeds from the sale shall be distributed as property tax to the taxing entities.

(C) Property shall not be transferred to a successor agency, city, county, or city and county, unless the long-range property management plan has been approved by the oversight board and the Department of Finance.

[*36] SEC. 36.

The Legislature finds and declares as follows:

(a) Certain provisions of Assembly Bill 26 of the 2011-12 First Extraordinary Session of 2011 (Ch. 5, 2011-12 First Ex. Sess.) are internally inconsistent, or uncertain in their meaning, with regard to the calculation of the amount to be paid by a county auditor-controller from the Redevelopment Property Tax Trust Fund to meet passthrough payment obligations to local agencies and school entities.

(b) Consistent with the statement in *Section 34183 of the Health and Safety Code*, as added by the measure identified in subdivision (a), that the provisions of that section are to apply "[n]otwithstanding any other law," it was the in-

tent of the Legislature in enacting that measure that the amount of the passthrough payments that are addressed by that section be determined in the manner specified by paragraph (1) of subdivision (a) of *Section 34183 of the Health and Safety Code*, and that the amount so calculated not be reduced or adjusted pursuant to the operation of any other provision of that measure.

[*37] SEC. 37.

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.

[*38] SEC. 38.

There is hereby appropriated up to twenty-two million dollars ($22,000,000) from the General Fund, for allocation to departments by the Director of Finance in furtherance of the objectives of this act. Up to two million dollars ($2,000,000) of this amount may be allocated to the Director of the Trial Court Trust Fund for allocation by the Administrative Office of the Courts to the Superior Court of California, County of Sacramento for work associated with Part 1.85 (commencing with *Section 34170) of Division 24 of the Health and Safety Code.* An allocation of funds approved by the Director of Finance under this item shall become effective no sooner than 30 days after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the fiscal committees in each house of the Legislature, or no sooner than any lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

[*39] SEC. 39.

No reimbursement is required by this act pursuant to *Section 6 of Article XIII B of the California Constitution* because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of *Section 17556 of the Government Code.*

[*40] SEC. 40.

This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of *Section 12 of Article IV of the California Constitution*, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

STATE OF CALIFORNIA
EDMUND G. BROWN JR., Governor

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July 8, 2013

Mr. Omar Dadabhoy
Deputy Executive Director
Stanton Housing Authority
7800 Katella Avenue
Stanton, CA 90680

Ms. Elizabeth W. Hull
Best Best & Krieger LLP
18101 Von Karman Avenue, Suite 1000
Irvine, CA 92612

Re: Notice of Incomplete Filing and Request for Additional Information
Test Claim Filing
Housing Successor Agency
Health and Safety Code Sections 34176;
Statutes 2011-12, First Extraordinary Session, Chapter 5 9ABX1 260;
Statutes 2012, Chapter 26, (AB 1484)

Dear Mr. Dadabhoy and Ms. Hull:

On June 28, 2013, the Commission on State Mandates (Commission) received a test claim filing, entitled *Housing Successor Agency*, filed by the Stanton Housing Authority.

Commission staff has reviewed this filing and determined that it is incomplete. To be an eligible claimant before the Commission, a local agency must be subject to the tax and spend limitations of article XIII A and B of the California Constitution. Dependant special districts and city departments are generally not eligible claimants because they have no taxing authority. Additionally, redevelopment agencies and joint powers authorities are not eligible claimants, for the same reason. However, a city that has incurred state-mandated costs on behalf of a city department or dependant special district is an eligible claimant.

If the Stanton Housing Authority is part of the city, and the city has incurred costs, the city may file the claim. It is unclear whether that is what was intended with this filing. Generally, city mandate claims are filed by the city manager, chief accounting officer, or chief financial officer of the city, as these are the offices generally charged with responsibility for the city's fiscal functions and delegated the authority to act on behalf of the city council. On occasion, cities have seen fit to authorize, via city ordinance or resolution, other departments or officers of the city to perform the state mandates function on behalf of the city.

Therefore, to complete the filing, please clarify in the filing whether it is the City of Stanton filing the claim and whether the City has incurred any state-mandated costs. If so, please list the City as the claimant and designate who will be representing the City for state mandates purposes.

If not, please specify why you think the Stanton Housing Authority is an eligible claimant including evidence that the Authority is in fact subject to the tax and spend limitations of article XIII A and B of the California Constitution. Please file this information with the Commission by **August 7, 2013**.

The complete filing may be submitted electronically via the Commission's e-filing system pursuant to section 1181.2 of the Commission's regulations. Please see the Commission's website at http://www.csm.ca.gov/dropbox.shtml.

If the test claim filing is not completed within 30 days of the date of this letter, the executive director may disallow the original test claim filing date. (Cal. Code Regs., tit. 2, § 1183(g)).

Please call Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,

Heather Halsey
Executive Director

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Exhibit C

July 22, 2013

VIA E-MAIL

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Response to Notice of Incomplete Filing regarding Test Claim Filing
Housing Successor Agency (Health & Safety Code Section 34176)

Dear Ms. Halsey:

This letter is in response to your July 8, 2013 letter to the Stanton Housing Authority ("Authority") notifying the Authority that Commission on State Mandates ("Commission") staff has determined that the Authority's *Housing Successor Agency* test claim ("Test Claim") filing is incomplete. As further discussed below, Commission staff does not have the authority to determine that the Test Claim filing is incomplete. As such, the Authority requests that Commission staff comply with the Commission's regulations, as well as applicable constitutional and statutory provisions, and complete its ministerial duty to accept the Test Claim filing as complete.

The Stanton Housing Authority is an independent public entity created by statute. (*See* Health & Saf. Code §§ 34203, 34240 [a housing authority is a public body, corporate and politic].) Pursuant to California Constitution, Article XIIIB, Section 8(d), "local government" for purposes of Article XIIIB of the California Constitution means "any city, county, city and county, school district, special district, authority, or other political subdivision of or within the state." (Emphasis added.) Government Code Section 17518 reiterates this definition by providing that a "local agency means any city, county, special district, authority, or other political subdivision of the state." (Emphasis added.) Under the definitions set forth in the California Constitution and Government Code Section 17518, the Authority is an eligible claimant.

Additionally, your July 8, 2013 letter clearly states that Commission staff, and not the Commission, has decided that the Authority is not an eligible claimant and, based on this determination, rejected the filing of the Test Claim. Commission staff has a ministerial duty to comply with the test claim filing requirements set forth in applicable statutes and the

Commission's regulations. Section 1183(g) of the Commission's regulations sets forth the sole reason by which the Executive Director may reject the Test Claim filing. It provides in pertinent part:

> Within ten (10) days of receipt of a test claim, or amendment thereto, commission staff shall notify the claimant if the test claim is complete or incomplete and send a copy of these regulations unless a correct copy was previously provided. Test claims will be considered incomplete if any of the elements required in subsections (d), (e), or (f) of this section are illegible or are not included. [Emphasis added.]

All of the information required in subsections (d), (e) and (f) of Section 1183 was included in the Test Claim, and Commission staff indicates its concurrence that (d), (e) and (f) of Section 1183 were satisfied based on the fact that your July 8, 2013 letter did not provide otherwise. By arbitrarily rejecting the filing of the Test Claim for reasons other than as allowed by Section 1183, Commission staff has exceeded its constitutional, statutory and regulatory authority. For Commission staff to make this determination without any authorization to do so creates an underground regulation in violation of the Administrative Procedure Act.

Furthermore, the Commission has previously approved state reimbursement for housing authorities subject to state mandated programs. As the Commission has previously approved state reimbursement for housing authorities, the determination as to whether the Test Claim should or should not be deemed a state mandate rests solely with the Commission, not Commission staff.

Based on the foregoing, the determination as to whether Health and Safety Code Section 34176 creates a state reimbursable mandate for housing authorities is within the sole discretion of the Commission, not Commission staff. Please let us know as soon as you have assigned a test claim number to the Test Claim, as multiple housing authorities and public entities throughout California have already expressed an interest in closely monitoring this Test Claim and submitting information to the Commission in support of this Test Claim.

Sincerely,

Elizabeth Wagner Hull

Elizabeth Wagner Hull
of BEST BEST & KRIEGER LLP

cc: Omar Dadabhoy, Deputy Executive Director, Stanton Housing Authority

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STATE OF CALIFORNIA
EDMUND G. BROWN JR., Governor

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July 31, 2013

Mr. Omar Dadabhoy
Deputy Executive Director
Stanton Housing Authority
7800 Katella Avenue
Stanton, CA 90680

Ms. Elizabeth W. Hull
Best Best & Krieger LLP
18101 Von Karman Avenue, Suite 1000
Irvine, CA 92612

Re: Notice of Complete Test Claim Filing, Schedule for Comments, and Request for Additional Information
Housing Successor Agency, 12-TC-03
Health and Safety Code Sections 34176;
Statutes 2011-12, First Extraordinary Session, Chapter 5 9ABX1 260;
Statutes 2012, Chapter 26, (AB 1484)
Stanton Housing Authority, Claimant

Dear Mr. Dadabhoy and Ms. Hull:

On June 28, 2013, the Stanton Housing Authority (Housing Authority) filed a test claim on the above-named matter with the Commission on State Mandates (Commission). On July 8, 2013, Commission staff deemed this matter incomplete and requested additional information regarding claimant eligibility. On July 22, 2013, the claimant representative responded. Upon further review, Commission staff finds the test claim to be complete, notwithstanding the fact that, at this point, it is unclear whether the Commission has jurisdiction over this claim since the claimant's eligibility to claim for state-mandated costs has not been established. In order to be eligible to claim reimbursement for state mandated costs, a claimant must be both: 1) a local agency; and 2) subject to the tax and spend limitations of articles XIII A and B of the California Constitution.

Thus, the Commission is now requesting state agencies and interested parties to comment on the test claim as specified below.

Comments are Requested on the Following Issues:

Standing:

The City of Stanton Resolution 2012-03 as well as the minutes of public meetings held between January 2012 and July 2013 indicate substantial interrelation of personnel and operations, from which it could be inferred that the Housing Authority is a department of the City of Stanton (City). Conversely, the claimant's response to Commission staff's initial denial of completeness states that the Housing Authority "is an independent public entity created by statute."[1] Further complicating matters, Section 34240 of the Health and Safety Code has been interpreted in some contexts to mean that a Housing Authority is created by state law, and is a state agency operating

[1] Stanton Housing Authority Response to Notice of Incomplete Filing [citing Health and Safety Code sections 34203; 34240 ("In each county and city *there is a public body* corporate and politic known as the housing authority of the county of city.")].

under state law and for state objectives.[2] Thus, it is unclear whether the Housing Authority is dependent or independent from the City and whether it is a state or local agency for mandates purposes.

In addition, Commission staff has identified provisions within the redevelopment dissolution statutes which suggest that successor agencies may be subject to the revenue and spending limits of articles XIII A and XIII B of the California Constitution, and therefore may be eligible claimants before the Commission, even though the redevelopment agencies that preceded them were exempt from articles XIII A and XIII B and thus ineligible to claim reimbursement.[3]

However, Commission staff has also observed that City of Stanton Resolution 2012-03 does not make clear whether the City itself, or the Housing Authority, or both, have elected to be the successor agency for the Stanton Redevelopment Agency; nor which entity, if indeed the entities are separate, will perform the enforceable obligations of the dissolved redevelopment agency and incur the alleged costs. As a result, the following questions arise:

- Is the Housing Authority a state or a local agency?
- Is the Housing Authority a department of the City or an independent special district or joint powers authority? Does the Resolution assign both the assets and liabilities of the former Stanton Redevelopment Agency to a single entity, or are the City and the Housing Authority one and the same?
- Is the Housing Authority subject to the tax and spend limitations of articles XIII A and B of the California Constitution?

Mandate Issue:

- Do the test claim statutes impose a new program or higher level of service within an existing program upon local entities within the meaning of section 6, article XIII B of the California Constitution and costs mandated by the state pursuant to section 17514 of the Government Code?
- Does Government Code section 17556 preclude the Commission from finding that any of the test claim provisions impose costs mandated by the state?
- Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, please specify where the appropriation may be found.

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[2] *Housing Authority of City of Los Angeles v. City of Los Angeles* (1952) 38 Cal.2d 853, at pp. 861-862 ["housing authority was thereby created as a state agency...and is not an agent of the city in which it functions"]. See also *Housing Authority of City of Needles v. City Council of City of Needles* (Cal. Ct. App 1962) 208 Cal.App.2d 599, at p. 605 ["There is no doubt that the city council, while functioning pursuant to the Housing Authorities Law, is an agency of the State functioning under the law to fulfill State purposes."].

[3] See Health and Safety Code section 34182 (Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26); Stats. 2012, ch. 26 (AB 1484)). See also *Redevelopment Agency of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266.

- Health and Safety Code section 34173(e) states: "The liability of any successor agency, acting pursuant to the powers granted under the act adding this part, shall be limited to the extent of the total sum of property tax revenues it receives pursuant to this part and the value of assets transferred to it as a successor agency for a dissolved redevelopment agency." Does this provision mean that all obligations of a dissolved agency assumed by a successor agency are mandated only to the extent of funding, and that therefore no increased costs may be found?

Request for State Agency Review of Test Claim and Comments from the Claimant and State Agencies on the Questions Posed Above

State agencies receiving this letter are requested to analyze the merits of the test claim. State agencies and the claimant are requested to file written comments on or before **August 30, 2013**, including responses to the questions posed above. Please provide citations to applicable statutory and case law to support your conclusions regarding the above questions. State agencies that choose not to respond to this request are asked to submit a written statement of non-response to the Commission. Requests for extensions of time may be filed in accordance with sections 1183.01(c) and 1181.1(h) of the Commission's regulations (Tit. 2 CCR,).

Rebuttal and Additional Briefing Requested

The claimant and interested parties may file rebuttals to state agencies' comments under section 1183.03 of the Commission's regulations. State Agencies may also rebut any claimant comments submitted by **August 30, 2013** on the above questions. All rebuttal comments are due 30 days from the service date of written comments, but no later than **September 30, 2013**.

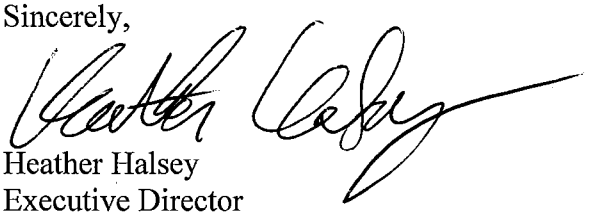
Process for Filing Comments

The Commission has promulgated a mailing list of parties, interested parties, and interested persons for this test claim and will provide the list to those included on the list, and to any person who requests a copy.

You are advised that comments filed by hard copy with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents on the Commission's website. For instructions on electronic filing, please see the Commission's website at http://www.csm.ca.gov/dropbox_procedures.shtml. The comments will be posted on the Commission's website and the mailing list will be notified by electronic mail of the posting and the comment period. This procedure will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.2.

Please call Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,



Heather Halsey
Executive Director

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On July 31, 2013, I served the:

> ***Notice of Complete Test Claim Filing, Schedule for Comments, and Request for Additional Information***
> *Housing Successor Agency*, 12-TC-03
> Health and Safety Code Sections 34176;
> Statutes 2011-12, First Extraordinary Session, Chapter 5 9ABX1 260;
> Statutes 2012, Chapter 26, (AB 1484)
> Stanton Housing Authority, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 31, 2013 at Sacramento, California.

Heidi J. Palchik
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

Commission on State Mandates

Original List Date: 7/31/2013
Last Updated: 7/31/2013
List Print Date: 07/31/2013
Claim Number: 12-TC-03
Issue: Housing Successor Agency

Mailing List

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Commission on State Mandates

Original List Date: 7/31/2013
Last Updated: 7/31/2013
List Print Date: 07/31/2013
Claim Number: 12-TC-03
Issue: Housing Successor Agency

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Ms. Hortencia Mato City of Newport Beach 100 Civic Center Drive Newport Beach, CA 92660	Tel: Email Fax:	(949) 644-3000 hmato@newportbeachca.gov

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Exhibit E

JOHN CHIANG

California State Controller

Division of Accounting and Reporting

August 30, 2013

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Notice of Complete Test Claim Filing, Schedule for Comments, and Request for Additional Information
Housing Successor Agency, 12-TC-03
Health and Safety Code Sections 34176: et al.
Stanton Housing Authority, Claimant

Dear Ms. Halsey:

The State Controller's Office has no comments on the test claim for Housing Successor Agency, 12-TC-03.

Should you have any questions regarding the above, please contact Eduardo Antonio at (916) 327-0755 or e-mail eantonio@sco.ca.gov.

Sincerely,

JAY LAL, Manager
Local Reimbursements Section

JL/ea

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On August 30, 2013, I served the:

State Controller's Office Comments
Housing Successor Agency, 12-TC-03
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Stanton Housing Authority, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 30, 2013 at Sacramento, California.

Lorenzo Duran
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Original List Date: 7/31/2013
Last Updated: 8/30/2013
List Print Date: 08/30/2013
Claim Number: 12-TC-03
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Commission on State Mandates

Original List Date: 7/31/2013
Last Updated: 8/30/2013
List Print Date: 08/30/2013
Claim Number: 12-TC-03
Issue: Housing Successor Agency

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. However, this requirement may also be satisfied by electronically filing your documents. Please see http://www.csm.ca.gov/dropbox.shtml on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.)

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Received
August 30, 2013
Commission on
State Mandates

August 30, 2013

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Comments on New Test Claim (Housing Successor Agency, 12-TC-03)

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the test claim filed by the Stanton Housing Authority. The claimant alleges that recent amendments to the Health and Safety Code, promulgated by the redevelopment agency dissolution, impose a reimbursable mandate.

As pointed out by the Commission in its July 31, 2013 letter, "the claimant's eligibility to claim reimbursement for state-mandated costs has not been established." Also, as noted by the Commission "it is unclear whether the Housing Authority is dependent or independent from the City and whether it is a state or local agency for mandates purposes." It should be the claimant's initial burden to identify clearly who or what the claimant is and to establish the claimant's eligibility for reimbursement.

The documents accompanying the test claim make it difficult to discern the nature of the claimant. For example, Resolution No. 2012-13 states the Stanton Housing Authority is a joint powers authority. The Resolution also uses language making it unclear to whom the City of Stanton is assigning responsibility for housing functions formerly performed by the redevelopment agency. The "and/or" language of Section 3 of the Resolution suggests the City of Stanton and the Stanton Housing Authority are one and the same. Regardless of the claimant's nature, the alleged mandated costs are not reimbursable for multiple reasons, some depending on the identity of the claimant.

If the Stanton Housing Authority is part of the City of Stanton, the claimant is not eligible for reimbursement of any possible costs mandated by the state because the City elected to retain

the responsibility for housing functions previously performed by the redevelopment agency. (Health and Safety Code, § 34176, subd. (a)(1)). This exercise of discretion by the City negates a reimbursable state mandate.

If the Stanton Housing Authority is a joint powers authority, that too negates a reimbursable state mandate because joint powers authorities are not eligible for mandate reimbursement. They are not subject to taxing and spending limitations under articles XIIIA and XIIIB. (*Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266).

If the claimant is some other form of local government generally eligible for mandate reimbursement, the costs of any alleged requirements are imposed on them by another local government, not the state. Health and Safety Code section 34176, subdivision (b), authorizes the city, county, or city and county to transfer the responsibility for performing housing functions to the entities listed, including the local housing authority. Such a shift between local governments of any responsibilities and costs is not subject to mandate reimbursement. (*City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802).

In addition to the claimant's fundamentally not being eligible for mandate reimbursement, some of the alleged activities are optional (meet and confer process participation, for example) or are payment of costs alone rather than new programs or higher levels of service in an existing program. All of these reasons further support denial of this claim.

It is also necessary to note that the housing successor to the housing functions of the former redevelopment agency (Housing Successor) formed under Health and Safety Code section 34176, and the successor agency to the former redevelopment agency (Successor Agency) formed under Health and Safety Code section 34173, are separate and distinct legal entities with different functions. Thus, although the City of Stanton may act as the Housing Successor *and* the Successor Agency, any requirement imposed on the Successor Agency is not necessarily imposed on the Housing Successor, and cannot be claimed for purposes of reimbursement by the Housing Successor.

Additionally, although Health and Safety Code section 34173(e), applies only to Successor Agencies and not Housing Successors, under Health and Safety Code section 34176 a Housing Successor retains the former redevelopment agency's "rights, powers, duties, obligations, and housing assets." Thus, the claimant has at its disposal any revenue generated by the housing assets transferred to the claimant, the right and power to choose to dispose of those assets, and the right and power to use any revenue generated from the sale of any assets to carry on the functions of the Housing Successor.

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents that are e-filed with the Commission need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Michael Byrne, Principal Program Budget Analyst, at (916) 445-3274.

Sincerely,

for **TOM DYER**
Assistant Program Budget Manager

Enclosure

Enclosure A

DECLARATION OF MICHAEL BYRNE

DEPARTMENT OF FINANCE

CLAIM NO. 12-TC-02

I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

8/30/2012

at Sacramento, California.

Michael Byrne

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 3, 2013, I served the:

Department of Finance Office Comments
Housing Successor Agency, 12-TC-03
Health and Safety Code Sections 34176;
Statutes 2011-12, First Extraordinary Session, Chapter 5 9ABX1 260;
Statutes 2012, Chapter 26, (AB 1484)
Stanton Housing Authority, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 3, 2013 at Sacramento, California.

Lorenzo Duran
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Original List Date: 7/31/2013
Last Updated: 9/3/2013
List Print Date: 09/03/2013
Claim Number: 12-TC-03
Issue: Housing Successor Agency

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STATE OF CALIFORNIA
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Exhibit G

January 31, 2014

Mr. Omar Dadabhoy
Deputy Executive Director
Stanton Housing Authority
7800 Katella Avenue
Stanton, CA 90680

Ms. Elizabeth W. Hull
Best Best & Krieger LLP
18101 Von Karman Avenue, Suite 1000
Irvine, CA 92612

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Draft Staff Analysis and Proposed Statement of Decision, Schedule for Comments, and Notice of Hearing**
Housing Successor Agency, 12-TC-03
Health and Safety Code Sections 34176;
Statutes 2011-12, First Extraordinary Session, Chapter 5 9ABX1 260;
Statutes 2012, Chapter 26, (AB 1484)
Stanton Housing Authority, Claimant

Dear Mr. Dadabhoy and Ms. Hull:

The draft staff analysis and proposed statement of decision for the above-named matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the draft staff analysis by **February 21, 2014.** You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see http://www.csm.ca.gov/dropbox.shtml on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.)

If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, March 28, 2014**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The final staff analysis will be issued on or about March 14, 2014. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Matt Jones at (916) 323-3562 if you have any questions.

Sincerely,

Heather Halsey
Executive Director

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Hearing Date: March 28, 2014
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ITEM __

TEST CLAIM
DRAFT STAFF ANALYSIS

AND

PROPOSED STATEMENT OF DECISION

Health and Safety Code Section 34176

Statutes 2011, First Extraordinary Session, Chapter 5 (ABX1 26);
Statutes 2012, Chapter 26 (AB 1484)

Housing Successor Agency

12-TC-03

Stanton Housing Authority, Claimant

Attached is the draft proposed statement of decision for this matter. This draft proposed statement of decision also functions as the draft staff analysis, as required by section 1183.07 of the Commission's regulations.

EXECUTIVE SUMMARY

Overview

This test claim alleges reimbursable state-mandated activities arising from the dissolution of the former Stanton Redevelopment Agency and the transfer of that agency's assets and obligations to the Stanton Housing Authority (Authority), pursuant to Health and Safety Code section 34176. The Commission finds that the Stanton Housing Authority enjoys an exemption from the taxing and spending restrictions of articles XIII A and B of the California Constitution and is therefore ineligible to claim mandate reimbursement.[1]

Procedural History

On June 28, 2013, the Authority filed this test claim. On July 8, 2013, Commission staff issued notice that the test claim filing was not complete, on grounds that the Authority had failed to establish that it was a local agency eligible to claim reimbursement before the Commission. On July 22, 2013, the Authority filed a rebuttal to Commission staff's notice, asserting that Commission staff did not have sufficient discretion and authority to determine its filing incomplete, and asserting that it is an independent local agency established by statute, citing to Health and Safety Code sections 34203 and 34240. On July 31, 2013, Commission staff issued a

[1] In its filings on the test claim, the Stanton Housing Authority failed to establish that it is an eligible claimant before the Commission. However, because it was not possible to determine conclusively whether the Authority is an eligible claimant without a full analysis of the issue of whether it is subject to the taxing and spending limitations of articles XIII A and B, the Commission takes jurisdiction to decide that issue.

notice of complete test claim filing and schedule for comments, including a request for additional information regarding the Authority's status as an eligible claimant. On August 30, 2013, the State Controller's Office (Controller) notified the Commission that it had no comments on the test claim. Also on August 30, 2013, the Department of Finance (Finance) submitted comments on the test claim, and responded to Commission staff's request for additional information.

Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. "Test claim" means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission cannot apply article XIII B as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.[2]

Claims

This analysis does not reach the merits of whether Health and Safety Code section 34176 imposes a reimbursable state-mandated program. The claimant is not eligible to claim mandate reimbursement pursuant to article XIII B, section 6 because it is not subject to the taxing and spending restrictions of articles XIII A and XIII B of the California Constitution.

Analysis

Article XIII B, section 6 requires reimbursement to local governments for increased costs mandated by the state. "Costs mandated by the state" is defined to mean "any increased costs which a local agency or school district is required to incur…as a result of any statute…or any executive order implementing any statute…which mandates a new program or higher level of service of an existing program."[3] "Local agency," in turn, is defined to include "any city, county, special district, authority, or other political subdivision of the state."[4] However, not every "local agency," as defined, is eligible to claim reimbursement pursuant to article XIII B, section 6. In addition to fitting the description above of a local agency, an entity must also be subject to the tax and spend limitations of articles XIII A and XIII B. As explained in the following analysis, a local agency that does not collect or expend the proceeds of taxes, as defined in the Constitution and interpreted by the courts, is not eligible to claim reimbursement under article XIII B, section 6. Therefore, because housing authorities have no authority to impose taxes and do not expend the proceeds of taxes, such agencies are not eligible to receive

[2] *City of San Jose v. State of California (1996)* 45 Cal.App.4th 1802.

[3] Government Code section 17514 (Stats. 1984, ch. 1459).

[4] Government Code secton 17518 (Stats. 1984, ch. 1459).

reimbursement under article XIII B, section 6. Therefore, because the Stanton Housing Authority is not subject to the taxing and spending limitations of articles XIII A and XIII B, it is not an eligible claimant within the meaning of article XIII B, section 6.

A. Article XIII B, Section 6 Requires Reimbursement Only When the Local Government is Subject to the Tax and Spend Provisions of Articles XIII A and XIII B of the California Constitution.

In 1978, the voters adopted Proposition 13, which drastically reduced property tax revenue previously enjoyed by local governments by setting the maximum amount of ad valorem property tax on real property at 1% of the full cash value of the property.[5] Article XIII B was adopted by the voters less than 18 months after the addition of article XIII A to the state Constitution, and was billed as "the next logical step to Proposition 13."[6] While article XIII A is aimed at controlling ad valorem property taxes and the imposition of new special taxes, "the thrust of article XIII B is toward placing certain limitations on the growth of appropriations at both the state and local government level; in particular, Article XIII B places limits on the authorization to expend the 'proceeds of taxes.'"[7]

Article XIII B established "an appropriations limit," or spending limit for each "local government" beginning in fiscal year 1980-1981.[8] No "appropriations subject to limitation" may be made in excess of the appropriations limit, and revenues received in excess of authorized appropriations must be returned to the taxpayers within the following two fiscal years.[9] Article XIII B does not limit the ability to expend government funds collected from *all sources*; the appropriations limit is based on "appropriations subject to limitation," which means, pursuant to article XIII B, section 8, "any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity."[10] Appropriations subject to limitation do not include "local agency loan funds or indebtedness funds,"[11] "investment (or authorizations to invest) funds…of an entity of local government in accounts at banks…or in liquid securities,"[12] "[a]ppropriations for debt service," "[a]ppropriations required to comply with mandates of the courts or the federal government," and "[a]ppropriations of any special district which existed on January 1, 1978 and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 [and one half] cents per $100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the

[5] California Constitution, article XIII A, section 1 (effective June 7, 1978).

[6] *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 446 (*County of Placer*).

[7] *Ibid*.

[8] California Constitution, article XIII B, section 8(h) (effective Nov. 7, 1979).

[9] California Constitution, article XIII B, section 2 (effective Nov. 7, 1979).

[10] California Constitution, article XIII B, section 8 (effective Nov. 7, 1979; amended by Proposition 111, June 5, 1990).

[11] California Constitution, article XIII B, section 8(i) (effective Nov. 7, 1979; amended by Proposition 111, June 5, 1990).

[12] *Ibid*.

proceeds of taxes."[13] "Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments."[14] Section 6 was therefore "intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task."[15]

Not every local agency is subject to the restrictions of article XIII B, and therefore not every local agency is entitled to reimbursement under section 6. Redevelopment agencies, in particular, have been identified by the courts as being exempt from the restrictions of article XIII B. In *Bell Community Redevelopment Agency v. Woolsey*, the Second District Court of Appeal concluded that bonds issued by a redevelopment agency and repaid with tax increment revenues are not appropriations subject to limitation.[16] The court reasoned that to construe tax increment payments as appropriations subject to limitation "would be directly contrary to the mandate of section 7," which provides that "Nothing in this Article shall be construed to impair the ability of the state or of any local government to meet its obligations with respect to existing or future bonded indebtedness."[17] In addition, the court found that other provisions of article XIII B weighed against treating tax increment revenues as appropriations subject to limitation:

> Upon a reading of the complete text of article XIIIB we find further support for this holding. Article XIIIB governs "appropriations subject to limitation;" a redevelopment agency has no appropriation limit. Section 2 provides that revenues in excess of the appropriations limit be returned to the taxpayers; article XVI, section 16 and case law require that tax increments be returned to the taxing entity upon elimination of the debt. Section 4 calls for a vote of the "electors" of an entity to change an appropriations limit; dependence on such periodic approval for repayment would effectively negate the viability of a bond issuance. Section 9(a) expressly excludes debt service from "appropriations subject to limitations;" tax increments are exactly that.[18]

The court therefore concluded that redevelopment agencies could not reasonably be subject to article XIII B, and therefore upheld Health and Safety Code section 33678, and ordered that the writ issue to compel Woolsey to publish the notice.

Accordingly, in *Redevelopment Agency of San Marcos v. Commission on State Mandates*,[19] the court held that redevelopment agencies were not eligible to claim reimbursement, because Health

[13] California Constitution, article XIII B, section 9 (effective Nov. 7, 1979; amended by Proposition 111, June 5, 1990).

[14] *County of Fresno*, *supra*, (1991) 53 Cal.3d 482, at p. 487.

[15] *Ibid*.

[16] (Cal. Ct. App. 2d Dist. 1985) 169 Cal.App.3d 24.

[17] Id., at p. 31 [quoting article XIII B, section 7].

[18] Id., at p. 32 [citing *Huntington Park Redevelopment Agency v. Martin* (1985) 38 Cal.3d 100, at p. 108].

[19] (Cal. Ct. App. 4th Dist. 1997) 55 Cal.App.4th 976

and Safety Code section 33678 exempted tax increment financing, their primary source of revenue, from the limitations of article XIII B.

> Because of the nature of the financing they receive, tax increment financing, redevelopment agencies are not subject to this type of appropriations limitations or spending caps; they do not expend any "proceeds of taxes." Nor do they raise, through tax increment financing, "general revenues for the local entity." The purpose for which state subvention of funds was created, to protect local agencies from having the state transfer its cost of government from itself to the local level, is therefore not brought into play when redevelopment agencies are required to allocate their tax increment financing in a particular manner...
>
> For all these reasons, we conclude the same policies which support exempting tax increment revenues from article XIII B appropriations limit also support denying reimbursement under section 6 … [The] costs of depositing tax increment revenues in the Housing Fund are attributable not directly to tax revenues, but to the benefit received by the Agency from the tax increment financing scheme, which is one step removed from other local agencies' collection of tax revenues.[20]

In 2000, the Third District Court of Appeal, in *City of El Monte v. Commission on State Mandates*, affirmed the reasoning of the *San Marcos* decision, holding that a redevelopment agency cannot accept the benefits of an exemption from article XIII B's spending limit while asserting an entitlement to reimbursement under article XIII B, section 6.[21]

Therefore, pursuant to *County of Fresno*, *supra*, *Redevelopment Agency of San Marcos*, *supra*, and *City of El Monte*, *supra*, a local agency that does not collect and expend "proceeds of taxes" is not subject to the tax and spend limitations of articles XIII A and B, does not enjoy the protection of article XIII B, *section 6*, and therefore is not entitled to claim reimbursement pursuant to article XIII B, section 6.

B. Housing Authorities do not have Statutory Authority to Levy Taxes, and their Primary Sources of Revenue are not Subject to the Appropriations Limit.

The Authority argues that it is an eligible claimant before the Commission, because it is a "local agency," as defined in section 17518.[22] However, Finance has asserted in its comments on the test claim, citing *Redevelopment Agency of San Marcos*, that the Stanton Housing Authority is not an eligible claimant because "joint powers authorities are not eligible for mandate reimbursement."[23] While local housing authorities may be created as a joint powers authority, as discussed below, there is no evidence that the Stanton Housing Authority is a joint powers authority. Nevertheless, the reasoning of *Redevelopment Agency of San Marcos* still holds, because like a joint powers authority, the Authority has no authority to levy taxes. In addition,

[20] *Redevelopment Agency of San Marcos*, *supra*, 55 Cal.App.4th at p. 986-987 [internal citations omitted].

[21] (2000) 83 Cal.App.4th 266, 281-282 (*El Monte*).

[22] Exhibit C, Claimant Response to Notice of Incomplete Test Claim Filing.

[23] Exhibit F, Department of Finance Comments on Test Claim, at p. 2.

like a redevelopment agency, the Authority has the power to issue bonds or finance its activities by other non-tax means. A housing authority funds its operations through bonds or other long-term financing mechanisms, including the financing of housing projects from which the authority may later collect rents.[24]

These funding sources are not proceeds of taxes, and therefore are not subject to the appropriations limit. Accordingly, housing authorities do not have statutory authority to levy taxes, and their primary sources of revenue are not subject to the appropriations limit. Thus, housing authorities are not subject to the tax and spend limitations of articles XIII A and B.

Nothing in the dissolution statutes alters the above analysis with respect to the activities claimed by the Stanton Housing Authority. The activities and statutes pled are not and will not be funded with "appropriations subject to limitation," but rather must be funded, if at all, by the revenues of the housing authority which consist of "bonds, notes, warrants or other obligations required for the purpose of financing or refinancing the acquisition, construction, or completion of public improvements or projects or any rents…the proceeds of which are required for the payment of principal and interest…"[25] Thus, because the claimant is not subject to the tax and spend limitations of article XIII A and B of the California Constitution, the claimant does not enjoy the protection of article XIII B, section 6, and therefore is not eligible to receive subvention in any event.

Conclusion

Based on the foregoing discussion and analysis, the Commission denies this test claim, finding that the claimant is not eligible to claim reimbursement under article XIII B, section 6.

Staff Recommendation

Staff recommends that the Commission adopt the proposed statement of decision to deny this test claim.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the statement of decision following the hearing.

[24] Health and Safety Code section 34312 (As amended, Stats. 2006, ch. 890); Health and Safety Code section 33641 (As amended, Stats. 1993, ch. 942). See also Revenue and Taxation Code section 7280.5 (Added, Stats. 1987, ch. 665); Health and Safety Code section 34312.3 (As amended, Stats. 2001, ch. 745).

[25] *County of Placer v. Corin* (1980) 113 Cal.App.3d at p. 453, fn. 8, quoting Government Code section 53715, which implemented article XIII B.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM ON: Health and Safety Code section 34176 Statutes 2011, First Extraordinary Session, Chapter 5 (ABX1 26); Statutes 2012, Chapter 26 (AB 1484). Filed on June 28, 2013 By, Stanton Housing Authority, Claimant.	Case No.: 12-TC-03 *Housing Successor Agency* STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; TITLE 2, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted March 28, 2014*)

DRAFT PROPOSED STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on March 28, 2014. [Witness list will be included in the final statement of decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed statement of decision to [approve/deny] the test claim at the hearing by a vote of [vote count will be included in the final statement of decision].

Summary of the Findings

This test claim alleges reimbursable state-mandated activities arising from the dissolution of the former Stanton Redevelopment Agency and the transfer of that agency's assets and obligations to the Stanton Housing Authority, pursuant to Health and Safety Code section 34176. The Commission finds that the Stanton Housing Authority is not a claimant eligible to seek reimbursement pursuant to article XIII B, section 6, because it is not subject to the taxing and spending limitations of article XIII A and B of the California Constitution. [26]

[26] In its filings on the test claim, the Stanton Housing Authority failed to establish that it is a claimant eligible to seek reimbursement pursuant to article XIII B, section 6 of the California Constitution. However, because it was not possible to determine conclusively whether the Authority is an eligible claimant without a full analysis of the issue of whether it is subject to the taxing and spending limitations of article XIII A and B, the Commission takes jurisdiction to decide that issue.

COMMISSION FINDINGS

I. Chronology

06/28/2013	The Stanton Housing Authority filed this test claim.[27]
07/08/2013	Commission staff issued notice that the test claim filing was incomplete.[28]
07/22/2013	The Stanton Housing Authority filed a rebuttal to Commission staff's notice.[29]
07/31/2013	Commission staff issued a notice of complete test claim filing and schedule for comments, including a request for additional information regarding the Stanton Housing Authority's status as an eligible claimant.[30]
08/30/2013	The State Controller's Office (Controller) notified the Commission that it had no comments on the test claim.[31]
08/30/2013	The Department of Finance (Finance) submitted comments on the test claim, and responded to Commission staff's request for additional information.[32]

II. Introduction

Background and History of Redevelopment

After World War II, beginning in 1945, the Legislature authorized local agencies to create redevelopment agencies (RDAs) "in order to remediate urban decay."[33] These agencies were intended "to help local governments revitalize blighted communities," but have "since become a principal instrument of economic development, mostly for cities, with nearly 400 redevelopment agencies…active in California."[34] A redevelopment agency usually was "governed by the sponsoring community's own legislative body," and was authorized to improve, rehabilitate, and redevelop blighted areas.[35] The first step in doing so was to "declare an area to be blighted and in need of urban renewal." In the early years of redevelopment "few communities established

[27] Exhibit A, Stanton Housing Authority Test Claim.

[28] Exhibit B, Notice of Incomplete Filing and Request for Additional Information.

[29] Exhibit C, Claimant Response to Notice of Incomplete Filing.

[30] Exhibit D, Notice of Complete Test Claim Filing and Request for Additional Information.

[31] Exhibit E, Controller's Comments on Test Claim Filing.

[32] Exhibit F, Finance Comments on Test Claim Filing.

[33] *California Redevelopment Association v. Matosantos,* (*CRA v. Matosantos*) (2011) 53. Cal.4th 231, at p. 245 [citing Stats. 1945, ch. 1326, p. 2478; Stats. 1951, ch. 710, p. 1922]. See also, LAO Report: Unwinding Redevelopment, at p. 5.

[34] *CRA v. Matosantos,* at p. 246 [internal citations omitted].

[35] *Ibid*.

redevelopment areas and most project areas were small – typically 10 acres (about six square city blocks) to 100 acres (an area about one-fifth of a square mile)."[36]

Within a project area, redevelopment agencies had power to acquire and dispose of real property, including by eminent domain, to clear land and construct infrastructure, and make other improvements to public facilities. Redevelopment agencies did not, however, have the power to levy taxes; instead, such agencies relied largely on tax increment financing, a scheme authorized by article XVI, section 16 of the California Constitution, and outlined in Health and Safety Code section 33670 et seq.[37] In a tax increment scheme, "those public entities entitled to receive property tax revenue in a redevelopment project area…are allocated a portion based on the assessed value of the property prior to the effective date of the redevelopment plan." Then, all remaining revenue "in excess of that amount – the *tax increment* created by the increased value of project area property – goes to the redevelopment agency for repayment of debt incurred to finance the project." In other words, "property taxes for entities other than the redevelopment agency are frozen, while revenue from any increase in value is awarded to the redevelopment agency on the theory that the increase is the result of redevelopment."[38] Tax increment revenues were permitted to be used "only to address urban blight in the community that established the RDA."[39]

Tax increment financing, though "a powerful and flexible tool for community economic development…has sometimes been misused to subsidize a city's economic development through the diversion of property tax revenues from other taxing entities." Such misuse "became more common in the era of constricted local tax revenue that followed the passage of Proposition 13."[40] The passage of Chapter 1406, Statutes of 1972 (SB 90, Dills) "created a system of school 'revenue limits,' whereby the state guarantees each school district an overall level of funding from local property taxes and state resources combined." Thus, the state committed itself to providing additional funds when school districts' local property taxes were redirected for redevelopment, and the local community could capture more property tax revenue while ensuring its schools were supported. Then, Proposition 13 in 1978 "significantly constrained local authority over the property tax and most other local revenue sources," but did not affect local authority over redevelopment revenues.[41]

As a result of restricted revenue authority and state guarantees of school funding, "cities (joined by a small number of counties) no longer limited their project areas to small sections of communities, but often adopted projects spanning hundreds or thousands of acres and frequently including large tracts of vacant land." As an extreme example, "[a]t least two cities placed all

[36] Exhibit X, LAO Report: Unwinding Redevelopment, at p. 5.

[37] California Constitution, article XVI, section 16 (Adopted Nov. 4, 1974; amended Nov. 8, 1988); Health and Safety Code section 33670 et seq.

[38] *CRA v. Matosantos*, *supra*, at pp. 246-247.

[39] Exhibit X, LAO Report: Unwinding Redevelopment, at p. 8.

[40] *CRA v. Matosantos*, *supra*, at p. 247.

[41] Exhibit X, LAO Report: Unwinding Redevelopment, at pp. 5-7.

privately owned land in the city under redevelopment."[42] By fiscal year 2009-2010, "RDAs were receiving over $5 billion in property taxes annually – a redirection of 12 percent of property tax revenues from general purpose local government use for redevelopment purposes." This increasing diversion of property taxes over time placed a greater burden on the state's general fund to backfill K-14 school districts to meet minimum funding requirements.[43] In response to the unforgiving "shell game among local agencies" caused by restricted local revenues, the Legislature has at times required redevelopment agencies to transfer some of their tax increment revenue for other local government needs, including schools.[44] Such transfers have been, in the past, temporary, but even these temporary shifts were made more difficult by limitations placed on the Legislature's power to shift funds among local agencies by Proposition 1A (2004) and Proposition 22(2010).[45]

Winding Down and Dissolution of Redevelopment

On December 6, 2010, and again on January 20, 2011, outgoing Governor Schwarzenegger, followed by incoming Governor Brown, recognized and declared a state fiscal emergency.[46] On June 29, 2011, the Legislature enacted amendments to the Community Redevelopment Law (Health and Safety Code section 33000, et seq.), that were "intended to stabilize school funding by *reducing or eliminating the diversion of property tax revenues* from school districts to the state's community redevelopment agencies."[47] Section 1 of Statutes 2011-2012, First Extraordinary Session, chapter 5 (ABX1 26) states, in pertinent part:

> (j) It is the intent of the Legislature to do all of the following in this act:
>
> (1) Bar existing redevelopment agencies from incurring new obligations, prior to their dissolution.
>
> (2) Allocate property tax revenues to successor agencies for making payments on indebtedness incurred by the redevelopment agency prior to its dissolution and *allocate remaining balances in accordance with applicable constitutional and statutory provisions*.
>
> (3) Beginning October 1, 2011, allocate these funds according to the existing property tax allocation within each county to make the funds available for cities, counties, special districts, and school and community college districts.

[42] *Ibid*.

[43] Exhibit X, LAO Report: Unwinding Redevelopment, at p. 8.

[44] *CRA v. Matosantos*, *supra*, 53 Cal.4th, at p. 247. See also, *Redevelopment Agency of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266.

[45] *Id*, at p. 249.

[46] *Id*, at p. 250; Legislative Counsel's Digest, paragraph 7 (Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26)).

[47] *CRA v. Matosantos*, *supra*, at p. 241 [emphasis added].

(4) Require successor agencies to *expeditiously wind down the affairs of the dissolved redevelopment agencies* and to provide the successor agencies with limited authority that extends only to the extent needed to implement a winddown of redevelopment agency affairs.[48]

Accordingly, Part 1.8 of the amended Community Redevelopment Law freezes the operations of redevelopment agencies, prohibiting RDAs from incurring new bonds or other indebtedness, and from entering into new plans or partnerships, effective June 29, 2011. Part 1.85 then provides for the dissolution of the RDAs and transfer of their operations and functions to successor entities, in order to implement the winding down of redevelopment activities and the return of the tax increment to the taxing agencies (cities, counties, and school districts) from which the funds had been diverted previously.

Sections 34162 through 34165 state that as of the effective date of ABX1 26 (June 29, 2011), RDAs shall *not have authority* to, and *shall not*, among other things: issue or sell bonds; refund, restructure, or refinance indebtedness; make loans or advances; enter into contracts with or make commitments to any entity; dispose of assets by sale, lease, gift, grant, exchange, transfer, assignment, or otherwise; acquire real property by any means for any purpose; prepare, approve, adopt, amend, or merge a redevelopment plan; create, designate, merge, expand, or otherwise change the boundaries of a project area; enter into new partnerships; impose new assessments; provide optional or discretionary bonuses to any officers or employees; or begin any condemnation proceeding or begin the process to acquire real property by eminent domain.[49] Section 34167 expressly provides that "[n]othing in this part shall be construed to interfere with a redevelopment agency's authority, pursuant to enforceable obligations as defined in this chapter, to (1) make payments due, (2) enforce existing covenants and obligations, or (3) perform its obligations."[50] RDAs are permitted to continue making payments and performing existing obligations relating to projects or properties existing prior to the amendments "[u]ntil successor agencies are authorized pursuant to Part 1.85,"[51] but "Part 1.8's purpose is to preserve redevelopment agency assets and revenues for use by 'local governments to fund core governmental services' such as fire protection, police, and schools."[52]

The dissolution of redevelopment agencies and the winding down of their operations is governed by Part 1.85, commencing with section 34170, which provides that unless otherwise specified, "all provisions of this part shall become operative on February 1, 2012."[53] Section 34172

[48] Statutes 2011-2012, 1st Extraordinary Session, chapter 5 (ABX1 26), section 1 [emphasis added].

[49] Health and Safety Code sections 34162-34165 (as added or amended by Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26); Stats. 2012, ch. 26 (AB 1484)).

[50] Health and Safety Code section 34167 (Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26))].

[51] Health and Safety Code section 34169 (Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26)).

[52] *CRA v. Matosantos*, *supra*, at p. 251 [citing Health and Safety Code section 34167 (Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26))].

[53] Health and Safety Code section 34170 (Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26)) [operative date amended per *CRA v. Matosantos, supra* (2011) 53 Cal.4th 231].

provides that "[a]ll redevelopment agencies and redevelopment agency components of community development agencies…in existence on the effective date of this part are hereby dissolved and shall no longer exist as a public body, corporate or politic."[54] Sections 34173 and 34176 provide for two new entities that are charged with assuming the assets and responsibilities, and winding down the affairs of the former RDA: a successor agency, and a successor *housing* agency.

Section 34173 provides that "all *authority, rights, powers, duties, and obligations previously vested*" with the former RDA "are hereby vested in the successor agencies." The default successor agency is the city, county, city and county, or one or more of the entities forming a joint powers authority that created the RDA.[55] A city, county, or city and county, or the entities forming the joint powers authority that authorized the creation of each redevelopment agency, *may elect not to serve* as a successor agency, pursuant to section 34173, and if no local agency elects to serve as a successor agency, a public body, referred to as a "'designated local authority' shall be immediately formed…and shall be vested with all the powers and duties of a successor agency as described in this part."[56]

Among other duties, a successor agency is required, pursuant to section 34177, to continue to make payments due for and perform obligations required by enforceable obligations; remit unencumbered balances of RDA funds to the county for distribution to the taxing entities; dispose of assets and properties as directed by the oversight board; enforce all rights of the former RDA for the benefit of the taxing entities; expeditiously wind down the affairs of the former RDA; continue to oversee development of properties until the contracted work has been completed or the obligations of the former RDA can be transferred to other parties; and prepare a Recognized Obligation Payment Schedule projecting the dates and amounts of scheduled payments for each enforceable obligation "for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had the redevelopment agency not been dissolved."[57] Enforceable obligations are defined in section 34167 to include bonds and debt service; loans borrowed by the former RDA; payments required by the federal government, and preexisting obligations to the state or payments required to RDA employees; judgments or settlements; and any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy.[58]

Section 34176 provides for what the Legislative Analyst's Office calls a "successor *housing* agency."[59] Pursuant to section 34176, a city, county, or city and county "*may elect* to retain the *housing assets and functions previously performed* by the redevelopment agency," and in such case "all rights, powers, duties, obligations, *and housing assets*, as defined in [section 34176(e)],

[54] Health and Safety Code section 34172 (Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26)).

[55] Health and Safety Code section 34171 (as added by Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26)). See also, Exhibit X, Senate Floor Analysis, ABX1 26, dated June 14, 2011, at p. 3.

[56] Health and Safety Code section 34173 (as amended, Stats. 2012, ch. 26 (AB 1484)).

[57] Health and Safety Code section 34177 (as amended, Stats. 2012, ch. 26 (AB 1484)).

[58] Health and Safety Code section 34167 (Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26)).

[59] Exhibit X, LAO Report: Unwinding Redevelopment, at p. 15.

excluding any amounts on deposit in the Low and Moderate Income Housing Fund and *enforceable obligations retained by the successor agency*, shall be transferred to the city, county, or city and county."[60] However, section 34176 further provides that if the city or county "*does not elect* to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, duties, and *obligations associated with the housing activities* of the agency," as specified, shall be transferred to a local housing authority. If there is only one housing authority within the territorial jurisdiction of the former RDA, the transfer of responsibilities and assets is to that housing authority; if there is more than one, the city or county must select one; and if there is no local housing authority, the transfer is to the Department of Housing and Community Development.[61] Section 34176 further provides that the entity assuming the housing functions of the former RDA "shall submit to the Department of Finance by August 1, 2012, a list of all housing assets that contains an explanation of how the assets meet the criteria specified in subdivision (e)." "Housing assets" are defined in subdivision (e) to include any interest in real property; any funds encumbered by an enforceable obligation to build low or moderate income housing; any loans or grants receivable, any funds derived from rents or operation of housing properties; and repayments of loans or deferrals owed to the Low and Moderate Income Housing Fund.[62]

On January 10, 2012, the City Council of Stanton adopted Resolution 2012-03, which stated, in pertinent part, that the City Council "hereby affirmatively elects…to serve as the Successor Agency to the Stanton Redevelopment Agency," and that the City Council "hereby elects to have the City of Stanton and/or the Stanton Housing Authority assume all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Stanton Redevelopment Agency in accordance with Health and Safety Code Section 34176." The dissolution of the former Stanton RDA and the transfer of assets and housing functions of the former RDA to the Stanton Housing Authority is the subject of this test claim.

III. Positions of the Parties[63]

A. Stanton Housing Authority Position

The Stanton Housing Authority alleges that on January 10, 2012, "in accordance with Section 34176(b), the City of Stanton adopted Resolution No. 2012-03 requiring all 'rights, powers, assets, liabilities, duties and obligations' of the former Stanton Redevelopment Agency ('RDA') to be transferred to the Stanton Housing Authority." The Authority alleges that several properties were transferred and that the "obligations for completion of planned/ongoing projects and/or maintenance of these properties…far exceed any fee authority, or governmental funding, provided to the Authority." The Authority asserts that prior to the addition of Health and Safety

[60] Health and Safety Code section 34176(a)(1) (added, Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26); amended, Stats. 2012, ch. 26 (AB 1484)).

[61] Health and Safety Code section 34176 (added, Stats. 2011-2012, 1st Ex. Sess., ch. 5 (ABX1 26); amended, Stats. 2012, ch. 26 (AB 1484)).

[62] *Ibid.*

[63] The State Controller's Office submitted to the Commission a single page notice that it has no comment on this test claim. (Exhibit E, SCO Comments).

Code section 34176, the Authority "did not have any responsibilities or obligations associated with former RDA properties," and that "[a]ll obligations of the Authority related to former RDA properties…are a new program or higher level of service imposed by ABX1 26 and AB 1484."

Specifically, the Authority alleges that the largest expense "consists of a low and moderate income housing project created by the former RDA and known as the 'Tina/Pacific project,'" and that the obligations and expenses associated with the Tina/Pacific Project total approximately $17 million.[64] The Authority alleges that the following activities and costs were transferred from the former Stanton RDA to the Authority:

a. Staff and consultant fees and costs associated with the completion of the Housing Asset Transfer Form ("HAT"), including costs related to the completion, submission and meet & confer with DOF, and implementation of the HAT.

b. $6,500,000 in replacement housing costs for 12 properties that were demolished by the former Stanton Redevelopment Agency.

c. $7,041,684 in replacement housing costs for the 13 properties to be demolished.

d. $519,600 for demolition [$390,000 for demolition of the 13 properties ($30,000 per property), +$129,600 for fencing ($21,600 per 6 month period).]

e. $1,629,000 in relocation expenses [$24,000 for relocation plan plus $1,605,000 in relocation costs] for the 13 properties previously purchased by the former Stanton Redevelopment Agency, in which the tenants have not yet been paid relocation costs.

f. $105,000 in consultant fees to assist with relocation of Tina/Pacific Project existing tenants.

g. Estimated $612,000 in staff time related to Tina/Pacific Project.

h. Estimated $596,400 in maintenance/utilities/miscellaneous expenses for all 25 Tina/Pacific Project properties.

Additionally, the HAT lists additional properties there were transferred from the former RDA to the Housing Authority, which will require costs associated with maintenance, utilities and staff time.[65]

The Authority alleges that these activities and costs are imposed by section 34176(b), which provides that if the city or county that created the RDA elects not to "retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, duties, and obligations associated with the housing activities of the agency, *excluding enforceable obligations retained by the successor agency and any amounts in the Low and Moderate Income Housing Fund, shall be transferred*" to the local housing authority. The Authority submitted letters from the Department of Finance rejecting enforceable obligations

[64] Exhibit A, Test Claim, at pp. 4-5.

[65] Exhibit A, Test Claim, at p. 5.

claimed by the city-as-successor-agency, as evidence that the obligations above are mandated on the Authority as housing successor, because the costs and activities are not "enforceable obligations retained by the successor agency."[66]

The Authority alleges that it receives approximately $48,000 per month in rent from the Tina/Pacific Project, and that no other state, federal, or nonlocal funds are available for this program.[67]

In response to Commission staff's initial notice of incomplete filing, the claimant responded that the Stanton Housing Authority "is an independent public entity created by statute," and an eligible local government claimant pursuant to the definitions of "local agency" and "local government" found in Government Code section 17518 and article XIII B, section 8(d), respectively.[68]

B. Department of Finance Position

The Department of Finance (Finance) argues in its comments that the claimant's eligibility to claim reimbursement has not been established, and that the resolution of the Stanton City Council "uses language making it unclear to whom the City of Stanton is assigning responsibility for housing functions formerly performed by the redevelopment agency." Finance argues, in addition, that the test claim should be denied regardless of "the claimant's nature." Finance argues that if the Stanton Housing Authority "is part of the City of Stanton, the claimant is not eligible for reimbursement of any possible costs mandated by the state because the City elected to retain the responsibility." Alternatively, Finance argues that "[i]f the Stanton Housing Authority is a joint powers authority, that too negates a reimbursable state mandate because joint powers authorities are not eligible for mandate reimbursement." And, Finance argues that "[i]f the claimant is some other form of local government generally eligible for mandate reimbursement, the costs of any alleged requirements are imposed on them by another local government, not the state," and "[s]uch a shift between local governments of any responsibilities and costs is not subject to mandate reimbursement." In addition, Finance argues that some of the activities alleged are optional, and some of the costs alleged are not tied to state-mandated activities, but represent a shift of costs from one local entity to another. Finally, Finance argues that "the claimant has at its disposal any revenue generated by the housing assets transferred to the claimant, the right and power to choose to dispose of those assets, and the right and power to use any revenue generated from the sale of any assets to carry on the functions of the Housing Successor."[69]

IV. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

> Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of

[66] Exhibit A, Test Claim, at pp. 22-30.

[67] Exhibit A, Test Claim, at pp. 4-6.

[68] Exhibit C, Claimant Rebuttal Comments, at p. 1.

[69] Exhibit F, Department of Finance Comments on Test Claim, at pp. 1-2.

funds to reimburse such local government for the costs of such programs or increased level of service, except that the Legislature *may, but need not*, provide a subvention of funds for the following mandates:

(1) Legislative mandates requested by the local agency affected.

(2) Legislation defining a new crime or changing an existing definition of a crime.

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

The purpose of article XIII B, section 6 is to "preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[70] Thus, the subvention requirement of section 6 is "directed to state-mandated increases in the services provided by [local government] …"[71]

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or "mandates" local agencies or school districts to perform an activity.[72]
2. The mandated activity either:
    a. Carries out the governmental function of providing a service to the public; or
    b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.[73]
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.[74]
4. The mandated activity results in the local agency or school district incurring increased costs, within the meaning of section 17514. Increased costs, however, are not

[70] *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

[71] *County of Los Angeles v. State of California* (*County of Los Angeles I*) (1987) 43 Cal.3d 46, 56.

[72] *San Diego Unified School Dist. v. Commission on State Mandates* (*San Diego Unified School Dist*.) (2004) 33 Cal.4th 859, 874.

[73] *Id*. at 874-875 (reaffirming the test set out in *County of Los Angeles, supra*, 43 Cal.3d 46, 56.)

[74] *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835.

reimbursable if an exception identified in Government Code section 17556 applies to the activity.[75]

The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.[76] The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[77] In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[78]

Article XIII B, section 6 requires reimbursement to local governments for increased costs mandated by the state. "Costs mandated by the state" is defined to mean "any increased costs which a local agency or school district is required to incur…as a result of any statute…or any executive order implementing any statute…which mandates a new program or higher level of service of an existing program."[79] "Local agency," in turn, is defined to include "any city, county, special district, authority, or other political subdivision of the state."[80] However, not every "local agency," as defined, is eligible to claim reimbursement pursuant to article XIII B, section 6. In addition to an entity fitting the description above, the entity must also be subject to the tax and spend limitations of articles XIII A and XIII B. As explained in the following analysis, an agency that does not collect or expend the proceeds of taxes, as defined in the Constitution and interpreted by the courts, is not eligible to claim reimbursement under article XIII B, section 6. Therefore, because housing authorities do not collect or expend the proceeds of taxes, such agencies are not eligible claimants before the Commission. Specifically, because the Stanton Housing Authority does not collect or expend the proceeds of taxes, it is not an eligible claimant within the meaning of article XIII B, section 6.

A. Article XIII B, Section 6 Requires Reimbursement Only When the Local Government is Subject to the Tax and Spend Provisions of Articles XIII A and XIII B of the California Constitution.

An interpretation of article XIII B, section 6 requires an understanding of articles XIII A and XIII B. "Articles XIII A and XIII B work in tandem, together restricting California governments' power both to levy and to spend taxes for public purposes."[81]

[75] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (Cal. Ct. App. 1st Dist. 2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

[76] *County of San Diego*, *supra*, 15 Cal.4th 68, 109.

[77] *Kinlaw v. State of California* (1991) 53 Cal.3d 482, 487.

[78] *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280 [citing *City of San Jose*, *supra*].

[79] Government Code section 17514 (Stats. 1984, ch. 1459).

[80] Government Code secton 17518 (Stats. 1984, ch. 1459).

[81] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486 (*County of Fresno*).

In 1978, the voters adopted Proposition 13, which added article XIII A to the California Constitution. Article XIII A drastically reduced property tax revenue previously enjoyed by local governments by providing that "the maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value" and that the one percent (1%) tax was to be collected by counties and "apportioned according to law to the districts within the counties…"[82] In addition to limiting the property tax, section 4 also restricts a local government's ability to impose special taxes by requiring a two-thirds approval by voters.[83]

Article XIII B was adopted by the voters less than 18 months after the addition of article XIII A to the state Constitution, and was billed as "the next logical step to Proposition 13."[84] While article XIII A is aimed at controlling ad valorem property taxes and the imposition of new special taxes, "the thrust of article XIII B is toward placing certain limitations on the growth of appropriations at both the state and local government level; in particular, Article XIII B places limits on the authorization to expend the 'proceeds of taxes.'"[85]

Article XIII B established "an appropriations limit," or spending limit for each "local government" beginning in fiscal year 1980-1981.[86] Specifically, the appropriations limit provides as follows:

> The total annual appropriations subject to limitation of the State and of each local government shall not exceed the appropriations limit of the entity of government for the prior year adjusted for the change in the cost of living and the change in population, except as otherwise provided in this article.[87]

No "appropriations subject to limitation" may be made in excess of the appropriations limit, and revenues received in excess of authorized appropriations must be returned to the taxpayers within the following two fiscal years.[88] Article XIII B does not limit the ability to expend government funds collected from *all sources*; the appropriations limit is based on "appropriations subject to limitation," which means, pursuant to article XIII B, section 8, "any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity."[89] Appropriations subject to limitation do not include "local agency loan funds or indebtedness funds,"[90]

[82] California Constitution, article XIII A, section 1 (effective June 7, 1978).

[83] California Constitution, article XIII A, section 4 (effective June 7, 1978).

[84] *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 446 (*County of Placer*).

[85] *Ibid*.

[86] California Constitution, article XIII B, section 8(h) (effective Nov. 7, 1979).

[87] California Constitution, article XIII B, section 1 (effective Nov. 7, 1979; amended by Proposition 111, June 5, 1990).

[88] California Constitution, article XIII B, section 2 (effective Nov. 7, 1979).

[89] California Constitution, article XIII B, section 8 (effective Nov. 7, 1979; amended by Proposition 111, June 5, 1990).

[90] California Constitution, article XIII B, section 8(i) (effective Nov. 7, 1979; amended by Proposition 111, June 5, 1990).

"investment (or authorizations to invest) funds…of an entity of local government in accounts at banks…or in liquid securities,"[91] "[a]ppropriations for debt service," "[a]ppropriations required to comply with mandates of the courts or the federal government," and "[a]ppropriations of any special district which existed on January 1, 1978 and which did not as of the 1977-78 fiscal year levy an ad valorem tax on property in excess of 12 [and one half] cents per $100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes."[92]

Article XIII B, section 6 was added also as a part of Proposition 4, to provide reimbursement to local governments for any additional revenue-limited expenditures that might be required. The California Supreme Court, in *County of Fresno v. State of California*,[93] explained:

> Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See *County of Los Angeles I, supra*, 43 Cal.3d at p. 61.) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid.*; see *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6.) Specifically, it was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues. Thus, although its language broadly declares that the "state shall provide a subvention of funds to reimburse ... local government for the costs [of a state-mandated new] program or higher level of service," read in its textual and historical context section 6 of article XIII B requires subvention only when the costs in question can be recovered *solely from tax revenues*.[94]

Not every local agency is subject to the restrictions of article XIII B, and therefore not every local agency is entitled to reimbursement. Redevelopment agencies, in particular, have been identified by the courts as being exempt from the restrictions of article XIII B. As discussed above, redevelopment agencies relied primarily, prior to their dissolution, on a funding scheme described as tax increment financing. In a tax increment scheme, property values that normally provide the tax base for school districts, cities, and counties within a redevelopment project area are "frozen" at the time the redevelopment plan is adopted. Thereafter, the tax due on any increase in property values, theoretically attributable to the efforts of the redevelopment agency, is collected by the county and passed on to the agency to repay bonds issued for redevelopment activities. This financing scheme is laid out in Health and Safety Code section 33670 et seq., and section 33678 expressly provides that tax increment financing shall not be considered proceed of taxes for purposes of article XIII B. Specifically, section 33678 provides, in pertinent part:

[91] *Ibid*.

[92] California Constitution, article XIII B, section 9 (effective Nov. 7, 1979; amended by Proposition 111, June 5, 1990).

[93] *County of Fresno*, *supra*, (1991) 53 Cal.3d 482.

[94] *Id*, at p. 487. Emphasis in original.

> This section implements and fulfills the intent of this article and of Article XIII B and Section 16 of Article XVI of the California Constitution. The allocation and payment to an agency of the portion of taxes specified in subdivision (b) of Section 33670 for the purpose of paying principal of, or interest on, loans, advances, or indebtedness incurred for redevelopment activity, as defined in subdivision (b) of this section, shall not be deemed the receipt by an agency of proceeds of taxes levied by or on behalf of the agency within the meaning or for the purposes of Article XIII B of the California Constitution, nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B of the California Constitution or any statutory provision enacted in implementation of Article XIII B. [95]

In *Bell Community Redevelopment Agency v. Woolsey*, the Second District Court of Appeal concluded that section 33678 is consistent with the constitution, and that bonds issued by a redevelopment agency and repaid with tax increment revenues are not appropriations subject to limitation.[96] *Bell Community Redevelopment Agency* was not a mandate reimbursement case, but dealt more generally with the applicability of the appropriations limit. In that case, the agency had previously adopted a redevelopment plan for a given project area, and "concluded all necessary steps to issue [$3 million in] allocation bonds" to fund the project. Woolsey, the agency secretary, refused to publish notice inviting bids on the bonds to be issued, reasoning that section 33678 was unconstitutional, and that "the Agency and the City Council had acted beyond their powers because the debt service on the proposed bond issue constituted an appropriation in excess of that allowed by article XIII B." Woolsey concluded that "this proposed notice committed him to appropriate and expend 'proceeds of taxes' without regard to the appropriations limitations imposed by article XIII B."[97] The agency's petition to compel Woolsey to publish the notice was denied in the superior court. On appeal, the Second District concluded that a redevelopment agency's power to issue bonds, and to repay those bonds with its tax increment, was not subject to the spending limit of article XIII B. The court reasoned that to construe tax increment payments as appropriations subject to limitation "would be directly contrary to the mandate of section 7," which provides that "Nothing in this Article shall be construed to impair the ability of the state or of any local government to meet its obligations with respect to existing or future bonded indebtedness."[98] In addition, the court found that other provisions of the article XIII B weighed against treating tax increment revenues as appropriations subject to limitation:

> Upon a reading of the complete text of article XIIIB we find further support for this holding. Article XIIIB governs "appropriations subject to limitation;" a redevelopment agency has no appropriation limit. Section 2 provides that

[95] Health and Safety Code section 33678 (Stats. 1980, ch. 1342, p. 4750; Stats. 1993, ch. 942 (AB 1290)).

[96] (Cal. Ct. App. 2d Dist. 1985) 169 Cal.App.3d 24.

[97] *Id*., at p. 29.

[98] Id., at p. 31 [quoting article XIII B, section 7].

> revenues in excess of the appropriations limit be returned to the taxpayers; article XVI, section 16 and case law require that tax increments be returned to the taxing entity upon elimination of the debt. Section 4 calls for a vote of the "electors" of an entity to change an appropriations limit; dependence on such periodic approval for repayment would effectively negate the viability of a bond issuance. Section 9(a) expressly excludes debt service from "appropriations subject to limitations;" tax increments are exactly that.[99]

In addition, the court found that article XVI, section 16, addressing the funding of redevelopment agencies, was inconsistent with the limitations of article XIII B:

> Article XVI, section 16, provides that tax increment revenues "may be irrevocably pledged" to the payment of tax allocation bonds. If bonds must annually compete for payment within an annual appropriations limit, and their payment depend upon complying with the such limit, it is clear that tax allocation proceeds cannot be irrevocably pledged to the payment of the bonds. Annual bond payments would be contingent upon factors extraneous to the pledge. That is, bond payments would be revocable every year of their life to the extent that they conflicted with an annual appropriation limit. The untoward effect would be that bonds would become unsaleable because a purchaser could not depend upon the agency having a sure source of payment for such bonds.[100]

The court therefore concluded that redevelopment agencies could not reasonably be subject to article XIII B, and therefore upheld Health and Safety Code section 33678, and ordered that the writ issue to compel Woolsey to publish the notice.

Accordingly, in *Redevelopment Agency of San Marcos v. Commission on State Mandates*,[101] the court held that redevelopment agencies were not eligible to claim reimbursement, because Health and Safety Code section 33678 exempted tax increment financing, their primary source of revenue, from the limitations of article XIII B.

> Because of the nature of the financing they receive, tax increment financing, redevelopment agencies are not subject to this type of appropriations limitations or spending caps; they do not expend any "proceeds of taxes." Nor do they raise, through tax increment financing, "general revenues for the local entity." The purpose for which state subvention of funds was created, to protect local agencies from having the state transfer its cost of government from itself to the local level, is therefore not brought into play when redevelopment agencies are required to allocate their tax increment financing in a particular manner...
>
> For all these reasons, we conclude the same policies which support exempting tax increment revenues from article XIII B appropriations limit also support denying reimbursement under section 6 … [The] costs of depositing tax increment

[99] Id., at p. 32 [citing *Huntington Park Redevelopment Agency v. Martin* (1985) 38 Cal.3d 100, at p. 108].

[100] Id, at p. 31.

[101] (Cal. Ct. App. 4th Dist. 1997) 55 Cal.App.4th 976

> revenues in the Housing Fund are attributable not directly to tax revenues, but to the benefit received by the Agency from the tax increment financing scheme, which is one step removed from other local agencies' collection of tax revenues.[102]

In 2000, the Third District Court of Appeal, in *City of El Monte v. Commission on State Mandates,* affirmed the reasoning of the *San Marcos* decision, holding that a redevelopment agency cannot accept the benefits of an exemption from article XIII B's spending limit while asserting an entitlement to reimbursement under article XIII B, section 6.[103]

Therefore, pursuant to *County of Fresno, supra*, *Redevelopment Agency of San Marcos, supra*, and *City of El Monte*, *supra*, a local agency that does not collect and expend "proceeds of taxes" is not subject to the tax and spend limitations of articles XIII A and B, does not enjoy the protection of article XIII B, *section 6,* and therefore is not entitled to claim reimbursement pursuant to article XIII B, section 6.

B. Housing Authorities do not have Statutory Authority to Levy Taxes, and their Primary Sources of Revenue are not Subject to the Appropriations Limit.

The Authority argues that it is an eligible claimant before the Commission, as follows:

> The Stanton Housing Authority is an independent public entity created by statute. (See Health & Saf. Code §§ 34203, 34240 [a housing authority is a public body, corporate and politic].) Pursuant to California Constitution, Article XIIIB, Section 8(d), "local government" for purposes of Article XIIIB of the California Constitution means "any city, county, city and county, school district, special district, authority, or other political subdivision of or within the state." (Emphasis added.) Government Code Section 17518 reiterates this definition by providing that a "local agency means any city, county, special district, authority, or other political subdivision of the state." (Emphasis added.) Under the definitions set forth in the California Constitution and Government Code Section 17518, the Authority is an eligible claimant.[104]

Finance has asserted in its comments on the test claim, citing *Redevelopment Agency of San Marcos*, that the Stanton Housing Authority is not an eligible claimant because "joint powers authorities are not eligible for mandate reimbursement."[105] While local housing authorities may be created as a joint powers authority, as discussed below, there is no evidence that the Stanton Housing Authority is a joint powers authority; its area of operation appears to be limited to the City of Stanton, and its governing body is made up of the members of the City Council of Stanton only, and not representatives from any other city or county. Nevertheless, the reasoning of *Redevelopment Agency of San Marcos* still holds, because like a joint powers authority, the

[102] *Redevelopment Agency of San Marcos*, *supra*, 55 Cal.App.4th at p. 986-987 [internal citations omitted].

[103] (2000) 83 Cal.App.4th 266, 281-282 (*El Monte*).

[104] Exhibit C, Claimant Response to Notice of Incomplete Test Claim Filing.

[105] Exhibit F, Department of Finance Comments on Test Claim, at p. 2.

Authority has no authority to levy taxes. In addition, like a redevelopment agency, the Authority has the power to issue bonds or finance its activities by other means. A housing authority , pursuant to Health and Safety Code sections discussed herein, funds its operations through bonds or other long-term financing mechanisms; sources of revenue that are not subject to the spending limit of article XIII B.

Statutory authorization for the creation and powers of local housing authorities is found in Part 2 of Division 24 of the Health and Safety Code, commencing at section 34200, which provides that "[t]his chapter [sections 34200 to 34380, inclusive] may be cited as the Housing Authorities Law." Section 34240 of the Housing Authorities Law provides as follows:

> In each county and city there is a public body corporate and politic known as the housing authority of the county or city. The authority shall not transact any business or exercise its powers unless, by resolution, the governing body of the county or city declares that there is a need for an authority to function in it.[106]

Section 34240.1 provides that the governing body of any city or county may enter into an agreement with any other city or county whose governing body has declared by resolution the need for a housing authority, and may form an area housing authority empowered by section 34247 to operate within all cities or counties joining in the agreement; in such case two commissioners may be appointed by the governing body of each member city or county pursuant to section 34246.[107] Sections 34310 to 34334, inclusive, describe the powers and duties of local housing authorities, which include the power to sue and be sued, to make and execute contracts, and to make and amend by-laws and regulations consistent with the Health and Safety Code.[108] In addition, within its area of operation, a housing authority has the power to "acquire, lease, and operate housing projects for persons of low income," to "[p]rovide for the construction, reconstruction, improvement, alteration, or repair of all or any part of any housing project," and to "[p]rovide leased housing to persons of low income."[109] These activities overlap the powers and duties of redevelopment agencies to some extent: Section 33391 provides for a redevelopment agency's power to acquire property within a project area,[110] and section 33400 permits a redevelopment agency to "[r]ent, maintain, manage, operate, repair and clear such property."[111]

More importantly, both redevelopment agencies and housing authorities have the power to issue bonds to finance their activities. Section 33640 provides that a redevelopment agency may issue bonds "for any of its corporate purposes," which may be repaid from the income and revenues of the redevelopment projects financed with those bonds; tax increment financing; "transient occupancy tax" revenues pursuant to a duly adopted ordinance; any contributions or financial

[106] Health and Safety Code section 34240 (Stats. 1951, ch. 710).

[107] Health and Safety Code section 34240.1; 34246; 34247 (Stats. 1951, ch. 710).

[108] Health and Safety Code section 343110 (Stats. 1951, ch. 710).

[109] Health and Safety Code section 34312 (As amended, Stats. 2006, ch. 890).

[110] Health and Safety Code section 33391 (As amended, Stats. 1988, ch. 1599).

[111] Health and Safety Code section 33400 (As amended, Stats. 1965, ch. 1665).

assistance from the state or federal government; or any combination of those sources.[112] A housing authority, pursuant to section 34312.3, may "[i]ssue revenue bonds for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to the multifamily rental housing." A housing authority is also authorized to make or purchase construction loans and mortgage loans to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing."[113]

Therefore, while a housing authority is a local agency with a local sphere of influence and responsibility, the relevant code sections provide that its authority to raise revenues for its funding is restricted to the issuance of bonds or other non-tax financing mechanisms. These funding sources, as discussed above, are not proceeds of taxes, and therefore are not subject to the appropriations limit. In *County of Placer v. Corin, supra*, the Court of Appeal discussed the applicability of article XIII B as being based on "appropriations subject to limitation," which consists of the authorization to expend during a fiscal year the "proceeds of taxes."[114] "As to local governments, limits are placed only on the authorization to expend the proceeds of taxes *levied by that entity* …"[115] In addition, "'proceeds of taxes' generally contemplates only those impositions which raise general tax revenues for the entity."[116] "Proceeds of taxes" do not include "the proceeds from the sale of bonds, notes, warrants or other obligations required for the purpose of financing or refinancing the acquisition, construction, or completion of public improvements or projects or any rents, charges, assessments, or levies, other than tax levies, made pursuant to law, the proceeds of which are required for the payment of principal and interest, or to otherwise secure such obligations, and to pay the costs and expenses associated therewith."[117] A housing authority's funding mechanisms consist of "bonds, notes, warrants or other obligations required for the purpose of financing or refinancing the acquisition, construction, or completion of public improvements or projects or any rents…the proceeds of which are required for the payment of principal and interest…"[118]

Moreover, for the same reasons that a redevelopment agency's financing tools were held in *Bell Community Redevelopment Agency v. Woolsey, supra*, to fall outside the appropriations limit of article XIII B, a housing authority's power to issue bonds or engage in other types of financing to

[112] Health and Safety Code section 33641 (As amended, Stats. 1993, ch. 942). See also Revenue and Taxation Code section 7280.5 (Added, Stats. 1987, ch. 665).

[113] Health and Safety Code section 34312.3 (As amended, Stats. 2001, ch. 745).

[114] 113 Cal.App.3d at p. 447.

[115] *Ibid.* [emphasis added].

[116] *Id.*, at p. 451.

[117] *Id.*, at p. 453, fn. 8, quoting Government Code section 53715, which implemented article XIII B. See also, *County of Fresno, supra*, 53 Cal.3d 482, 487.

[118] *County of Placer v. Corin, supra*, 113 Cal.App.3d at p. 453, fn. 8, quoting Government Code section 53715, which implemented article XIII B.

acquire, construct, rehabilitate, refinance, or develop multifamily rental housing for low-income persons is not limited by the restrictions in article XIII B. In particular, the court in *Bell Community Redevelopment Agency* noted that "Section 9(a) expressly excludes debt service from "appropriations subject to limitations," and that section 7 expressly provides that "[n]othing in this Article shall be construed to impair the ability of the State or of any local government to meet its obligations with respect to existing or future bonded indebtedness." In addition, the court explained that "[article XIII B, s]ection 4 calls for a vote of the 'electors' of an entity to change an appropriations limit; dependence on such periodic approval for repayment would effectively negate the viability of a bond issuance."[119] Likewise, "dependence on such period approval for repayment would effectively negate the viability" of any long-term mortgage solutions or other financing scheme that a housing authority is authorized to undertake. The court thus concluded: "If bonds must annually compete for payment within an annual appropriations limit, and their payment depend upon complying with the such limit…[t]he untoward effect would be that bonds would become unsaleable because a purchaser could not depend upon the agency having a sure source of payment for such bonds."[120]

Accordingly, housing authorities do not have statutory authority to levy taxes, and their primary sources of revenue are not subject to the appropriations limit. Thus, housing authorities are not subject to the tax and spend limitations of articles XIII A and B.

Here, the Stanton Housing Authority has alleged costs relating to the Tina-Pacific Project, which consists of some 25 properties acquired by the former Stanton RDA and intended for demolition and redevelopment. Pursuant to the enactment of the test claim statutes, the "obligations associated with the housing activities" of the former Stanton RDA are transferred to a successor housing agency, which is, pursuant to the statute, either the city or county that created the RDA, or, if no city or county elects to serve as the successor housing agency, the local housing authority. Here, that local housing authority is the Stanton Housing Authority. As the foregoing analysis explains, a housing authority is not eligible to claim reimbursement pursuant to article XIII B, section 6, because a housing authority generally does not collect or expend proceeds of taxes and its revenues are not subject to the spending limit. Nothing in the dissolution statutes alters the above analysis with respect to the activities claimed by the Stanton Housing Authority. The activities and statutes pled are not and will not be funded with "appropriations subject to limitation," but rather must be funded, if at all, by the revenues of the housing authority which consist of "bonds, notes, warrants or other obligations required for the purpose of financing or refinancing the acquisition, construction, or completion of public improvements or projects or any rents…the proceeds of which are required for the payment of principal and interest…". Thus, because the claimant is not subject to the tax and spend limitations of article XIII A and B of the California Constitution, the claimant does not enjoy the protection of article XIII B, section 6, and therefore is not eligible to receive subvention in any event.

[119] *Bell Community Redevelopment Agency*, *supra*, 169 Cal.App.3d, at pp. 31-32 [quoting California Constitution, article XIII B, sections 4, 7, 9, as added or amended by Proposition 4, November 6, 1979, Proposition 111, June 5, 1990].

[120] *Id*., at p. 31.

V. Conclusion

Based on the foregoing discussion and analysis, the Commission denies this test claim, finding that the claimant is not eligible to claim reimbursement under article XIII B, section 6.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Yolo and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On January 31, 2014, I served the:

Draft Staff Analysis and Proposed Statement of Decision, Schedule for Comments, and Notice of Hearing
Housing Successor Agency, 12-TC-03
Health and Safety Code Sections 34176;
Statutes 2011-12, First Extraordinary Session, Chapter 5 9ABX1 260;
Statutes 2012, Chapter 26, (AB 1484)
Stanton Housing Authority, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 31, 2014 at Sacramento, California.

Jason Hone
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/31/14

Claim Number: 12-TC-03

Matter: Housing Successor Agency

Claimant: Stanton Housing Authority

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Exhibit H

DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. ▪ GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

RECEIVED
February 18, 2014
Commission on State Mandates

February 18, 2014

Ms. Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Halsey:

The Department of Finance has reviewed the Commission on State Mandates (Commission) draft staff analysis on the test claim for Housing Successor Agency (12-TC-03) submitted by Stanton Housing Authority. As a result of our review, we concur with the Commission's draft staff analysis's recommendation that specified test claim be denied because the claimant is not eligible to claim reimbursement under article XIII B, section 6 of the California Constitution.

Pursuant to section 1181.2, subdivision (c)(1)(E) of the California Code of Regulations, "documents that are e-filed with the Commission need not be otherwise served on persons that have provided an e-mail address for the mailing list."

If you have any questions regarding this letter, please contact Michael Byrne, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,

For Tom Dyer
Assistant Program Budget Manager

Enclosures

Enclosure A

DECLARATION OF MICHAEL BYRNE
DEPARTMENT OF FINANCE
CLAIM NO. CSM—12-TC-03

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

2/18/2014
at Sacramento, CA

Michael Byrne

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On February 19, 2014, I served the:

DOF Comments
Housing Successor Agency, 12-TC-03
Health and Safety Code Sections 34176;
Statutes 2011-12, First Extraordinary Session, Chapter 5 9ABX1 260;
Statutes 2012, Chapter 26, (AB 1484)
Stanton Housing Authority, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 19, 2014 at Sacramento, California.

Lorenzo R. Duran Jr.
Commission on State Mandates
980 9th Street, Suite 300
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/31/14

Claim Number: 12-TC-03

Matter: Housing Successor Agency

Claimant: Stanton Housing Authority

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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Exhibit I

STANTON HOUSING AUTHORITY

RECEIVED
April 07, 2014
Commission on State Mandates

April 7, 2014

Heather Halsey
Executive Director
Commission on State Mandates
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Sacramento, CA 95814

Re: Stanton Housing Authority Comments on Draft Staff Analysis and Proposed Statement of Decision *Housing Successor Agency* (12-TC-03)

Dear Ms. Halsey,

The Stanton Housing Authority ("Authority") submits the following comments in response to the Commission on State Mandates' ("CSM") Draft Staff Analysis and Proposed Statement of Decision ("Staff Analysis") in *Housing Successor Agency* (12-TC-03) ("Test Claim").

Summary of Comments

(1) The Authority is an eligible claimant pursuant to the definition of a "local government" under Article XIII B, Section 8(d) of the California Constitution, and the definition of "local agency" under Government Code Section 17518.

(2) As an eligible claimant, the Authority receives the proceeds of taxes, as defined by California Constitution Article XIII B, Section 8, through its receipt of property taxes under Health and Safety Code Section 34171(p) and its receipt of user fees and charges in excess of the cost of providing the applicable service to that user under Health and Safety Code Section 34315. Further, case law applicable to redevelopment agencies does not apply to the Authority because redevelopment agencies are explicitly exempt by Health and Safety Code Section 33678 from the limitations of Article XIII B. No similar statute exists for housing authorities.

(3) As an eligible claimant under the first two points above, the Authority is eligible for state reimbursement of costs imposed by the State Legislature under Health and Safety Code Section 34176.

Comments

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1. The Authority is an Eligible Claimant[1]

Both the California Constitution and state statute explicitly provide that the Authority is an eligible claimant. Pursuant to California Constitution Article XIII B, Section 8(d), "local government" for purposes of Article XIII B of the California Constitution, means "any city, county, city and county, school district, special district, authority, or other political subdivision of or within the state." (Emphasis added.) CSM's governing statutes, and specifically Government Code Section 17518, reiterate this definition by providing that a "local agency means any city, county, special district, authority, or other political subdivision of the state." (Emphasis added.) CSM's own regulations recognize the Authority as an eligible claimant.[2]

The Authority is an independent public entity created by statute. (*See* Health & Saf. Code §§ 34203, 34240 [a housing authority is a public body, corporate and politic].) Under the definitions set forth in the California Constitution and Government Code Section 17518, the Authority is an eligible claimant.

2. The Authority Is Eligible To Receive State Reimbursement Under Article XIII B, Section 6

The Staff Analysis provides that the Authority is an not an eligible claimant because it is not subject to the taxing and spending restrictions of Articles XIII A and XIII B of the California Constitution. First, this is incorrect as the Authority receives property taxes and is therefore subject to Article XIII A and XIII B. Second, the cases cited in the Staff Analysis actually provide support for the Authority's right to receive state reimbursement.

In *County of Fresno v. State* (1991) 53 Cal.3d 482 ("*County of Fresno*"), the County's test claim for state reimbursement of costs incurred in implementing the Hazardous Materials Release Response Plans and Inventory Act was rejected by the CSM pursuant to Government Code Section 17556(d), which provides that costs are not state-mandated when the County has the authority to levy a fee or charge sufficient to pay for the cost of the program. The County filed a writ of mandate alleging that Section 17556(d) was unconstitutional. The Court denied the writ of mandate, holding that Section 17556(d) was facially constitutional. More importantly, the Court's analysis is solely based on whether Section 17556(d) is constitutional, and not on whether the County is an eligible claimant.

County of Fresno provides that "Article XIII B of the Constitution, however, was not intended to reach beyond taxation. That fact is apparent from the language of [Proposition 4, which enacted Article XIII B.] It is confirmed by its history. In his analysis, the Legislative Analyst declared that Proposition 4 'would not restrict the growth in appropriations financed from other [i.e., nontax] sources of revenue, including federal funds, bond funds, traffic fines, user fees based on reasonable costs, and income from gifts.'" (*Id.* at p. 487.)

The Court further provides that "[Proposition 4] was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues...read in its textual and historical context section 6 of article XIII B requires [State] subvention only when the costs in question can be recovered *solely from tax revenues.*" (*Ibid.*) (Emphasis in original.) The *County of Fresno* court concludes that "[a]s the discussion makes clear, the Constitution requires reimbursement only for those expenses that are recoverable solely from taxes." It then concludes that Government Code Section 17556(d) is facially constitutional because it exempts from state reimbursement any program for which a local agency has the authority to levy a charge or fee sufficient to pay for the program.

The Authority does not have the authority to levy fees or charges sufficient to cover the costs imposed by

---

[1] This information was previously provided to CSM via letter, date July 18, 2013, in response to CSM's Notice of Incomplete Filing. In that letter, we notified CSM staff that they did not have the jurisdiction to reject the Authority's test claim based on the constitutional and statutory definitions set forth above. Shortly thereafter, on July 31, 2013, CSM staff issued a Notice of Complete Test Claim Filing.

[2] See 2 CCR §1181.1 ["Unless otherwise indicated, the definitions in this chapter and those found in Government Code sections 17510 through 17524 apply to Articles 1, 2, 3, 4.5, 5, 6, 7, 8, and 8.5 of this chapter:...(d) 'Claimant' means the local agency or school district filing a test claim or incorrect reduction claim."].

Section 34176 and, therefore, the costs in question can only be recovered *solely from tax revenues.*

A. The Authority's Revenue Qualifies as the Proceeds of Taxes

Article XIII B, Section 8(b) of the California Constitution defines "appropriations subject to limitation" of a local government[3] to mean "any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes."

The "proceeds of taxes" is thereinafter defined to "include, but not be restricted to, all tax revenues and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service, and (2) the investment of tax revenues. With respect to any local government, 'proceeds of taxes' shall include subventions received from the state..." (Cal. Const. Art. XIIIB, §8(c).)

The Staff Analysis provides that "because housing authorities do not collect or expend the proceeds of taxes, such agencies are not eligible claimants before the [CSM]. Specifically, because the Stanton Housing Authority does not collect or expend the proceeds of taxes, it is not an eligible claimant within the meaning of Article XIII B, Section 6." (Staff Analysis, p.17.) We believe this is incorrect.

Health and Safety Code Section 34171(p) allocates the proceeds of taxes to the Authority, as Housing Successor. Section 34171(p) provides, in pertinent part:

> From July 1, 2014, to July 1, 2018, inclusive, "housing entity administrative cost allowance" means an amount of up to 1 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund on behalf of the successor agency for each applicable fiscal year, but not less than one hundred fifty thousand dollars ($150,000) per fiscal year...(1) *If a local housing authority assumed the housing functions of the former redevelopment agency pursuant to paragraph (2) or (3) of subdivision (b) of Section 34176, then the housing entity administrative cost allowance shall be listed by the successor agency on the Recognized Obligation Payment Schedule.* Upon approval of the Recognized Obligation Payment Schedule by the oversight board and the department, the housing entity administrative cost allowance shall be remitted by the successor agency on each January 2 and July 1 to the local housing authority that assumed the housing functions of the former redevelopment agency pursuant to paragraph (2) or (3) of subdivision (b) of Section 34176. (Emphasis added.)

Section 34171(p) clearly recognizes that if a local housing authority assumed the housing functions of the former redevelopment agency, these activities should be paid for with property taxes, and require the Authority to expend the proceeds of taxes. Further, the proceeds of taxes collected by the Authority cannot be used to pay for any long-term debt. Instead, it can only be used as "general revenue for the local entity." (*Redevelopment Agency of San Marcos, supra,* 55 Cal.App.4th at 986-987; cited by Staff Analysis, p. 21.)

Section 34171(p) allocates the proceeds of taxes to the Authority for the very purpose that the Authority is now seeking state reimbursement under the Test Claim. Further, in capping the amount, the Legislature acknowledges that this amount may be insufficient to cover applicable costs incurred by the Authority, and that the Authority will be required to use other local funds to meet its statutory obligations under Section 34176. In essence, the Legislature is forcing the Authority to use proceeds of taxes to meet its obligations imposed under Section 34176, thereby recognizing that these expenses should be funded with the proceeds of taxes, but the amount of property taxes allocated to the Authority is insufficient to pay for the actual costs incurred by the Authority in complying with Section 34176. This is the very reason for which Proposition 4 was enacted – to prevent the state from forcing local governments to provide services without also providing a means to pay for those activities. (*County of Fresno, supra,* 53 Cal.3d at p. 487.)

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[3] "Local government" includes an "authority." (Cal. Const. Art. XIIIB, §8(d).)

Additionally, under Article XIII B, Section 8 the proceeds of taxes also includes "regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonable borne by that entity in providing the regulation, product, or service." A significant portion of the Authority's source of revenue is user charges and fees. The Authority charges rent to its users (tenants of affordable housing projects). (Health & Saf. Code § 34315.) Because the only viable option for raising revenue to pay Section 34176 expenses is to increase user charges and fees, thereby exceeding the Authority's cost of providing the service (i.e. housing), this source of revenue also falls within the definition of "proceeds of taxes."[4]

B. The Authority's expenses were originally incurred with the intent that they be paid for with property taxes

The expenses imposed on the Authority by Section 34176 were originally incurred with the sole intent that they be paid with property taxes (through tax increment financing of the former redevelopment agency). Thus, because the Authority has insufficient funding to pay these expenses, per *County of Fresno* "the costs in question can be recovered *solely from tax revenues*." (*County of Fresno, supra,* 53 Cal.3d at 487.) (Emphasis in original.)

The Staff Analysis cites to several redevelopment agency cases to establish precedent that a redevelopment agency is not subject to the tax and spend limitations of Article XIII B and, therefore, a housing authority is similarly situated. However, all of these redevelopment agency cases base their determinations on the language of Health and Safety Code Section 33678, which explicitly provides that redevelopment agencies are not subject to Article XIII B. This statute does not apply to the Authority, which is a separate and independent entity from the redevelopment agency. Section 33678(a) provides in pertinent part:

> This section implements and fulfills the intent of...Article XIII B and Section 16 of Article XVI of the California Constitution. The allocation and payment to an agency of the portion of taxes specified in subdivision (b) of Section 33670 for the purpose of paying principal of, or interest on...indebtedness incurred for redevelopment activity...shall not be deemed the receipt by an agency of proceeds of taxes levied by or on behalf of the agency within the meaning or for the purposes of Article XIII B...nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B...or any statutory provision enacted in implementation of Article XIII B. The allocation and payment to an agency of this portion of taxes shall not be deemed the appropriation by a redevelopment agency of proceeds of taxes levied by or on behalf of a redevelopment agency within the meaning or for purposes of Article XIII B."

Further, in enacting Section 34176 the Legislature explicitly terminated the meaning of tax increments and converted these funds to general property taxes, thereby falling outside the scope of Section 33678 and within the scope of Article XIII B. The uncodified Section 1 of ABX1 26[5] provides that "[t]he Legislature finds and declares all of the following...(i) *Upon [the redevelopment agency's] dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment. Instead, those taxes will be deemed property tax revenues...*" (Emphasis added.)

The legislative intent is clear. First, the Authority receives property taxes under Section 34171(p), not tax increments, to pay for its costs as a housing successor under Section 34176. Second, these property taxes are capped and may be insufficient, as is the case with the Authority, to pay for all costs mandated by Section 34176.

3. Section 34176 Imposes a New Program or Higher Level of Service on the Authority

Although not addressed in the Staff Analysis, the Authority reiterates that as an eligible claimant Section 34176(b) imposes a new program or higher level of service on the Authority. This is actually supported by the

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[4] Like any attempts to raise property taxes, raising user charges and fees (or, in this case, rent) is not a viable option as the Authority is restricted in the amount of rent it may charge. (Health & Saf. Code §34322.)

[5] Health & Safety Code Seetion 34176 was enacted as part of ABX1 26.

California Department of Finance.[6] Further, Section 34176(b) clearly indicates that if the Authority did not exist, all housing obligations imposed by Section 34176 would be the responsibility of the State. Section 34176(b) provides, in pertinent part:

> If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, duties, and obligations associated with the housing activities of the agency, excluding enforceable obligations retained by the successor agency and any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:
>
> (1) If there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.
>
> (2) If there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

The Authority is the only housing authority in the territorial jurisdiction of the former redevelopment agency. As such, under Section 34176(b)(2), the State Legislature mandates that the housing obligations pass to the Authority. If the Authority did not exist, these obligations would pass to the State Department of Housing and Community Development and all costs would be borne by the State. Clearly, prior to the adoption of Section 34176(b) the Authority was not responsible for the new programs or higher levels of service of providing these housing obligations; after its adoption, the Authority was statutorily mandated to accept these obligations and their associated costs. This falls within the definition of new program or higher level of service requiring state reimbursement. (Gov. Code §17514.)

Conclusion

Based on the foregoing, it is respectfully submitted that the Staff Analysis should be reconsidered and that a revised Staff Analysis and Proposed Statement of Decision be issued, recommending a granting of the *Housing Successor Agency* test claim.

Thank you for your consideration of this matter.

Sincerely,

By: _____
Omar Dadabhoy,
Deputy Executive Director

[6] In DOF's ROPS III final determination letter, dated December 18, 2012, when denying the Authority's request for funding for replacement housing obligations of $13 million from ROPS III (Item No. 29), DOF provides in pertinent part "Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that 'all rights, powers, duties, obligations and housing assets…shall be transferred' to the new housing entity. This transfer of 'duties and obligations' necessarily includes the transfer of statutory obligations…" (See http://www.dof.ca.gov/redevelopment/review_letters/documents/Stanton_ROPS_III_MC_Determination.pdf.)

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On April 8, 2014, I served the:

Claimant Comments; and
Sacramento Housing and Redevelopment Agency (SHRA) Comments as Housing Authority for City and County of Sacramento
Housing Successor Agency, 12-TC-03
Health and Safety Code Sections 34176;
Statutes 2011-12, First Extraordinary Session, Chapter 5 9ABX1 260;
Statutes 2012, Chapter 26, (AB 1484)
Stanton Housing Authority, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 8, 2014 at Sacramento, California.

Lorenzo R. Duran Jr.
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/8/14

Claim Number: 12-TC-03

Matter: Housing Successor Agency

Claimant: Stanton Housing Authority

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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Exhibit J

SHRA

INVESTING IN COMMUNITIES

RECEIVED
April 07, 2014
Commission on
State Mandates

April 7, 2014

Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Re: Comments on Draft Staff Analysis and Proposed Statement of Decision
Housing Successor Agency (12-TC-03)

Dear Ms. Halsey,

Pursuant to Health and Safety Code Section 34176(b), the Housing Authority of the City of Sacramento, exclusively staffed by Sacramento Housing and Redevelopment Agency ("Authority") was statutorily mandated to assume all rights, powers, assets, duties and obligations associated with the housing activities of the former Redevelopment Agency of the City of Sacramento. As such, the Authority qualifies as a claimant under the above referenced claim.

The Authority would like to state our concurrence with the comments submitted by the Stanton Housing Authority to the Commission on State Mandates on the above referenced claim.

Sincerely,

TIA BOATMAN PATTERSON
GENERAL COUNSEL

SHRA

INVESTING IN COMMUNITIES

A Joint Powers Agency

MEMBERS

City of Sacramento

County of Sacramento

Successor Agency for the Redevelopment Agency of the City of Sacramento

Successor Agency for the Redevelopment Agency of the County of Sacramento

Housing Authority of the City of Sacramento

Housing Authority of the County of Sacramento

April 7, 2014

Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

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Sincerely,

TIA BOATMAN PATTERSON
GENERAL COUNSEL

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On April 8, 2014, I served the:

Claimant Comments; and
Sacramento Housing and Redevelopment Agency (SHRA) Comments as Housing Authority for City and County of Sacramento
Housing Successor Agency, 12-TC-03
Health and Safety Code Sections 34176;
Statutes 2011-12, First Extraordinary Session, Chapter 5 9ABX1 260;
Statutes 2012, Chapter 26, (AB 1484)
Stanton Housing Authority, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 8, 2014 at Sacramento, California.

Lorenzo R. Duran Jr.
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/8/14

Claim Number: 12-TC-03

Matter: Housing Successor Agency

Claimant: Stanton Housing Authority

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Mac Taylor
Legislative Analyst

February 17, 2012

The 2012-13 Budget:

Unwinding Redevelopment







EXECUTIVE SUMMARY

On February 1, 2012, all redevelopment agencies in California were dissolved and the process for unwinding their financial affairs began. Given the scope of these agencies' funds, assets, and financial obligations, the unwinding process will take time. Prior to their dissolution, redevelopment agencies (RDAs) received over $5 billion in property tax revenues annually and had tens of billions of dollars of outstanding bonds, contracts, and loans.

This report reviews the history of RDAs, the events that led to their dissolution, and the process communities are using to resolve their financial obligations. Over time, as these obligations are paid off, schools and other local agencies will receive the property tax revenues formerly distributed to RDAs.

The report discusses these major findings:

- Although ending redevelopment was not the Legislature's objective, the state had few practical alternatives.
- Ending redevelopment changes the distribution of property tax revenues among local agencies, but not the amount of tax revenues raised.
- Decisions about redevelopment replacement programs merit careful review.
- The decentralized process for unwinding redevelopment promotes a needed local debate over the use of the property tax.
- Key state and local choices will drive the state fiscal effect.

The report recommends the Legislature amend the redevelopment dissolution legislation to address timing issues, clarify the treatment of pass-through payments, and address key concerns of redevelopment bond investors.

HISTORY OF REDEVELOPMENT IN CALIFORNIA

Californians pay over $45 billion in property taxes annually. County auditors distribute these revenues to local agencies—schools, community colleges, counties, cities, and special districts—pursuant to state law. Property tax revenues typically represent the largest source of local general purpose revenues for these local agencies.

In 1945, the Legislature authorized local agencies to create RDAs. Several years later, as shown in Figure 1 (see next page), voters approved a redevelopment financing program referred to as "tax increment financing." Under this process, a city or county could declare an area to be blighted and in need of urban renewal. After this declaration, most of the growth in property tax revenue from the "project area" was distributed to the city or county's RDA as "tax increment revenues" instead of being distributed as general purpose revenues to other local agencies serving the area. Under law, tax increment revenues could be used only to address urban blight in the community that established the RDA.

During Its Early Years, Redevelopment Was a Small Program

During the 1950s and 1960s, few communities established redevelopment project areas and most project areas were small—typically 10 acres (about six square city blocks) to 100 acres (an area about one-fifth of a square mile). The small size of the early project areas reflected, in part, competing community interests in property tax revenues, particularly from school and community college districts that otherwise would receive about half of any growth in property tax revenues. (Under the state school financing system of the time, the state did not backfill K-14 districts if some of their property tax revenues were redirected to RDAs.) Community interest in education and other local programs, therefore, served as a fiscal check on redevelopment expansion.

The limited size of redevelopment project areas during this period also reflected the fiscal authority local governments had to raise funds from other sources to pay for local priorities. During this era, for example, the State Constitution allowed local governments to raise property and other tax rates upon a vote of their governing body and without local voter approval. Cities and counties also had wide authority to impose fees and assessments.

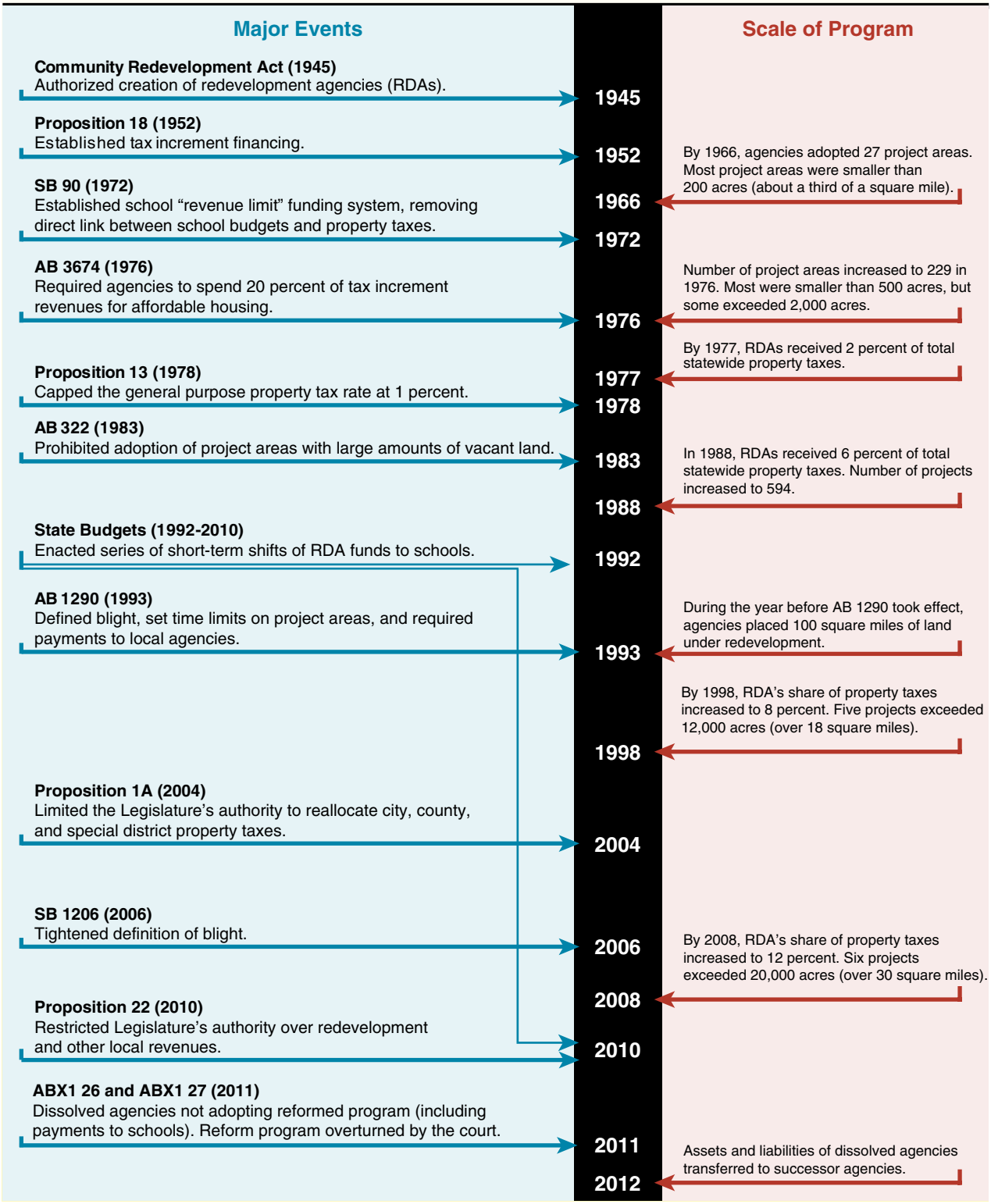
Use of Redevelopment Expanded After SB 90 and Proposition 13

After its modest beginnings, use of redevelopment expanded significantly in the 1970s and 1980s due to two major state policy changes. First, passage of Chapter 1406, Statutes of 1972 (SB 90, Dills) created a system of school "revenue limits," whereby the state guarantees each school district an overall level of funding from local property taxes and state resources combined. Thus, if a district's local property tax revenues do not grow—due to redevelopment or for other reasons—the state provides additional state funds to ensure that the district has sufficient funds to meet its revenue limit. Second, Proposition 13 in 1978 (and later Proposition 218 in 1996) significantly constrained local authority over the property tax and most other local revenues sources. These measures did not, however, reduce local authority over redevelopment.

With fewer fiscal checks and less revenue authority, cities (joined by a small number of counties) no longer limited their project areas to small sections of communities, but often adopted projects spanning hundreds or thousands of acres and frequently including large tracts of vacant land. Some jurisdictions placed farmland

Figure 1

History of Redevelopment



under redevelopment. At least two cities placed all privately owned land in the city under redevelopment.

Legislature Took Steps to Constrain Redevelopment

Over time, the expanded use of redevelopment led to these agencies receiving an increasing share of property taxes collected under the 1 percent rate. This, in turn, spawned concern that redevelopment—a program established as a tool to address defined pockets of urban blight—was decreasing funds needed for other local programs and increasing state costs to support K-14 education.

Beginning in the 1980s and increasingly through 2011, state lawmakers took actions to constrain local governments' use of redevelopment, including tightening the definition of blight, imposing timelines on project areas, and prohibiting new projects on bare land. Concerned that RDAs were not using their authority to develop affordable housing, the Legislature enacted laws strengthening the statutory requirement that RDAs spend 20 percent of their tax increment revenues developing housing for low and moderate income households. The Legislature also began restricting the amount of "pass-through" payments RDAs provided other local agencies in the hope that these other local agencies might provide more active oversight. (Two nearby boxes provide information on a major reform measure enacted in 1993 and pass-through payments [see next page].)

Because most of these new statutory restrictions applied only to new redevelopment project areas and existing projects could last for

Redevelopment Reform: AB 1290

Sponsored by the statewide redevelopment association, Chapter 942, Statutes of 1993 (AB 1290, Isenberg), sought to address long-standing concerns about the misuse of redevelopment and to refocus the program on eradicating urban blight.

This measure:

- Defined a "blighted" area as one that is predominately urbanized and where certain problems are so substantial that they constitute a serious physical and economic burden to a community that cannot be reversed by private or government actions, absent redevelopment.
- Replaced the process whereby local agencies and redevelopment agencies (RDAs) negotiated the amount of pass-through revenues on a case-by-case basis with a statutory formula for sharing tax increment revenues.
- Limited RDA ability to provide subsidies and assistance to auto dealerships, large volume retailers, and other sales tax generators.

One year after AB 1290 took effect, this office reviewed the new project areas adopted pursuant to the law. We found no evidence that redevelopment projects established in 1994 were smaller in size or more focused on eliminating urban blight than project areas adopted in earlier years. (This 1994 report, *Redevelopment After Reform: A Preliminary Look*, is available on our office's website: www.lao.ca.gov.)

over 50 years, many redevelopment projects were not affected substantially by the changes. The RDAs also continued to find ways of establishing large new project areas despite the increasingly narrow statutory definitions of blight and developed land.

By 2009-10, RDAs were receiving over $5 billion in property taxes annually—a redirection of 12 percent of property tax revenues from general purpose local government use for redevelopment purposes. The state's costs to backfill K-14 districts for the property taxes redirected to redevelopment exceeded $2 billion annually.

Budget Acts Shifted Funds From Redevelopment

Beginning in the 1990s, the state began taking actions in its annual state budget to require RDAs to shift some of their revenues to schools to offset the state's increased costs associated with redevelopment. The shifted funds typically were deposited into countywide accounts referred to as ERAF (Educational Revenue Augmentation Fund) or SERAF (Supplemental Educational Revenue Augmentation Fund). These state budgetary actions occurred nine times between 1992 and 2011.

Concerned about the magnitude and frequency of these budget shifts, redevelopment advocates (along with groups interested in transportation and other elements of local finance) sponsored Proposition 22. Among other things, this initiative measure (approved by the state's voters in November 2010), limits the Legislature's authority over redevelopment and prohibits the state from enacting new laws that require RDAs to shift funds to schools or other agencies.

Pass-Through Payments

Many redevelopment agencies (RDAs) made "pass-through payments" to local agencies to partly offset these agencies' property tax losses associated with redevelopment. State laws regulating these payments changed over the years.

Pre-1994 Law Allowed Amount of Payments to Be Negotiated. Before 1994, the terms of pass-through payments were negotiated between the RDA and a local agency. Most negotiations occurred between a city RDA and the county and special districts. (The K-14 districts typically were not active in these negotiations—in part because, after 1972, the state backfilled them for any property tax losses.) Pass-through agreements sometimes were negotiated as part of a settlement of a dispute over the legality of a proposed project area. Occasionally, RDAs agreed to provide 100 percent pass-through payments to the county and special districts, meaning that these agencies received their entire share of the property tax in pass-through payments. In these cases, the only property tax revenue that the RDA retained was the K-14 districts' and city's share.

Assembly Bill 1290 Replaced Negotiated Agreements With a Schedule of Payments. Seeking to encourage greater local oversight of RDA activities while still requiring RDAs to mitigate their fiscal effects on other local agencies, Chapter 942, Statutes of 1993 (AB 1290, Isenberg) eliminated RDA authority to negotiate pass-through payments and established a statutory formula for pass-through payment amounts. In contrast to the earlier negotiated agreements, post-1993 pass-through payments are distributed to all local agencies and the amount each agency receives is based on its proportionate share of the 1 percent property tax rate in the project area.

REDEVELOPMENT IN 2011

Governor's Budget Proposed Ending Redevelopment

Citing a need to preserve public resources that support core government programs, the Governor's 2011-12 budget proposed dissolving RDAs. Under the Governor's plan, property taxes that otherwise would have been allocated to RDAs in 2011-12 would be used to (1) pay existing redevelopment debts (such as bonds an agency sold to finance a retail or housing development), (2) make pass-through payments to other local governments, and (3) offset $1.7 billion of state General Funds costs. Any remaining redevelopment funds would be allocated to the other local agencies that serve the former project area, with the allocations based largely on each agency's share of property tax revenues in the project area.

In subsequent years under the Governor's plan, all remaining redevelopment funds (after payment of redevelopment debts and pass-throughs) would be allocated to local agencies based on their property tax shares, except that some funds were redirected from special districts to counties. The Governor's plan further specified that, beginning in 2012-13, the additional K-14 property tax revenues would be provided to schools to supplement any funds they would have received under the state's Proposition 98 guarantee.

Legislature Rejected Governor's Proposal

The administration's 2011 proposal—SB 77 (Committee on Budget and Fiscal Review) and AB 101 (J. Pérez)—launched a major debate within the Legislature regarding the role of redevelopment and the importance and costs of the program. Because the Governor's proposal distributed redevelopment property tax revenues in a manner that differed somewhat from existing property tax allocation laws (that is, it paid pass-through payments and shifted some special district property taxes to counties), the measures to implement it required approval by a two-thirds vote of the Legislature pursuant to the provisions of Proposition 1A (2004).

In March, SB 77 failed by one vote in the Assembly to secure the two-thirds vote it required to pass. Assembly Bill 101 was not taken up on the floor of the Senate. After March, legislative debate regarding redevelopment focused on proposals that (1) allowed RDAs to continue, albeit with modifications and with ongoing funding provided to schools, and (2) followed the existing statutory formulas related to property tax allocations, thereby avoiding Proposition 1A's two-thirds vote requirement.

Measures Enacted to Reform or End Redevelopment

In June 2011, the Legislature approved and the Governor signed two pieces of legislation:

- Chapter 5, Statutes of 2011 (ABX1 26, Blumenfield), imposed an immediate freeze on RDA authority to engage in most of their previous functions, including incurring new debt, making loans or grants, entering into new contracts or amending existing contracts, acquiring or disposing of assets, or altering redevelopment plans. The bill also dissolved RDAs, effective October 1, 2011 and created a process for winding down redevelopment financial affairs and distributing any net funds from assets or property taxes to other local taxing agencies.

- Chapter 6, Statutes of 2011 (ABX1 27, Blumenfield) allowed RDAs to opt into a voluntary alternative program to avoid

the dissolution included in ABX1 26. The program included annual payments to K-12 districts ($1.7 billion in 2011-12 and about $400 million in future years) to offset the fiscal effect of redevelopment.

Recognizing the considerable legal uncertainties pertaining to both measures, the Legislature specified its policy preferences in the legislation. Specifically, if any major element of ABX1 27 (such as the required payments to schools) was determined to be unconstitutional, ABX1 27 specified that all of its provisions would be null and void. In addition, ABX1 26 specified that if ABX1 27 were rendered inoperative, this would have no effect on the provisions of ABX1 26. Thus, if the redevelopment reform measure were overturned, all RDAs would be subject to the dissolution provisions in ABX1 26.

One-Time State Fiscal Relief; Long-Term Funding for Schools

The budget assumed that the increased school funding from these two bills would raise $1.7 billion in 2011-12 (with most of the funds related to payments made by RDAs opting into the ABX1 27 program and a smaller amount resulting from increased school property taxes resulting from ABX1 26). Legislation adopted in March 2011 related to education directed the Department of Finance (DOF) to adjust the Proposition 98 calculations so that these increased funds would offset 2011-12 state General Fund spending obligations for schools. In 2012-13 and future years, ABX1 26 and ABX1 27 were estimated to generate a lower sum for K-12 school districts, potentially about $400 million initially. The March 2011 education bill directed DOF *not* to adjust the Proposition 98 calculations to reflect these increased funds in 2012-13 and later. As a result, going forward, any funds that K-12 districts received from ABX1 26 and ABX1 27 would be in addition to amounts required under Proposition 98.

RDAs Expedited Activities

During the legislative debate over redevelopment, many RDAs took actions to transfer or encumber assets and future tax increment revenues in case the Governor's proposal, or something similar, was enacted.

Rush to Issue Debt. Tax allocation bonds, which pledge future tax increment revenues to make principal and interest payments, are RDAs' primary borrowing mechanism. In the first six months of 2011, RDAs issued about $1.5 billion in tax allocation bonds, a level of debt issuance greater than during all 12 months of 2010 ($1.3 billion). The increase in bond issuance from 2010 to 2011 was even more notable because it occurred despite RDAs being required to pay higher borrowing costs. Specifically, about two-thirds of the bond issuances in 2011 had interest rates greater than 7 percent—compared with less than one-quarter of bond issuances in 2010. In fact, RDAs issued more tax allocation bonds with interest rates exceeding 8 percent during the first six months of 2011 than they had in the previous ten years.

Rush to Transfer Assets. Many RDAs also took actions to transfer redevelopment assets—land, buildings, parking facilities—to other local agencies, typically the city or county that created the RDA. One common approach was for the RDA and city council to hold a joint hearing in which the RDA transferred (and the city accepted) ownership of all RDA property and interests. After one city council called a special meeting in March to approve such a transfer, the mayor was reported in newspapers as saying, "We have no funds now in our redevelopment coffers that can be taken." In addition to transferring existing assets, many RDAs entered into "cooperation agreements" with their city, county, or another local agency. Under these agreements, the city, county, or other local agency would carry out existing and future redevelopment projects. Local agency staff and

officials assumed that—if the Governor's proposal were enacted—the cooperation agreements would be an enforceable contract, requiring the allocation of future tax increment revenues as payment for performing the agreement. For example, the RDA of the City of San Bernardino entered into a project funding agreement that pledged $525 million in future tax increment revenue to a local non-profit corporation. The corporation—controlled by local elected officials including the mayor and two city council members—was given the responsibility of carrying out a list of projects from the RDA's capital improvement plan. Local cooperation agreements typically were not arm's length transactions, but rather, were between closely related governmental bodies with no third party involved.

Court Found Redevelopment Reform Measure Unconstitutional

Within three weeks of the Governor signing the redevelopment legislation, the California Redevelopment Association (CRA) and the League of California Cities filed petitions with the California Supreme Court challenging ABX1 26 and ABX1 27 on constitutional grounds. The CRA/League's argument focused on sections of the Constitution (1) establishing a special fund for tax increment revenues (Article XVI, Section 16, added by Proposition 18 of 1952) and (2) restricting the Legislature's authority to shift funds from RDAs (Article XIII, Section 25.5, added by Proposition 22).

On December 29, 2011, the court upheld ABX1 26, saying that the Legislature had authority to dissolve entities that it created and that neither Article XVI, Section 16 (the tax increment financing provision), nor Article XIII, Section 25.5 (Proposition 22) limited the Legislature's power to dissolve RDAs.

In reviewing ABX1 27, in contrast, the court found the measure unconstitutional because it required RDAs to make payments to schools as a condition of these agencies' continuation. The court found this violated Proposition 22's prohibition against the state "directly or indirectly" requiring an RDA to transfer funds to schools or to any other agency. Finally, in order to address the delays associated with litigation and an earlier court stay, the court extended a variety of dates and deadlines in ABX1 26 by four months, including the date RDAs were required to shut down.

THE UNWINDING PROCESS

The Supreme Court's ruling meant all RDAs were subject to ABX1 26 and set in motion the process laid out in ABX1 26 for shutting down and disbursing their assets. The process focuses on two goals: (1) ensuring existing financial obligations are honored and paid and (2) minimizing any additional RDA obligations so that more funds are available to transfer for other governmental purposes.

The dissolution process contains four key elements:

- ***Local Management and Oversight.*** In most cases, the city or county that created the agency is managing its dissolution as its successor agency. An oversight board, with representatives from the affected local taxing agencies—K-14 districts, the county, the city, and special districts—supervises the successor agency's work. (We describe the work of the successor agency and oversight board further below.) All financial transactions associated with

redevelopment dissolution are handled by the successor agency and the county auditor-controller.

- ***List of Future Redevelopment Expenditures.*** Various local parties are tasked with developing and reviewing lists of redevelopment "enforceable obligations." This term includes payments for redevelopment bonds and loans with required repayment terms, but typically excludes payments for projects not currently under contract. Only those financial obligations included on these lists may be paid with revenues of the former RDA. The first list of redevelopment obligations is called the Enforceable Obligation Payment Schedule (EOPS); later versions of this list are called the Recognized Obligation Payment Schedule (ROPS). Each ROPS is forward looking for six months. Most local agency cooperation agreements may be included on the EOPS, but not the ROPS.

- ***Local Distribution of Funds.*** Funds that formerly would have been distributed to the RDA as tax increment are deposited into a redevelopment trust fund and used to pay obligations listed on the EOPS/ROPS. Any remaining funds in the trust fund—plus any unencumbered redevelopment cash and funds from asset sales—are distributed to the local agencies in the project area.

- ***State Review.*** Actions of local oversight boards are subject to review by DOF. Actions by the county auditor-controller are subject to review by the State Controller's Office (SCO). The SCO also reviews redevelopment asset transfers completed during the first half of 2011 to determine whether any of them were improper and should be reversed.

Below, we provide more information about the responsibilities of the state and local entities that play a role in winding down redevelopment.

Final Actions of the RDA and Its City or County

Before its dissolution, a key responsibility of an RDA was preparing an EOPS delineating the payments it must make through December 31, 2011. Assembly Bill X1 26 required the agency to post the EOPS to its website and to transmit copies to DOF, SCO, and its county auditor-controller by late August 2011. Under ABX1 26, payments or actions of an RDA pursuant to its EOPS do not take effect for three business days. During this time, DOF is authorized to request a review of the RDA action and DOF has ten days to approve the action or return it to the RDA for reconsideration.

In part due to confusion regarding a partial stay of ABX1 26 while the State Supreme Court reviewed this legislation, this initial oversight function was not implemented fully. The DOF advises us that many EOPS were delayed and that about two dozen of the state's approximately 400 agencies still have not provided an EOPS. Very few of these payment schedules were reviewed in detail by DOF and, in those cases in which it raised concerns, the department is uncertain whether local agencies corrected their EOPS.

Successor Agency

Unless it voted not to, each city or county that created an RDA became its successor agency on February 1, 2012. The successor agency manages redevelopment projects currently underway, makes payments identified on the EOPS (and later, the ROPS), and disposes of redevelopment assets and properties as directed by the oversight board. A separate agency (discussed later in the report) manages the RDA's housing assets. The work of

the successor agency is funded from the former tax increment revenues. (A nearby box discusses the limitations on the agency's administrative spending.) The agency's liability for any legal claims is limited to the funds and assets it receives to perform its functions.

Decision Whether to Serve as Successor Agency. Based on information available at this time, it appears that all cities and counties with RDAs became successor agencies with the exception of the Cities of Bishop, Los Angeles, Los Banos, Merced, Pismo Beach, Riverbank, and Santa Paula. In hearings to discuss this matter, local elected representatives and staff typically indicated that they thought that serving as a successor agency would put their community in a better position to advocate for continuing their projects and maintaining redevelopment properties. Cities electing not to serve as successor agencies, however, voiced offsetting concerns related to (1) the limitation on funds to pay successor agency administration expenses and (2) potential liabilities associated with terminated projects.

When a City or County Elects Not to Serve as a Successor Agency. Figure 2 (see next page) summarizes how a successor agency is designated in cases when a local agency that created an RDA declines the role. In the case of the City of Los Angeles and the cities in Merced, Ventura, and Stanislaus Counties, no other local agency in the county agreed to serve as their successor agency and the Governor appointed county residents to serve on three-member governing boards of the "designated local authorities." Each authority will serve as the successor agency until a local agency elects to serve in this capacity.

Develops Key Document: ROPS. The successor agency is responsible for drafting a ROPS delineating the enforceable obligations payable through June 30, 2012 and their source of payment, and then additional ROPS every six months thereafter. There are two major differences between the ROPS and the earlier EOPS. First, ROPS are subject to the approval of an oversight board (see next page) and certification by the county auditor-controller. Second, most debts owed to a city or county that created the RDA are no longer considered to be enforceable obligations and thus may not be listed on the ROPS. This includes most of the cooperation agreements established in 2011 and many other types of financial obligations between an RDA and the government that created it.

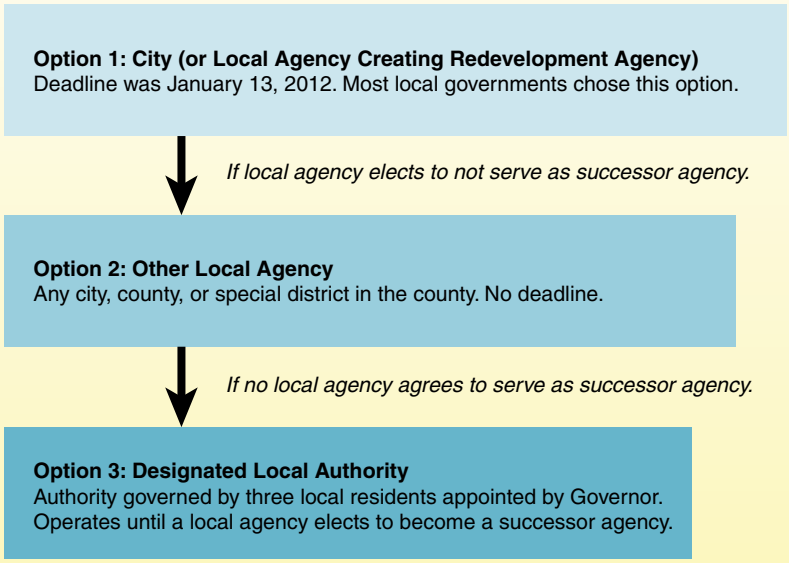
Frequently, RDA-city or RDA-county financial agreements were established for the purpose of reducing the sponsoring government's costs or increasing its revenues. For example, many RDAs paid a significant share of their sponsoring local government's administrative costs (such as part of the salaries for the city council and city manager). Doing so freed up city or county funds so that they

Successor Agency Administration Costs

Subject to the approval of the oversight board, Chapter 5, Statutes of 2011 (ABX1 26, Blumenfield) specifies that successor agencies may spend $250,000 or up to 5 percent of the former tax increment revenues for administrative expenses in 2011-12 and $250,000 or up to 3 percent in future years. The county auditor-controller may reduce these amounts, however, if there are insufficient funds to pay enforceable obligations and the administrative costs of the county auditor-controller and State Controller. Funds for successor agency administration may be supplemented with money from other revenue sources, such as funds reserved for project administration.

Figure 2

Successor Agency Formation



could be used for other purposes. Some RDAs also lent money to their city or county without charging interest on the loans, allowing the city or county to invest the funds and keep the earnings. Other sponsoring governments charged their RDAs above market interest rates for loans, thereby allowing the city or county to benefit from unusually high interest earnings. Under ABX1 26, many of these obligations would not be eligible to be placed on the ROPS.

Oversight Board

Each successor agency has an oversight board that supervises it. The oversight board is comprised of representatives of the local agencies that serve the redevelopment project area: the city, county, special districts, and K-14 educational agencies. Oversight board members have a fiduciary responsibility to holders of enforceable obligations, as well as to the local agencies that would benefit from property tax distributions from the former redevelopment project area. As discussed in a nearby box, the seven-member board is designed so that no local agency has dominant control.

Oversight Board Will Make Major Decisions. Assembly Bill X1 26 gives the oversight board considerable authority over the former RDA's financial affairs. In addition to approving the successor agency's administrative budget, the oversight board adopts the ROPS—the central document that identifies the financial obligations of the former RDA that the successor agency may pay over the next six months.

The oversight board may determine that a contract between the dissolved RDA and others should be terminated or renegotiated to increase property tax revenues to the affected local agencies. For example, the oversight board may cancel subsequent stages of a project if it finds that early termination would be in the best interest of the local agencies. Similarly, it may (1) direct the successor agency to dispose of assets and properties of the former RDA or transfer them to a local government and (2) terminate existing agreements that do not qualify as enforceable obligations.

Actions of an oversight board do not go into effect for three business days. During this time, DOF may request a review of the oversight board's action. The DOF, in turn, has ten days to approve the oversight board's action or return it to the oversight board for reconsideration.

Successor Housing Agency

Under ABX1 26, the former RDA's housing functions and most of its housing assets are transferred to a successor housing agency. Housing assets that transfer to the successor housing agency include property, rental payments, bond proceeds, lines of credit, certain loan repayments, and other small revenue sources. The unencumbered balance in the former RDA's Low and Moderate Income Housing Fund, however, does not transfer to the successor housing agency. Assembly Bill X1 26 directs the county auditor-controller to distribute the unencumbered balance in the housing fund as property tax proceeds to the affected local taxing entities. (The box on the next page provides more information on the Low and Moderate Income Housing Fund.)

Local Agencies Select Oversight Board Members

Most oversight boards are made up of the following:

- Two members appointed by the county board of supervisors, including one member representing the public.
- Two members appointed by the mayor, including one member representing the recognized employee organization with the largest number of former redevelopment agency (RDA) employees.
- One member appointed by the largest special district, by property tax share, within the boundaries of the dissolved RDA.
- One member appointed by the county superintendent of education or county board of education.
- One member appointed by the Chancellor of the California Community Colleges.

The Governor may appoint a representative for any position that has not been filled as of May 15, 2012. The oversight board may begin working as soon as it has a four-member quorum.

Board Member Compensation. Oversight board members do not receive compensation or reimbursement for expenses. No oversight board member may serve on more than five oversight boards simultaneously.

Open Government Requirement. The oversight board is a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974. Members are responsible for giving the public access to its hearings and deliberations, disclosing any private economic interests, and disqualifying themselves from participating in decisions in which they have a financial interest.

Future Consolidation of Oversight Boards. All oversight boards within a county are consolidated by July 1, 2016. The membership on the consolidated oversight board is similar to the membership of the initial oversight board, except that the city and special district members are appointed by countywide selection committees.

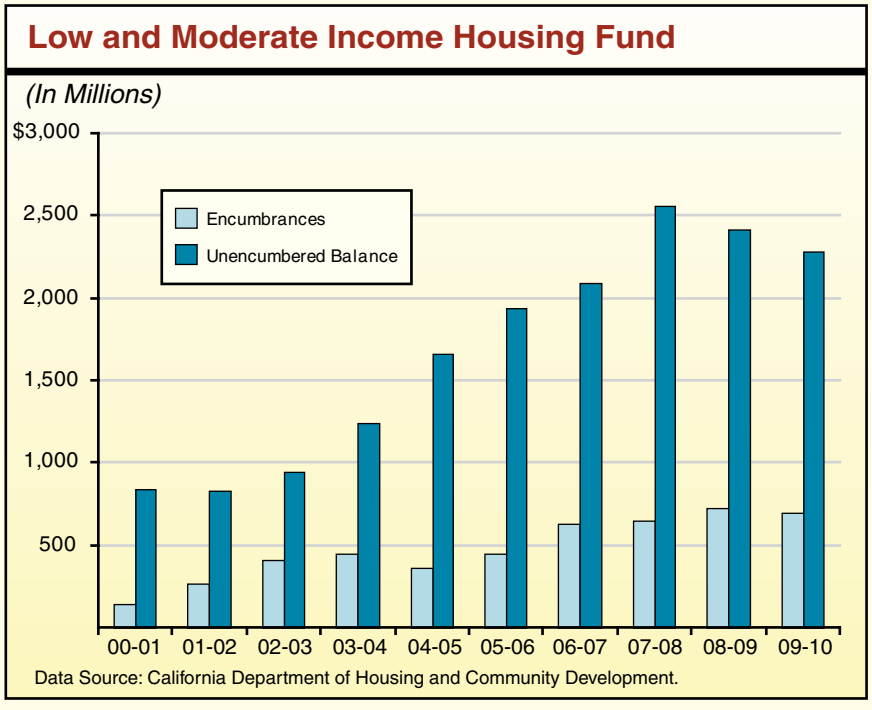
As shown in Figure 3, the sponsoring city or county may elect to become the successor housing entity. If the sponsoring community declines this role, then the former redevelopment agency's housing functions and assets are transferred to the local housing authority, or to the state Department

The Low and Moderate Income Housing Fund

Prior to their dissolution, state law required redevelopment agencies (RDAs) to deposit 20 percent of their annual tax increment revenues into the Low and Moderate Income Housing Fund to provide affordable housing. These housing funds were intended to maintain and increase affordable housing by acquiring property, rehabilitating or constructing buildings, providing subsidies for low- and moderate-income households, or preserving public subsidized housing units at risk of conversion to market rates.

For a variety of reasons, some RDAs retained large balances in their housing fund. As shown in the figure, RDAs' annual reports to the Department of Housing and Community Development (HCD) show that the unencumbered balances have grown over time to $2.2 billion in 2009-10. We would note, however, that there is some uncertainty about this figure. Redevelopment agencies provide a separate annual report to the State Controller's Office (SCO) that showed an unencumbered balance in the housing fund of about $1.3 billion. This difference occurs because HCD and SCO have separate criteria for distinguishing between encumbered and unencumbered funds. Also, the reports reflect balances for the 2009-10 fiscal year, balances that likely have changed. Some agencies may have accumulated additional balances, while others made large expenditures or transfers for affordable housing purposes or to shield assets from the proposed dissolution process.

Under Chapter 5, Statutes of 2011 (ABX1 26, Blumenfield), the unencumbered balance is distributed as local property tax revenue. (The Legislature recently considered legislation that would require unencumbered balances in the housing fund to remain with the successor housing agency for affordable housing activities.) Based on the HCD and SCO reports, the unencumbered balance available for distribution likely is between $1 billion and $2 billon, but the actual balance will depend upon the spending of former RDAs since 2009-10 as well as how successor agencies and oversight boards distinguish between encumbered and unencumbered balances.



of Housing and Community Development if no local housing authority exists. Although ABX1 26 does not specify when sponsoring communities must elect to serve as the successor housing agency, it appears that most cities and counties elected to serve as the successor housing agency at the same time they considered becoming the successor agency. Unlike the successor agency, the successor housing agency's actions related to transferred redevelopment assets are not subject to the review of the oversight board or DOF.

County Auditor-Controller

The county auditor-controller administers each former RDA's Redevelopment Property Tax Trust Fund ("trust fund"). Revenues equal to the amounts that would have been allocated as tax increment are placed into the trust fund for servicing the former RDA's debt obligations, making pass-through payments, and paying certain administrative costs. The auditor then distributes any trust funds not needed for these purposes—as well as any remaining redevelopment cash balances and the proceeds of asset sales—to the local governments in the area as property taxes.

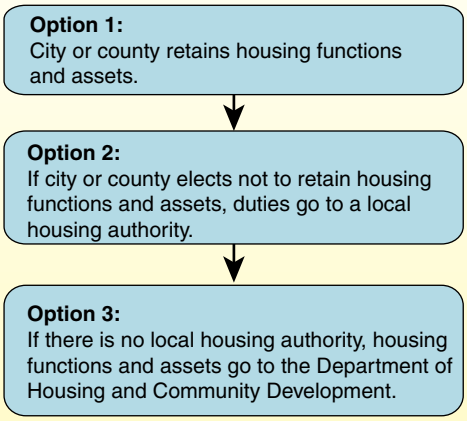
The auditor also is responsible for certifying the successor agency's draft ROPS and auditing each dissolved RDA's assets and liabilities. Assembly Bill X1 26 authorizes county auditor-controllers to recoup their administrative costs associated with these requirements from the trust fund.

State Controller

Assembly Bill X1 26 assigns the SCO responsibility for recouping redevelopment assets inappropriately transferred during the first half of 2011. Specifically, SCO is directed to determine whether the RDA transferred an asset to the city or county that created it (or to another public agency). If the asset has not been contractually committed to a third party, "the Controller shall order the available asset to be returned" to the successor agency. Under this authority, for example, the Controller could order the return of land or buildings transferred from RDA ownership to city ownership during the first half of 2011. For example, many RDAs during 2011 transferred all of their buildings and land to the city. The SCO could order the city to return these assets.

Figure 3

Options for Creating a Successor Housing Agency



The SCO also plays an oversight role with regard to activities of the county auditor-controller that is similar to the role DOF plays in regard to the oversight board. Specifically, actions of a county auditor-controller do not take effect for three business days. During this time, the SCO may request a review of the county auditor-controller's action. The SCO has ten days to approve the county auditor-controller's action or return it to the auditor-controller for reconsideration.

Assembly Bill X1 26 specifies that SCO may recoup its costs related to these activities from tax increment revenues that previously would have been allocated to the RDA.

REDISTRIBUTING REDEVELOPMENT FUNDS

Over time, the dissolution of RDAs will increase the amount of general purpose property tax revenues that schools, community colleges, cities, counties, and special districts receive by more than $5 billion annually. In the near term, however, there is uncertainty regarding the amount of property tax revenues that will be available, which local governments will receive the revenues, and the extent to which these increased funds will offset state General Fund education expenses.

This section begins with an example showing—for one fictional RDA—how the county auditor-controller would (1) determine the amount of redevelopment trust funds to distribute to affected taxing agencies and (2) how much additional property taxes each agency would receive. The section then examines these questions from a statewide perspective.

Example: Determining the Amount of Funds to Be Distributed

As shown in Figure 4, the county auditor-controller determined that the former RDA would have received $5 million in tax increment. The RDA had an agreement to pay other local governments $1 million in pass-through payments. The ROPS—prepared by the successor agency and approved by the oversight board—indicates that the former RDA had $20 million in bonded indebtedness and other enforceable obligations, $700,000 of which is due and payable from tax increment.

The successor agency's administrative costs total $250,000 and its cost for reimbursing the county auditor-controller and SCO for their work related to ABX1 26 totals $50,000. The successor agency reports that the dissolved RDA had assets of $200,000 in unencumbered cash (available for distribution immediately) and some land holdings (that will be sold over time).

In the example, the county auditor-controller would have a net of $3 million of residual trust funds and $200,000 in cash to distribute to the local agencies serving the redevelopment project area. This process for calculating the trust fund amount would continue every six months as long as the former RDA has enforceable obligations. After all of the enforceable obligations are paid, the project area will be closed and the property taxes formerly considered tax increment will be distributed to local agencies. These agencies also will receive funds from the liquidation of assets of the former RDA.

What if Trust Fund Costs Are Greater Than Revenues? In the example, there is $3 million to distribute because revenues deposited into the trust fund are greater than its expenses. What would happen if expenses exceeded revenues? In general, this should not

Figure 4

Example: Funds to Distribute

(In Thousands)

Trust Fund	
Property taxes formerly called tax increment	$5,000
Pass-through payments	-1,000
Enforceable obligations payable that year	-700
Successor agency administration	-250
County auditor-controller and State Controller administration	-50
Trust Funds to Distribute	**$3,000**
Cash and Assets	
Unencumbered agency cash	$200
Total Funds to Distribute	**$3,200**

be the case because ABX1 26 eliminates a major redevelopment expense—the requirement to set aside 20 percent of tax increment revenues for affordable housing. In addition, the maximum allowable expenditure for successor agency administration is lower than the amount most RDAs spent from tax increment on administration in previous years.

Given these two cost reductions, most trust funds likely will have ample resources to pay their enforceable obligations and administrative costs for the county auditor-controller and SCO. Should the trust fund's resources be insufficient, however, ABX1 26 directs the county auditor-controller to reduce the successor agency's funding for administration and, if necessary, reduce funding for some pass-through payments. (Some pass-through payments—those that must be paid *before* debt obligations—would not be reduced.) Assembly Bill X1 26 also specifies that the county treasurer may loan funds from the county treasury to ensure prompt payment of enforceable obligations.

Example: Allocating Redevelopment Residual Funds

In our example, $3.2 million is available for distribution to the other local agencies. Assembly Bill X1 26 directs the county auditor-controller to allocate the $200,000 to local agencies proportionately based on each agency's tax shares in the project area. In our fictional example, K-14 districts receive 50 percent of the property tax, counties receive 25 percent, cities receive 15 percent, and special districts receive 10 percent. Figure 5 displays how the $200,000 in cash would be distributed among local agencies.

Assembly Bill X1 26 is less clear, however, about the distribution of the $3 million of residual trust funds. The administration and some counties interpret the measure's provisions as requiring these funds to be distributed the same way that cash and funds from redevelopment asset sales are distributed: by tax shares.

In our view, however, the stronger interpretation is that these funds are distributed in a way that takes into account the payments each local agency received from pass-through payments (which, in our example, total $1 million). That is, the $3 million is distributed in a way that ensures that no agency receives more from the trust fund and pass-through payments *combined* than it would have if funds from both sources ($4 million) were distributed based on tax shares.

Our understanding is that this unusual section of the legislation was drafted in an effort to avoid reallocating property taxes and thus requiring approval by two-thirds of the Legislature under Proposition 1A. While technical in nature, this matter has significant implications for the distribution of revenues—particularly for schools and cities (which receive fairly low pass-through payments) and counties and special districts (which receive comparatively high pass-through payments).

Figure 6 (see next page) illustrates the fiscal effect of "netting out" pass-through payments. In our example, the county and special districts received pass-through payments of $750,000 and $250,000, respectively. If these payments are *excluded* from the calculation of distribution from

Figure 5

Example: Distribution of Funds From Cash and Assets

(In Thousands)

	Tax Share	Cash and Assets
K-14 districts	50%	$100
County	25	50
City	15	30
Special districts	10	20
Totals	**100%**	**$200**

the trust fund, counties and special districts receive $750,000 and $300,000, respectively, from the trust fund. Conversely, if these payments are *included* in the distribution of the $3 million of trust funds, the county and special district's distribution falls to $250,000 and $150,000, respectively, and the school's and city's distribution increases. In certain cases, it is possible that the county or special district might receive *lower* total funds under ABX1 26 than it did previously. This would be the case in our fictional RDA, for example, if there were only $1 million of trust funds to distribute. In that case, the county would get 25 percent (its property tax share) of $2 million ($1 million of trust fund revenues and $1 million of pass-through revenues), or $500,000. Using the same approach, the special district would receive 10 percent of $2 million, or $200,000. In effect, some of the funds that otherwise would have been distributed as pass-through payments to the county and special districts are instead distributed to other local agencies. Over time, however, as the enforceable obligations are paid off, trust fund distributions will increase for all local governments.

A nearby box provides additional information about this provision of ABX1 26.

Statewide Redevelopment Funds Available for Redistribution

Statewide, the amount of residual trust funds available to distribute to local governments will depend on the outcome of calculations—similar to Figure 4—undertaken for each former RDA in the state. These calculations will reflect the unique financial obligations, revenues, and assets of each RDA.

As shown in Figure 7, the administration estimates that $1.8 billion of trust funds will be distributed to local governments annually in 2011-12 and 2012-13. While this estimate is subject to considerable uncertainty, it may be high because the administration understates some significant costs.

- ***Understates Costs to Pay Enforceable Obligations.*** The administration's estimate assumes enforceable obligations will be paid over 20 years at a 4.6 percent interest rate. Our review of enforceable obligations indicates that some are short-term contracts and loans and others are bonds issued years ago. Amortizing all these obligations over 20 years understates their costs in the near term. We also note that the average interest rate on redevelopment bonds is higher than 4.6 percent. If we adjust the estimate to assume that these debts are paid over 15 years at a 5.6 percent interest rate (the average rate for bonds issued between 2006 and 2010), annual debt costs would increase by $600 million and local governments' distributions would fall by the same amount.

Figure 6

Example: Alternative Calculations for Distributing Redevelopment Trust Fund

(In Thousands)

	Treatment of Pass-Through Payments					
	Excluded			Included		
	Pass-Through	Trust Fund	Totals	Pass-Through	Trust Fund	Totals
K-14 districts	—	$1,500	$1,500	—	$2,000	$2,000
County	$750	750	1,500	$750	250	1,000
City	—	450	450	—	600	600
Special districts	250	300	550	250	150	400
Totals	**$1,000**	**$3,000**	**$4,000**	**$1,000**	**$3,000**	**$4,000**

- ***Assumes a Full Year of Implementation in Current Year.*** The administration's estimate of 2011-12 savings assumes that RDAs reduced their spending in the first half of the fiscal year. While ABX1 26 prohibited RDAs from paying during this time any obligation not listed on their EOPS, the EOPS that we reviewed appeared to authorize spending that was the same—or higher—than RDA spending in previous years. In addition, county auditor-controllers transferred half of total annual tax increment to RDAs in December or early January and

Figure 7

Governor's Estimate of Funds Available for Distribution

(In Billions)

Trust Fund	2011-12	2012-13
Property taxes formerly called tax increment	$5.4	$5.4
Pass-through payments	-1.2	-1.2
Enforceable obligations payable during year	-2.4	-2.4
Successor agency administration	—	—
County auditor-controller and State Controller administration	—	—
Trust Funds to Distribute	**$1.8**	**$1.8**
Cash and Assets		
Unencumbered agency cash	—	—
Total Funds to Distribute	**$1.8**	**$1.8**

The Pass-Through Netting Out Provision

What Is the Purpose? Chapter 5, Statutes of 2011 (ABX1 26, Blumenfield), allocates the property tax revenues of former redevelopment agencies (RDAs) to K-14 districts, cities, counties, and special districts. Proposition 1A (2004) requires a two-thirds vote of the Legislature whenever it passes a law that alters the share of property tax revenues that cities, counties, and special districts receive.

Our understanding is that ABX1 26, a measure approved by a majority vote of the Legislature, took the approach of allocating all former tax increment funds (except funds pledged to enforceable obligations or required for administration) in a manner that was consistent with the state's existing property tax allocation laws. Under this approach, therefore, agencies that received a higher share of pass-through agreement funds would receive lower allocations from the trust fund.

Why Does Netting Out Affect Some Local Agencies More Than Others? Nearly two-thirds of all pass-through payments stem from pre-1994 negotiations between RDAs and local agencies. For various reasons, counties and special districts were particularly active in this negotiation process. As a result, counties and special districts receive about two-thirds of all pass-through payments. This share of pass-through payments is almost double the share that counties and special districts would receive if pass-through payments were distributed based on tax shares.

Because counties and special districts get a disproportionately large share of pass-through payments, they would get less money from trust fund distributions if these pass-through payments were included in the trust fund calculations. The K-14 districts and cities, in contrast, would get a higher share of redevelopment trust fund distributions.

did not reserve funds for deposit to the redevelopment trust fund. Due to these factors, the full fiscal effect of ABX1 26 may not begin until 2012-13. If we adjust the administration's estimate to reflect the half-year implementation of ABX1 26 in the current year, local governments' distributions would fall by at least several hundred millions of dollars.

- ***Overlooks Administrative Costs.*** Three parties may fund their dissolution-related administrative costs from property tax revenues that previously were tax increment: the successor agency, the county auditor-controller, and the SCO. While not known, these costs could be in the range of $200 million to $300 million in 2011-12 and 2012-13 and would reduce the funding distributions to local governments.

- ***Assumes Cooperation Agreements Are Not Paid.*** The administration's debt cost estimate implicitly assumes that the adopted ROPS will not include cooperation agreements and other non-arm's length transactions between an RDA and its city or county government. Many successor agencies, however, are listing these agreements on their draft ROPS and the statewide redevelopment association is encouraging them to do so to safeguard their right to "challenge the invalidation of these agreements." Under ABX1 26, the oversight boards can remove these costs from a ROPS before adopting it. In addition, DOF has authority over oversight board actions. We note, however, that (1) the court-revised schedule provides little time for the oversight board or DOF to complete the analyses needed to determine whether debts are appropriate for the ROPS and (2) DOF has limited staff working on dissolution matters and oversight boards have no independent staff. Given these factors, it is possible that some adopted ROPS will show higher costs than the administration estimates, reducing the amount of trust fund revenues that will be distributed to local governments in 2011-12 by potentially hundreds of millions of dollars. (This problem could be corrected going forward by removing inappropriate debts from the next adopted ROPS.)

Other elements of the administration's estimate, however, could result in gains that could more than offset the costs identified above. Specifically:

- The administration's estimate does not account for distributions of unencumbered cash transferred from the successor agency. This is notable because many RDAs were planning to participate in the revised redevelopment program authorized by ABX1 27 and reserved significant funds to make the required payments ($1.7 billion) to schools.

- The administration's estimate also does not account for distributions of other redevelopment assets, including the assets that were transferred during the first half of 2011 that the SCO may order returned to the successor agency and the up to $2 billion of unencumbered funds in the affordable housing account. (As mentioned earlier, however, legislation to eliminate the distribution of housing funds is pending in the Legislature.)

- Finally, the administration's estimate does not adjust the distribution of trust funds to account for netting out pass-through

payments. While this factor does not affect the administration's estimate of total funds to be distributed, it would provide more funds for K-14 districts and cities and, conversely, less to counties and special districts.

On balance, we think the administration's estimate of the amount of funds to be distributed to local governments in 2011-12 and 2012-13 could be low, possibly by hundreds of millions of dollars. We note, however, that this assessment assumes that the unencumbered RDA cash and assets are available for distribution and that successor agencies reduce their spending to comply with ABX1 26's provision. If some or all of the assets are not distributed or successor agencies do not reduce their spending, the administration's estimate might be overstated by several hundred million to over $2 billion. We expect to have a more refined estimate late this spring after the oversight boards begin their work and we get initial reports from county auditor-controllers.

K-14 District Share of Distribution. Under the administration's interpretation of the funding distribution process, slightly more than half of all net trust funds (about $1 billion of the $1.8 billion) would be distributed to K-14 districts. Under our interpretation, the schools receive more funds, because the trust fund distribution would reflect each agency's property tax share *and* its pass-through payments. If we modify the administration's estimate to reflect the netting out of pass-through payments, the schools would receive about 80 percent of the distributed funds. This percentage would decline over time (as more funds are distributed outside of the pass-through process) and eventually the K-14 district share would be in the range of 45 percent to 60 percent (the K-14 district share of property taxes in most parts of the state).

Interaction With State K-14 Education Funding

As the local agencies that receive the largest share of revenues raised from the 1 percent property tax rate, K-14 districts will receive the largest share of property tax revenues from the dissolution of RDAs. These funds will grow over time as enforceable obligations are retired and property tax revenues increase. Whether these additional property tax revenues provide additional resources to K-14 education, however, depends on their interaction with the state's education finance system. As noted earlier in the report, K-14 education funding is a shared state-local responsibility. Proposition 98 establishes a guaranteed funding level through a combination of state General Fund appropriations and local property tax revenues. The extent to which the dissolution of redevelopment provides additional resources to K-14 districts or offsets state General Fund costs is uncertain and will depend on three key issues.

- ***How Much Redevelopment Trust Funds Will Be Distributed and When?*** As discussed above, the administration's estimate that a total of $1.8 billion will be available to distribute to local governments in 2011-12 and 2012-13 could be off by hundreds of millions to billions of dollars. It is also possible that the administration's estimate will be correct, but that more funds will be distributed in 2011-12 and less in the following year—or the other way around. (This could be the case, for example, if county auditor-controllers need to delay trust fund distributions to local agencies because decisions regarding the payment of some redevelopment obligations are still outstanding at the end of the fiscal year—or if all of the agency's unencumbered cash reserves are distributed in 2011-12 and no cash

reserves remain available for distribution in 2012-13.) Finally, the decision regarding whether to take pass-through payments into account in the distribution of redevelopment trust proceeds will affect the share of total trust proceeds that are provided to K-14 districts.

- ***How Much of These Funds Will Be Distributed to Basic Aid Districts?*** In a few districts, local property tax revenues exceed these districts' general fund amounts provided through Proposition 98. These districts, commonly referred to as "basic aid" districts, keep the excess local revenue and use it for educational programs and services at their discretion. Any trust funds distributed to these basic aid districts therefore would give them additional revenues to use for educational purposes, but would not offset state General Fund education costs. At this point, we are not able to estimate the amount of trust funds that could be allocated to basic aid districts, but—based on the distribution of tax increment revenues across the state and other factors—do not expect that they would receive more than about 10 percent of the total trust fund revenues provided to K-14 districts.

- ***Will Proposition 98 Be Rebenched to Reflect These Additional Funds?*** The state has taken action many times to "rebench" the Proposition 98 guarantee when it made policy changes that shifted local property tax revenues to or away from schools. The net effect of these actions is that the amount of the Proposition 98 minimum guarantee is not affected by the shifts in local property taxes. The 2011-12 budget assumed that the state would rebench Proposition 98 so that the funds shifted from redevelopment would, in turn, reduce the state's education costs under Proposition 98. Going forward, however, Chapter 7, Statutes of 2011 (SB 70, Committee on Budget and Fiscal Review) directed the state not to rebench Proposition 98. As a result, the property taxes shifted from redevelopment would not reduce state education funding going forward. The 2012-13 budget plan, however, proposes to change this policy and rebench the minimum guarantee to account for the redevelopment revenues on an ongoing basis. If the Legislature adopts this proposal, therefore, the state would realize education cost savings from the amount of trust funds and assets provided to K-14 districts.

FINDINGS AND RECOMMENDATIONS

Over the coming months, the Legislature and administration will need to make many decisions regarding implementing redevelopment dissolution. Figure 8 summarizes our major findings and near-term recommendations.

Few Practical Alternatives to Ending Redevelopment

Redevelopment in 2011 bore little resemblance to the small, locally financed program the Legislature authorized in 1945. Statewide, the

RDAs received more property taxes in 2011 than all of the state's fire, parks, and other special districts combined and, in some areas of the state, more property taxes than the city or county received. Redevelopment also imposed considerable costs on the state's General Fund because the state backfilled K-14 districts for property tax revenues distributed to RDAs. Overall, redevelopment cost the state's General Fund about as much as the University of California or California State University systems, but did not appear to yield commensurate statewide benefits.

The last two decades were marked by considerable tension between RDAs and the state, with the state frequently requiring RDAs to shift money to schools and RDAs challenging these fund shifts in court. For a while, RDAs assumed that Proposition 1A (2004)—a measure that reduced the state's authority over the property tax—would insulate them from future funding shifts. After the courts found that Proposition 1A did not safeguard them from a $1.7 billion 2009 shift and a $350 million 2010 shift, however, RDA advocates (along with other parties) sponsored Proposition 22 to eliminate all state authority over property tax increment.

From the state's standpoint, Proposition 22's restrictions on the state's ability to control redevelopment costs and the ongoing nature of its fiscal difficulties left it with few options. The Governor proposed eliminating redevelopment. The Legislature attempted to offer RDAs an alternative: continue redevelopment, but with significant changes to reduce its state costs. A lawsuit filed by redevelopment program advocates overturned the Legislature's alternative, however, setting in motion dissolution of the redevelopment program statewide.

Over the coming months, the magnitude of administrative, policy, and legal issues associated with unwinding redevelopment inevitably will prompt proposals to slow down or stop the redevelopment dissolution process. Notwithstanding the considerable difficulties associated with ending redevelopment, the state has few practical alternatives. Simply put, the state does not have the ongoing resources to support redevelopment's continuation and the Constitution's many complex provisions prohibit the Legislature from taking actions that could revamp the program into something that the state could afford. For these reasons, we recommend that the Legislature

Figure 8

Summary of Major Findings and Near-Term Recommendations

- Although ending redevelopment was not the Legislature's goal, the state had few practical alternatives.
- Ending redevelopment changes the distribution of property tax revenues, not the amount collected.
- Design of replacement program merits careful consideration.
- The redevelopment agency unwinding process could yield important civic benefits.
  - Hold hearings to promote local review over use of the property tax.
  - Provide funding to train K-14 oversight board members.
- Alternative use of redevelopment assets raises difficult policy and fiscal issues.
- Key state and local choices will drive state fiscal effect.
- Clarifying amendments would help implementation of ABX1 26 (Blumenfield).
  - Clarify treatment of pass-through payments.
  - Address timing issues.
  - Clarify authority to take actions to ensure that funds are available to pay bonded indebtedness.

not take actions that slow or stop the dissolution process.

Ending Redevelopment Does Not Change Total State-Local Resources

Redevelopment dissolution does not change the amount of taxes property owners pay or the amount of funds local governments receive from this source. Contrary to some reports, ending redevelopment does not "lose" any funds. Instead, the key fiscal effects of redevelopment dissolution are that:

- ***More property tax revenues will be distributed to K-14 districts, counties, cities, and special districts—and less to agencies for redevelopment activities.*** This shift in property tax distributions will be modest in 2011-12, but will increase significantly over time. Within about 20 years, most redevelopment enforceable obligations will be paid and property tax revenues for K-14 districts, counties, cities, and special districts will be about 10 percent to 15 percent higher than they otherwise would have been. These property tax revenues may be used for any local program or local priority.

- ***The increased K-14 district property taxes will offset state costs for education.*** Under California law, education is a shared state-local funding responsibility. The increased property taxes for K-14 districts, therefore, will decrease the amount of state resources needed to pay for education.

- ***There is no requirement that the increased property tax revenues be used for economic development and affordable housing.*** Under prior law, RDAs annually reserved over $3 billion of tax increment revenues for economic development programs and over $1 billion for affordable housing. (The RDAs spent their remaining funds providing pass-through payments to other local governments.) Although the manner in which some RDAs spent these funds was controversial, economic development and affordable housing programs had a major, dedicated revenue source. Assembly Bill X1 26 does not impose requirements on how local governments spend property taxes that they receive. As a result, it is very likely that the amount of future spending on economic development and affordable housing will be lower than it was previously.

Design of Replacement Program Merits Careful Consideration

As described in this report, the redevelopment program of the 1950s and 1960s changed over the years. During its final decades, in addition to its use for "bricks and mortar" projects, redevelopment funds were used for projects more tangentially related to economic development (such as improving flood control for the region) and to free up local general fund revenues (for example, by paying part of the city manager's salary and other administrative costs). Redevelopment also was a major funding source for affordable housing, often providing money to start a project and additional resources to make it pencil out. Finally, redevelopment helped pay for many other local priorities, including subsidies for sport stadiums, businesses, and the arts.

The end of the redevelopment has prompted interest in developing a replacement program. This interest, in turn, prompts the question: Which elements of the redevelopment program should be replaced? If, for example, the goal is for local governments to have a focused tool for economic

development and affordable housing, then five approaches (summarized below) merit consideration. In reviewing the three approaches that provide local financing tools, we note that none has all of the elements that made redevelopment so attractive and valuable to California cities and counties. Specifically, redevelopment provided the sponsoring government with considerable resources and did so without: requiring the approval of local voters or business owners, directly imposing increased costs on local residents or business owners, or requiring additional voter approval prior to issuing debt. As a result, many communities may not be able to raise funds using these tools that are comparable in magnitude to the funds that they raised using redevelopment.

Business Improvement Districts (BIDs). Local governments could rely more extensively on existing law authorizing BID assessments. State law allows local governments to use these assessments for many targeted economic development projects and activities, such as rehabilitating existing structures, providing street improvements and lighting, building parking facilities, marketing, and sponsoring public events. The BID assessments do not require local voter approval, but may not be imposed if a majority of the affected business owners object.

Infrastructure Financing Districts (IFDs). Current law allows cities and counties to form IFDs to receive tax increment financing, provided that (1) every local agency that contributes property tax increment revenue to the IFD consents and (2) two-thirds of local voters approve their formation and any future bond issuances. In recent years, the Legislature has considered measures that would make it easier for local agencies to form these districts and issue debt. In reviewing proposals to revise IFD law, we would urge the Legislature to preserve one key component—the prohibition against redirecting another local agency's property tax revenues without their consent. Maintaining this provision reduces the likelihood that IFD funds are used for projects that do not benefit the broad local community.

Property Tax Debt Override. The Constitution limits property taxes to 1 percent of the value of property. Property taxes may exceed or "override" this limit only to pay for (1) local government debts approved by the voters prior to July 1, 1978 or (2) bonds to buy or improve real property that receive voter approval after July 1, 1978. The Constitution establishes a two-thirds voter approval requirement for local government bonds, but provides a lower voter-approval threshold (55 percent) for local school facility bonds that meet certain conditions. The Legislature could propose an amendment to the Constitution to extend the lower vote threshold to local property tax overrides for economic development and affordable housing purposes. Alternatively, the authority to propose overrides using the lower voter-approval threshold could be limited to local governments that satisfy certain affordable housing objectives.

Regulatory Changes. Local governments interested in promoting economic development and affordable housing could explore regulatory approaches to achieving their goals. For example, local government actions to relax on-sight parking requirements or modify zoning policies can significantly reduce the cost of constructing housing in urban areas. Similarly streamlining project approvals can help promote economic development by reducing developer uncertainty and the costs associated with time delays.

State Housing Assistance. The state administers a variety of programs aimed at reducing the cost that low- and moderate-income individuals and families pay to live in safe and adequate housing. Most notably, (1) the California Tax Credit Allocation Committee administers the federal and state Low-Income Housing Tax Credit Programs

that provide hundreds of millions of dollars of tax credits to developers annually to encourage private investment in affordable rental housing, (2) the Department of Housing and Community Development administers state general obligation bond financed programs that provide grants and low interest loans to developers of affordable housing, and (3) the California Housing Finance Agency assists first-time homebuyers and developers of affordable housing by offering them low interest loans financed through the sale of tax-exempt bonds. In considering new housing programs to replace redevelopment, the Legislature may wish to consider whether relying on the state's traditional approach (subsidizing development to increase the supply of affordable housing) or trying a different approach—such as providing housing vouchers to low-income households—might be more effective in providing aid to needy households.

The Unwinding Process Could Yield Important Civic Benefits

While criticized by some as complicated and lacking statewide uniformity, the decentralized oversight board process created by ABX1 26 could be a significant learning experience for everyone in the state. Currently, California's local governments and their residents do not have a forum to discuss and make decisions regarding the use of the local property tax by different local agencies. Instead, property taxes are allocated to each local government pursuant to a statewide formula.

Members of oversight boards will have significant authority and responsibility to compare the merits of continuing a specific redevelopment project against alternative uses for its resources by other local agencies. Oversight board members might decide that a redevelopment project meets local community priorities and continue it, or that the project's funds could be put to better use by the other local agencies in the area and terminate the contract. In many ways, the oversight board process allows local communities to have the first local debate regarding the use of property tax revenues that California has had in decades.

Given the importance of the oversight board, the amount of funds it controls, and its highly expedited schedule, we recommend the Legislature monitor its development and progress closely. Beginning in March, we recommend the Legislature hold hearings regarding the role and operations of oversight boards with the goal of promoting best practices, encouraging information sharing across boards, highlighting public accountability, and learning about unforeseen problems.

One area where we recommend that the Legislature pay particular attention is K-14 districts' participation on oversight boards. While representatives from the County Superintendents of Schools and the community colleges indicate that they plan to participate actively on the oversight boards, we note that the K-14 district representatives may have somewhat less familiarity with the types of projects and financial matters to be discussed. Moreover, absent action by the oversight board to retain separate staff, members of the oversight board will be reliant upon the staff support provided by the successor agency.

Given the significant financial link between the actions of the oversight board and state K-14 education costs, it would be beneficial for the state to offer some training for K-14 oversight board members. The Fiscal Crisis and Management Assistance Team (FCMAT) has significant experience helping California's local educational agencies fulfill their financial and management responsibilities and has previously assisted K-14 districts on redevelopment matters. Given their expertise and relationship with K-14 districts, we recommend the Legislature appropriate funding of up to $1 million to FCMAT to develop this training for interested K-14 oversight board members.

Alternative Use of Assets Raises Difficult Policy and Fiscal Issues

Prior to their dissolution, many RDAs owned considerable assets: land, buildings, and cash reserves. Some RDAs also had large unencumbered balances in their affordable housing funds. Under ABX1 26, successor agencies transfer all RDA assets used for a governmental purpose (such as a park or library) to the local government that provides the service. All other assets (except housing assets) are to be sold on the open market or to a local government "expeditiously and in a manner aimed at maximizing value." Proceeds from asset sales, along with all of the unencumbered cash, are to be distributed to the local agencies as property taxes.

Shortly after passage of ABX1 26, proposals began to surface to separate some of redevelopment assets for use for statewide objectives, such as affordable housing, economic development, and environmental programs. These proposals in turn, raise difficult policy and fiscal questions for the Legislature to consider. Specifically, which level of government should make the decisions over these assets? Should it be a local decision (because RDAs were local agencies) or partly a state decision (because the state indirectly helped pay for these assets through its backfill of K-14 district property taxes)? Should the housing funds remain with agencies that failed to spend them in previous years?

The proposals pose equally difficult fiscal issues. Specifically, ending redevelopment shifts some funds that formerly would have been allocated to RDAs to other local agencies. Many cities relied on RDA funds to pay city expenses and now are experiencing fiscal stress due to the redirection of these resources. Under ABX1 26, some of this fiscal stress would be offset by the city receiving its share of the distributed cash and assets. Reserving some of this cash and assets for statewide objectives, in contrast, would reduce the funds the city would receive from the dissolution of redevelopment.

The state General Fund also has a fiscal interest in the distribution of assets. Specifically, the budget assumes ending redevelopment will provide $1 billion (2011-12) and $1.1 billion (2012-13) in increased property taxes for K-14 districts and offset a comparable amount of state General Fund education expenses. While the administration's estimate does not directly reflect revenues from asset sales and cash, their estimate is subject to a wide range of error. The asset sales and cash, therefore, effectively serve as a reserve in case other elements of the administration's estimate do not materialize as expected.

Key State and Local Choices Will Drive State Fiscal Effect

While ending redevelopment will reduce state General Fund costs for K-14 education over the long term, many state and local decisions will affect the amount of these savings in the near term. These include:

- ***State policy decisions to use RDA cash and assets for purposes other than distribution to local agencies.*** Assembly Bill X1 26 assumes that all unencumbered RDA cash and many assets are liquidated and distributed to local agencies as property tax revenues. Reserving some of this cash and assets for use for other purposes might advance important statewide objectives, but reduces the revenues that K-14 districts receive and decreases the state's near term General Fund savings.

- ***Local oversight board decisions to limit the range of projects and obligations included on the ROPS.*** Oversight boards that decide not to continue multistage

projects and that narrowly interpret the range of obligations to be included on their ROPS (and thus eligible for payment) will retire their former RDA's enforceable obligations quicker. This, in turn, will result in more property tax revenues being allocated to all local agencies, including K-14 districts.

- ***State and local decisions regarding treatment of pass-through payments in distributing money from the redevelopment trust fund.*** Because K-14 districts received low pass-through payments, a policy of offsetting these low pass-through payments with greater sums from the redevelopment trust fund would increase K-14 revenues and decrease state costs.

Clarifying Amendments Would Help Implementation

The major elements of ABX1 26 are unambiguous. The legislation ends redevelopment and safeguards the repayment of debt. The roles of the parties are clearly delineated and focused on preserving the revenues and assets of RDAs "so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services."

That said, as with any major legislation, some elements of the measure would benefit from clarification. Below, we address three areas where prompt legislative action would aid the implementation process. We recommend the Legislature adopt these changes so that they take effect immediately, either in legislation with an urgency clause or as an amendment to last year's trailer bill.

Clarify Treatment of Pass-Through Payments in Distribution of Trust Fund Revenues. County auditor-controllers will begin distributing funds from the trust fund on May 16, 2012. (Due to the court's schedule changes, county auditor-controllers will distribute the revenues formerly considered tax increment twice this spring: a small distribution on May 16 and a larger distribution on June 1. In future years, all revenues will be distributed on June 1 and January 16.) The Legislature should clarify its intent as to whether pass-through payments should be counted in the calculations to distribute trust funds. As discussed earlier in this report, we think that there is a strong legal argument that ABX1 26 requires pass-through payments to be included in the distribution formula, but all parties do not agree. Equally important, however, we think that including pass-through payments in the trust fund calculation makes sense from a policy standpoint. Under this approach, all local agencies get property tax revenues (from pass-through payments and the trust fund) in proportion to their tax shares.

Address Timing Issues Associated With Court Modifications. Due to the court's postponement of certain dates in ABX1 26, there is no formal payment schedule for enforceable obligations due between January 1, 2012 (the end of the EOPS period) and the date the oversight board approves the ROPS (presumably in the late spring). Absent a payment schedule, (1) successor agencies are not authorized to pay enforceable obligations other than bonded indebtedness and (2) county auditor-controllers will not know how much former tax increment to provide to the successor agency for payment of enforceable obligations or to distribute to local agencies.

To address this ambiguity, many successor agencies are amending their EOPS to add enforceable obligation payments due through June 30, 2012. While this approach is not specifically authorized in ABX1 26, it may be a reasonable interpretation of ABX1 26's requirement that successor agencies take actions to avoid impairment of contracts. We note, however, that EOPS are lists

of enforceable obligations identified by the communities that created the RDAs and received minimal review by DOF. The ROPS, in contrast, are to be reviewed and approved by an oversight board and certified by the county auditor-controller.

Successor agency actions to extend their EOPS, therefore, prolong the period in which the successor agency may make payments based off of self-generated lists of enforceable obligations. The extension also poses questions about further extensions of the EOPS. For example, could a successor agency extend their EOPS for another six months if its oversight board did not reach agreement on its ROPS? To address these issues, we recommend the following:

- ***Expedite the establishment of oversight boards.*** We recommend the Legislature advance the date that the Governor may make appointments to unfilled oversight board positions from May 15, 2012 to April 15, 2012. This one month change will increase the likelihood that the oversight board will complete its review and adopt a ROPS before the first spring property tax distribution date—May 16.

- ***Delay the May 16th payment if ROPS not adopted.*** If an oversight board has not adopted a ROPS by May 15, 2012, direct the county auditor-controller to notify DOF and to delay the distribution of redevelopment property taxes until the second payment date—June 1, 2012. This short delay would give the oversight board additional time to complete its work and avoid the need for the county auditor-controller to distribute property taxes based on an EOPS.

- ***Limit extension of EOPS.*** We further recommend the Legislature specify that no agency's EOPS shall be effective after May 15, 2012 unless DOF approves the extension and identifies the successor agency on its website. This change would clarify that EOPS extensions are to be effective only for a short period, unless DOF agrees that there are extenuating circumstances.

- ***Authorize oversight boards to adopt ROPS before county auditor-controller certification.*** Under ABX1 26, county auditor-controllers play a key role auditing successor agency finances and reviewing draft ROPS before these drafts are considered by the oversight board. Notably, oversight boards are not authorized to adopt a ROPS unless the county auditor-controller has certified its accuracy. Under the court-revised time line, however, the time line of events is out of order: the county auditor-controller's audits (the basis for their determination as to whether a draft ROPS is accurate) are not due until July 2012—several weeks *after* the auditors distribute property taxes based on the ROPS. For some counties with few RDAs, the cure to this timing problem is simple: the county auditor-controller can complete the audits this spring and use them as the bases for reviewing successor agencies' draft ROPS. For counties with many RDAs, however, this may not be possible. In these cases, we recommend that the Legislature amend ABX1 26 to specify that, if a county auditor-controller's audit has not been completed by May 1, 2012, the oversight board may adopt an uncertified ROPS provided that the oversight board amends the ROPS later in response to the county auditor-controller's findings. While this

approach has its limitations, it reconciles the awkward sequence of events that result from the court's revisions to the time lines.

Clarify That Successor Agencies May Create Reserves for Future Bond Payments and County Auditor-Controllers May Reserve Property Tax Revenues for Future Bond Payments. After passage of ABX1 26, various parties expressed concerns that (1) successor agencies would not be authorized to compile the reserves necessary to pay bonds that have one semiannual payment that is larger than the other or that have payments that increase over time and (2) county auditors might be required to distribute as property tax revenues to local agencies certain revenues that are needed to pay increased bond payments. While our reading of ABX1 26 is that it requires successor agencies and auditors to perform all obligations necessary to safeguard enforceable debt obligations, uncertainty regarding these matters continue to elicit concern. For this reason, we recommend that the Legislature amend ABX1 26 to (1) explicitly allow the oversight board to include on the ROPS any amounts necessary to create reserves for future bond payments and (2) clarify that county auditor-controllers shall not distribute as property taxes any funds needed to pay enforceable obligations.

CONCLUSION

The end of RDAs earlier this year represented a major change in California finance. Over time, schools and other local governments will receive significantly more property tax revenues—and fewer funds will be reserved for redevelopment purposes. While the process for unwinding these complex agencies' financial affairs will be lengthy, it likely will launch important civic debates about the use of local property tax revenues and the role of government in promoting economic development and providing affordable housing.

LAO Publications

This report was prepared by Marianne O'Malley, with contributions from Mark Whitaker and Russia Chavis (housing issues). The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

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THIRD READING

Bill No: AB 26X1
Author: Blumenfield (D)
Amended: 6/14/11 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SUBJECT: Budget Act of 2011: Redevelopment Agencies

SOURCE: Author

DIGEST: This bill makes statutory changes necessary to implement the portions of the 2011-12 budget related to community redevelopment.

ANALYSIS: This bill is one of two budget trailer bills on redevelopment. This bill eliminates redevelopment agencies (RDAs) and specifies a process for the orderly wind-down of RDA activities. The other bill (either SB 15X or AB AB 27X) would create an alternative voluntary redevelopment program. This bill has a contingent-enactment clause such that this bill would not become effective unless the other bill also becomes effective. A $1.7 billion State General Fund solution is scored from the two bills.

It is anticipated that most cities and counties that created an existing RDA will elect to participate in the alternative voluntary redevelopment program. To the extent a community elects not to participate in the voluntary alternative program, this bill would direct the property tax otherwise available to the RDAs: (1) to continue "pass-through payments" to schools and other local governments; (2) to fund outstanding RDA-related debt and administration; and (3) to schools and other local taxes agencies.

Specifically, this bill:

Current Redevelopment Agencies

1. Eliminates redevelopment agencies (RDAs) as of October 1, 2011. As part of the process of reducing RDA's activity prior to their elimination, effective the date of adoption of this legislation, the bill would, among other restrictions, prohibit RDAs from:

    a. issuing of new or expanded debt of any type (except under certain conditions, emergency refunding bonds);

    b. making loans or advances or grants or entering into agreements to provide funds or financial assistance;

    c. executing new or additional contracts, obligations, or commitments;

    d. amending existing agreements or commitments;

    e. selling or otherwise disposing of existing assets;

    f. acquiring real property for any purpose by any means;

    g. transferring or assigning any assets, rights, or powers to any entity;

    h. accepting financial assistance from any public or private source that is conditioned on the issuance of debt;

    i. adopting or amending redevelopment plans or making new finding with respect to blight;

    j. entering into new partnerships, imposing new assessments, or increasing staff or compensation; and

    k. other actions that would result in ongoing commitments.

2. Requires RDAs to continue to make all scheduled payments for enforceable obligations (defined below), perform obligations established pursuant to enforceable obligations, set aside required reserves, preserve assets, cooperate with Successor Agencies (as defined below), and to take all measures to avoid triggering a default under an enforceable obligation. Would also require the RDAs to prepare a preliminary inventory of enforceable obligation payments and provide this to the county auditor-controller within 60 days of the effective date of this bill, which inventory would be reviewed by the State Controller's Office and the Department of Finance. The bill would

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require that unencumbered RDA funds be conveyed to the county auditor-controller for distribution to the taxing entities in the county, including cities, counties, a city and a county, school districts and special districts.

3. Extends the time period allowed for challenges to the validity of RDAs' bonds or other obligations or to agency and legislative body determinations and findings issued or adopted after January 1, 2011. These challenges could be brought two years following approval of the action, as opposed to the current 60-day and 90-day review periods.

4. Requires the county auditor-controller to complete a financial audit of each RDA in the county by March 1, 2012, in order to establish each agency's assets, liabilities, pass-through payment obligations to other taxing entities, the amount and terms of indebtedness, and to certify the initial Recognized Obligation Payment Schedule (defined below). The audits are to be submitted to the State Controller by March 15, 2012.

Successor Agencies

5. Establishes Successor Agencies to the RDAs effective October 1, 2011, that would be, except in certain situations, such as those involving an RDA based on a joint powers authority, the entity that created the redevelopment agency. If no local agency elects to be the Successor Agency, a designated local authority would be formed, whose three members would be appointed by the Governor.

6. Requires Successor Agencies to make payments on legally enforceable obligations using property tax revenues when no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. Pursuant to this requirement, Successor Agencies would be responsible for preparing, on a semi-annual basis, a Recognized Obligation Payment Schedule that would set forth a schedule of obligated payments including the date, amount, and source of funds for each payment.

7. Requires the Recognized Obligation Payment Schedule to be certified by an external auditor approved by the county auditor-controller, and approved by the Oversight Board (as described below), the State Controller's Office, and the Department of Finance. The first Recognized Obligation Payment Schedule would be submitted by December 15, 2011. The Recognized Obligation Payment Schedule would be established pursuant to the identification of enforceable

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obligations, which are obligations entered into by the RDA and are legally enforceable. These enforceable obligations would include:

a. bonds, including debt Service, reserves, or other required payments;

b. loans borrowed by the agency for a lawful purpose;

c. payments required by the federal government;

d. pre-existing obligations to the state;

e. obligations imposed by state law;

f. legally enforceable payments to RDA employees, including pension obligations;

g. judgments and settlements entered into by a court or arbitration, retaining appeal rights;

h. legally binding contracts that do not violate the debt limit or public policy; and

i. contracts necessary for administration of the RDA, such as for office space, equipment and supplies, to the extent permitted.

Enforceable obligation would not include any agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA.

8. Provides that all assets, properties, contracts, books and records, buildings and equipment of the former RDA be conveyed to the Successor Agencies on October 1, 2011. The Successor Agencies would dispose of RDA assets as directed by the Oversight Board with the proceeds transferred to the county auditor-controller for distribution to taxing Agencies. The bill would require the Successor Agencies to compensate the taxing Agencies for the value of property and assets retained by the Successor Agencies in an amount proportional to the taxing agencies' share of the property tax. The value of any assets retained by the Successor Agencies would be at market value as determined by the county assessor for the 2011 property tax lien date, unless some other agreement is reached between the parties. Governmental facilities, such as roads, school buildings, parks, and fire stations may be transferred to the appropriate public jurisdiction.

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9. Authorizes the Successor Agency to prepare, for the Oversight Board, a proposed administrative budget that includes estimated administrative expenses, proposed sources of payment and proposals for services to be provided, but does not include funding for the retained development projects, which must be funded from the Successor Agency's own budget. The administrative budget for the Successor Agency would be funded from a continued tax increment equal to the greater of $250,000 or 5 percent of the property tax allocated to the Successor Agency for the 2011-12 fiscal year. This would decline to 3 percent for each fiscal year thereafter. The Successor Agency can employ staff and officers of the RDA provided the total compensation does not exceed the amount paid in 2010 unless approved by the Oversight Board.

Oversight Boards

10. Establishes a Seven-member Oversight Board for each Successor Agency that would generally consist of the following representatives: (i) one member appointed by the County Board of Supervisors; (ii) one member appointed by the mayor of the city that formed the RDA; (iii) one member appointed by the largest special district; (iv) one member appointed by the county superintendent of schools; (v) one member appointed by the Chancellor of the California Community Colleges; (vi) one member appointed by the county board of supervisors to represent the public; (vii) one member appointed by the mayor or the chair of the board of supervisors from the largest representative employee organization of the former RDA. Special appointment rules would apply if a "city and county", or joint powers authority formed the RDA. Beginning July 1, 2016, one Oversight Board will be formed in each county.

11. Requires the Oversight Board to approve the following actions of the Successor Agency:

    a. establishment of new repayment terms for outstanding loans where such terms have not been established prior to July 1, 2011;

    b. issuance of refunding bonds;

    c. set aside of reserves as required by bond indentures;

    d. merger of project areas;

CONTINUED

e. acceptance of federal or state grants that are conditioned upon the provision of matching funds in an amount greater than 5 percent;

f. establishment of the Recognized Obligation Payment Schedule; and

g. a request to hold portions of moneys in the housing fund in order to pay recognized obligations related to housing.

12. Requires that the Oversight Board direct the Successor Agencies to:

a. dispose of all assets and properties expeditiously and in a manner aimed at maximizing value;

b. cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations;

c. transfer housing obligations and low and moderate set-aside funds to the applicable entity;

d. terminate any agreement between the RDA and any public entity in the county which obligates the RDA to provide funding for debt service or other payments if in the best interest of the taxing entities;

e. determine whether any contract, payments, or agreements between the RDA and private parties should be dissolved or renegotiated based on taxing entities' best interests; and

f. submit repayment schedules for repayment of amounts borrowed from the housing fund.

13. Establishes that all Oversight Board actions are subject to review by the Department of Finance. The Department of Finance will notify the Oversight Board within 72 hours of the action that it wishes to review the decision. In the event the Department of Finance decides to review the action, it will have 10 days to either approve the action or return it to the Oversight Board for reconsideration.

Property Tax Revenues

14. Creates the Redevelopment Property Tax Trust Fund and the Redevelopment Obligation Retirement Fund. Property tax revenues associated with each former RDA in each county would be deposited in the Redevelopment Property Tax Trust Fund which will be

CONTINUED

administered by the county auditor-controller. Estimates of the amounts to be allocated and distributed from this account will be provided to the Department of Finance semi-annually.

15. Requires the county auditor-controller to determine the amount of property tax increment that would have been allocated to each RDA and to deposit that amount in a Redevelopment Property Tax Trust Fund. The county auditor-controller is charged with administering this fund for the benefit of holders of agency debt and the taxing Agencies that receive pass-through payments.

16. Requires the county auditor-controller to allocate funds from the Redevelopment Property Tax Fund in the following order:

    a. Local agencies, school districts, and community college districts in the amount that would have been received by such Agencies as their share of the property tax base and that would have been paid pursuant to statutory and contractual pass-through agreements;

    b. To the Redevelopment Obligation Retirement Fund for Successor Agencies for payments listed in the Recognized Obligation Payment Schedule and administration; and

    c. To local agencies, school districts and community college districts in the proportional shares of what would have been received absent redevelopment and adjusted for pass-through agreements.

Other Matters

17. Allows for the continuation of housing activities by the Successor Agency, which would be permitted to assume responsibility for housing obligations and to use the existing balance in the low and moderate income housing fund set-aside for these purposes. If the Successor Agency chooses not to assume the housing activity responsibilities, the funds would be transferred to the local housing authority or to the Department of Housing and Community Development.

18. Provides that that the terms of existing memoranda of understanding with employee organizations representing former RDA employees would remain in force unless a new agreement is reached prior to that date. The Successor Agency will become the employer of all

CONTINUED

employees of the RDA upon its dissolution and will assume all obligations under any memoranda of understanding.

19. Pursuant to language adopted in SB 70 (Chapter 7, Statutes of 2011), specifies that beginning for fiscal years 2012-13, the amounts of additional property tax received by school districts, county offices of education, charter schools and community college districts, as a result of the elimination of RDAs, would be in addition to the Prop 98 minimum funding guarantee. These amounts (as well as amounts going to other taxing agencies) would increase over time as enforceable obligations are paid down.

20. Specifies that if a community elects to participate in the Alternative Voluntary Redevelopment Program (as created in the second RDA bill), and later falls out of compliance with that voluntary program, then the provisions of this bill apply with conforming changes to implementation dates.

21. Appropriates $500,000 to the Department of Finance for administrative costs associated with this bill.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

AGB:nl 6/15/11 Senate Floor Analyses

SUPPORT/OPPOSITION: NONE RECEIVED

****** END ******

AGENDA
CITY COUNCIL/SUCCESSOR AGENCY/STANTON HOUSING AUTHORITY
JOINT REGULAR MEETING
STANTON CITY HALL, 7800 KATELLA AVENUE, STANTON, CA
TUESDAY, JANUARY 14, 2014 - 6:30 P.M.

As a courtesy to those in attendance, the City of Stanton respectfully requests that all cell phones, pagers and/or electronic devices be turned off or placed on silent mode while the meeting is in session. Thank you for your cooperation

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, CONTACT THE CITY CLERK AT (714) 379-9222. NOTIFICATION BY 9:00 A.M. ON MONDAY, JANUARY 13, 2014 WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING.

Supporting, descriptive documentation for agenda items, including staff reports, is available for review in the City Clerk's Office and on the City web site at www.ci.stanton.ca.us.

1. **CALL TO ORDER / CLOSED SESSION (6:00 P.M.)**

2. **ROLL CALL** Authority Member Donahue
   Authority Member Shawver
   Authority Member Warren
   Vice Chairman Ethans
   Chairman Ramirez

3. **PUBLIC COMMENT ON CLOSED SESSION ITEMS**

Closed Session may convene to consider matters of purchase / sale of real property (G.C. §54956.8), pending litigation (G.C. §54956.9(a)), potential litigation (G.C. §54956.9(b)) or personnel items (G.C. §54957.6). Records not available for public inspection.

Any writings or documents provided to a majority of the City Council/Successor Agency/Stanton Housing Authority regarding any item on this agenda will be made available for public inspection at the Public Counter at City Hall located at 7800 Katella Avenue, Stanton CA, during normal business hours.

4. CLOSED SESSION

4A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Pursuant to Government Code Section 54956.8)

Agency: Stanton Housing Authority
Agency Negotiator(s): James A. Box
Negotiating Party: Related California

Under Negotiation: Price and Terms of Payment.

Property: Stanton Housing Authority-Owned Properties:
8841 Pacific Avenue, Anaheim, CA
8851 Pacific Avenue, Anaheim, CA
8861 Pacific Avenue, Anaheim, CA
8870 Pacific Avenue, Anaheim, CA
8871 Pacific Avenue, Anaheim, CA
8880 Pacific Avenue, Anaheim, CA
8881 Pacific Avenue, Anaheim, CA
8891 Pacific Avenue, Anaheim, CA
8901 Pacific Avenue, Anaheim, CA
8910 Pacific Avenue, Anaheim, CA
8911 Pacific Avenue, Anaheim, CA
8920 Pacific Avenue, Anaheim, CA
8930 Pacific Avenue, Anaheim, CA
8931 Pacific Avenue, Anaheim, CA
8940 Pacific Avenue, Anaheim, CA
8941 Pacific Avenue, Anaheim, CA
8950 Pacific Avenue, Anaheim, CA
8951 Pacific Avenue, Anaheim, CA
8970 Pacific Avenue, Anaheim, CA
8890 Tina Way, Anaheim, CA
8930 Tina Way, Anaheim, CA
8940 Tina Way, Anaheim, CA
8950 Tina Way, Anaheim, CA
8960 Tina Way, Anaheim, CA
8970 Tina Way, Anaheim, CA

Any writings or documents provided to a majority of the City Council/Successor Agency/Stanton Housing Authority regarding any item on this agenda will be made available for public inspection at the Public Counter at City Hall located at 7800 Katella Avenue, Stanton CA, during normal business hours.

5. **CALL TO ORDER / REGULAR CITY COUNCIL / SUCCESSOR AGENCY / STANTON HOUSING AUTHORITY MEETING (6:30 P.M.)**

6. **ROLL CALL** Council/Authority Member Donahue
Council/Authority Member Shawver
Council/Authority Member Warren
Mayor Pro Tem/Vice Chairman Ethans
Mayor/Chairman Ramirez

7. **PLEDGE OF ALLEGIANCE**

8. **SPECIAL PRESENTATIONS AND AWARDS**

- Announcement of the 2014 Americana Award Recipients; and

- Presentation by the Young Leaders of Orange County; sharing their mission with the City Council and providing information on their current operations.

9. **CONSENT CALENDAR**

All items on the Consent Calendar may be acted on simultaneously, unless a Council/Board Member requests separate discussion and/or action.

CONSENT CALENDAR

9A. **MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED**

RECOMMENDED ACTION:

City Council/Agency/Authority Board waive reading of Ordinances and Resolutions.

Any writings or documents provided to a majority of the City Council/Successor Agency/Stanton Housing Authority regarding any item on this agenda will be made available for public inspection at the Public Counter at City Hall located at 7800 Katella Avenue, Stanton CA, during normal business hours.

9B. APPROVAL OF WARRANTS

- City Council approve demand warrants dated, December 5, December 12, and December 16, 2013, in the amount of $285,106.25.

- City Council approve demand warrants dated, December 19, 2013, January 2, and January 14, 2014, in the amount of $1,236,259.48.

9C. NOVEMBER 2013 INVESTMENT REPORT

The Investment Report as of November 30, 2013 has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTION:

City Council receive and file the Investment Report for the month of November 2013.

9D. NOVEMBER 2013 INVESTMENT REPORT (SUCCESSOR AGENCY)

The Investment Report as of November 30, 2013 has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTION:

Successor Agency receive and file the Investment Report for the month of November 2013.

9E. ACCEPTANCE OF THE CITY HALL ROOF REPLACEMENT PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

The City Hall Roof Replacement Project has been completed in accordance with the plans and specifications. The final construction cost for the project was $248,777.60. The City Engineer, in his judgment, certifies that the work was satisfactorily completed as of January 14, 2014 and recommends that the City Council accept the completed work performed on this project.

RECOMMENDED ACTION:

1. City Council accept the completion of improvements for the City Hall Roof Replacement Project, as certified by the City Engineer, and affix the date of January 14, 2014 as the date of completion of all work on this project; and

2. Approve the final construction contract amount of $248,777.60 with Letner Roofing Co.; and

3. Direct the City Clerk within ten (10) days from the date of acceptance to file the Notice of Completion (Attachment) with the County Recorder of the County of Orange; and

4. Direct City staff, upon expiration of the thirty-five (35) days from the filing of the "Notice of Completion," to make the retention payment to Letner Roofing Co. in the amount of $12,438.88.

9F. ACCEPTANCE OF THE CITY HALL COMMUNITY CENTER MOVABLE WALL PROJECT BY THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA

The City Hall Community Center Movable Wall Project has been completed in accordance with the plans and specifications. The final construction cost for the project was $146,669. The City Engineer, in his judgment, certifies that the work was satisfactorily completed as of January 14, 2014 and recommends that the City Council accept the completed work performed on this project.

RECOMMENDED ACTION:

1. City Council accept the completion of improvements for the City Hall Community Center Movable Wall Project, as certified by the City Engineer, and affix the date of January 14, 2014 as the date of completion of all work on this project; and

2. Approve the final construction contract amount of $146,669 with USS Cal Builders, Inc.; and

3. Direct the City Clerk within ten (10) days from the date of acceptance to file the Notice of Completion (Attachment) with the County Recorder of the County of Orange; and

4. Direct City staff, upon expiration of the thirty-five (35) days from the filing of the "Notice of Completion," to make the retention payment to USS Cal Builders, Inc. in the amount of $7,333.45.

9G. MAYOR'S APPOINTMENTS OF COUNCIL MEMBERS AS REPRESENTATIVES TO VARIOUS BOARDS, COMMISSIONS, COMMITTEES AND AGENCIES

Traditionally, Council Members have been appointed by the Mayor to serve on numerous outside committees, boards, commissions and agencies. Each appointee is responsible for representing the City and voting on behalf of the City Council. The Mayor has conducted a review and has selected appointees, as detailed in Attachment 1. With the exception of the Orange County Fire Authority ("OCFA") appointment, which is required to be made by Resolution, the Mayor may otherwise make appointments to each committee, board, commission or agency by nomination and Minute Order confirmation. In addition, the Fair Political Practices Commission ("FPPC") regulations require the adoption and posting of Form 806, Agency Report of Public Official Appointments, in order for individual Council Members to participate in a City Council vote that would result in him or her serving in a position that provides compensation of $250 or more in any 12-month period.

RECOMMENDED ACTION:

1. City Council confirm the Mayor's appointments; and

2. Approve the FPPC Form 806 and authorize the City Clerk to post the form on the City's website.

9H. CALIFORNIA HERO PROGRAM

Adopt Resolution 2014-04, consenting to the Inclusion of Properties within the City's Jurisdiction in the California HERO Program to Finance Distributed Generation Renewable Energy Sources, Energy and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure and Approving an Amendment to a Certain Joint Powers Agreement Related Thereto.

RECOMMENDED ACTION:

City Council adopt Resolution No. 2014-04 approving an Amendment to the WRCOG Joint Powers Agreement to add the City of Stanton as an Associate Member in order to authorize the City's participation in the California HERO Program, which will enable property owners to finance permanently fixed renewable energy, energy and water efficiency improvements and electric vehicle charging infrastructure on their properties.

END OF CONSENT CALENDAR

10. PUBLIC HEARINGS

10A. FISCAL YEAR 2014-2015 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATION FOR FUNDING

On December 19, 2013, the Orange County Community Resources Department released a Request for Proposals (RFP) for Fiscal Year 2014-2015 Community Development Block Grant projects related to public facilities and improvements (PF&I). In response to the RFP, staff will be proposing the Street Reconstruction Project. As part of the application process, the City Council must review and authorize the application submittals and conduct a public hearing.

RECOMMENDED ACTION:

1. City Council conduct a public hearing; and

2. Declare that this project is not subject to the California Environmental Quality Act (CEQA) because it is not a "project" as defined by CEQA; and

3. Review and approve the proposed project and funding for the Fiscal Year 2014-2015 Community Development Block Grant Program; and

4. Direct staff to submit fiscal year 2014-2015 Community Development Block Grant application package to the County of Orange Community Resources Department; and

5. Approve Resolution No. 2014-03 authorizing the City Manager to execute the agreement, contract and other documents required by the Orange County Community Resources Department for participation in the CDBG program on behalf of the City Council.

10B. CITY COUNCIL AND SUCCESSOR AGENCY CONSIDERATION OF RESOLUTIONS DIRECTING THE TRANSFER OF HOUSING ASSETS TO THE STANTON HOUSING AUTHORITY ACTING AS THE HOUSING SUCCESSOR ENTITY, PURSUANT TO HEALTH AND SAFETY CODE SECTIONS 34176 AND 34177

In 2012, the Stanton Housing Authority assumed possession of the certain properties and assets related to affordable housing from the former Stanton Redevelopment Agency. Subsequent to a review of the transfers by the Stanton Controller's Office, the City has determined that these properties should be officially transferred to the Stanton Housing Authority acting as the Housing Successor Agency as part of AB X1 26 regarding the winding down of former redevelopment agencies. As such, the resolutions before the City Council and Successor Agency would approve the transfer of the properties to the Stanton Housing Authority.

RECOMMENDED ACTION:

1. City Council and Successor Agency conduct a public hearing; and

2. City Council adopt Resolution No. 2014-01 approving the transfer of certain properties to the Stanton Housing Authority acting as the Housing Successor Agency to the former Stanton Redevelopment Agency; and

3. Successor Agency adopt Resolution No. SA 2014-01 approving the transfer of certain properties to the Stanton Housing Authority acting as the Housing Successor Agency to the former Stanton Redevelopment Agency.

10C. SUCCESSOR AGENCY CONSIDERATION OF RESOLUTION RESCINDING THE TRANSFER OF PROPERTIES LOCATED AT 10350 FERN AVENUE, 10912 & 10961 DATE STREET, AND 10970 & 10972 CEDAR STREET FROM THE STANTON REDEVELOPMENT AGENCY TO THE CITY OF STANTON

RECOMMENDED ACTION:

1. Successor Agency conduct a public hearing; and

2. Successor Agency adopt Resolution No. SA 2014-03 rescinding the transfer of properties located at 10350 Fern Avenue, 10912 & 10961 Date Street, and 10970 & 10972 Cedar Street from the Stanton Redevelopment Agency to the City of Stanton.

10D. SUCCESSOR AGENCY APPROVAL OF A LONG RANGE PROPERTY MANAGEMENT PLAN PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.5 AND AUTHORIZE THE SUBMITTAL OF THE PLAN TO THE STANTON OVERSIGHT BOARD FOR CONSIDERATION

As part of the dissolution of the former Stanton Redevelopment Agency, the Successor Agency must develop a long range property management plan to identify the disposition and use of the real properties of the former Stanton Redevelopment Agency. This plan must be approved by the Oversight Board of the Successor Agency and submitted to the Department of Finance for approval.

RECOMMENDED ACTION:

1. Successor Agency conduct a public hearing; and

2. Successor Agency of the former Stanton Redevelopment Agency approve the attached Resolution No. SA 2014-02 directing Staff to transmit the Long Range Property Management Plan to the Oversight Board pursuant to Health and Safety Code Section 34191.5.

11. UNFINISHED BUSINESS

11A. GEOPHYSICAL SURVEY

City staff has been approached by representatives from Signal Hill Petroleum, Inc. (SHPI) to conduct a geophysical survey in the City of Stanton. The proposed survey would be done in the public right-of-way through the use of vibration. The survey's goal is to identify deep geology faulting indicative of oil resources.

RECOMMENDED ACTION:

City Council provide direction to staff whether or not to issue an encroachment permit to SHPI to perform a geophysical survey.

12. **NEW BUSINESS** **None.**

13. **ORAL COMMUNICATIONS - PUBLIC**

At this time, members of the public may address the City Council/Successor Agency/Stanton Housing Authority regarding any items within the subject matter jurisdiction of the City Council/Successor Agency/Stanton Housing Authority, provided that NO action may be taken on non-agenda items.

- Members of the public wishing to address the Council/Agency/Authority during Oral Communications-Public or on a particular item are requested to fill out a REQUEST TO SPEAK form and submit it to the City Clerk. Request to speak forms must be turned in prior to Oral Communications-Public.

- When the Mayor/Chairman calls you to the microphone, please state your Name, slowly and clearly, for the record. A speaker's comments shall be limited to a three (3) minute aggregate time period on Oral Communications and Agenda Items. Speakers are then to return to their seats and no further comments will be permitted.

- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council/Agency/Authority and Staff need to be recognized by the Mayor/Chairman before speaking.

14. **WRITTEN COMMUNICATIONS** **None.**

15. **MAYOR/CHAIRMAN COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS**

15A. **COMMITTEE REPORTS/ COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS**

At this time Council/Agency/Authority Members may report on items not specifically described on the agenda which are of interest to the community provided no discussion or action may be taken except to provide staff direction to report back or to place the item on a future agenda.

15B. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE MEETING

At this time Council/Agency/Authority Members may place an item on a future agenda.

15C. COUNCIL/ AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION

At this time Council/Agency/Authority Members may place an item on a future study session agenda.

16. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL

17. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR

17A. ORANGE COUNTY FIRE AUTHORITY

At this time the Orange County Fire Authority will provide the City Council with an update on their current operations.

18. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, the foregoing agenda was posted at the Post Office, Stanton Community Services Center and City Hall, not less than 72 hours prior to the meeting. Dated this 9th day of January, 2014.

Patricia A. Vazquez, City Clerk/Secretary

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