Uniform Guidelines for the Implementation Of Assembly Bill No. 26 of the First Extraordinary Session (ABX1 26) in Connection with the State of California Budget for Fiscal Year 2011-2012

The Redevelopment Dissolution Act

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Published 05/01/2012

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I - Introduction

A) Background & History

The California Community Redevelopment Law (CRL), which was first enacted in 1945 and expanded in 1951, allowed cities and counties to establish redevelopment agencies (RDAs) to address blight. In 1952, voters approved a constitutional amendment to allow tax increment to fund redevelopment projects and to be pledged for repayment of bonds. Although redevelopment may help revive localized blight and equalize economic activity, post Proposition 13 this diverts resources from schools, counties, special districts and core city services such as law enforcement, fire protection, road maintenance, parks, libraries and other local services. With the difficult economic times in California, the State had been re-evaluating the use of tax increment financing for redevelopment activities.

Shortly after taking office in January 2011 newly elected Governor Brown, as part of budget development, targeted the dissolution of RDAs as a way to provide more resources to local governments in the long term as well as to help with the state budget in the short term. This resulted in draft bill language circulating in February which included these key provisions: 1) The cessation of all RDAs with Successor Agencies being established to wind down RDA affairs; 2) Oversight Boards to oversee the Successor Agencies; 3) Requires repayment of all recognized obligations of the RDA including the continuation of pass-through payments to Affected Taxing Entities (ATEs); 4) Requires county auditors to audit RDAs; 5) Requires county auditors to perform the calculations and administration of the redistribution of the tax increment due the former RDAs to all affected taxing entities except enterprise districts and, in the first year only, to the State as a grant to help fund public health and safety (courts).

As the budget process continued through the spring, mirror bills AB101/SB77 were introduced in each house that contained substantially the same language of the February draft except that enterprise districts were no longer excluded from sharing in the remaining tax increment. During this time RDA supporters introduced counterproposals for “reform” as SB 286 /AB 1250.

As the current legislative session ended neither AB101/SB77 were passed by either house. During the first extended session the legislature passed by simple majority vote one day before the State Budget deadline a two bill package affecting RDAs: ABX1 26 & ABX1 27. As the original budget bill submitted by legislature June 14, 2011 was vetoed by the Governor the two bill package along with other trailer bills was not submitted. When the new budget bill was passed ABX1 26 & ABX1 27 were submitted to the Governor who signed them on June 28 and became chaptered on June 29, 2011.

ABX1 26 (the Dissolution Act) the first of the two-bill package carried forward much of the same language and key concepts of AB101/SB77 except that the "Public Health and Safety grant" to the State was eliminated. In essence this bill phases out the current tax increment funding mechanism for redevelopment agencies and returns property tax revenues to schools, special districts, cities and counties to help sustain their core functions.

The second bill, ABX1 27 (the Continuation Act), allowed redevelopment agencies to avoid dissolution by opting into the Voluntary Alternative Redevelopment Program (VARP). To qualify for the VARP the sponsor community of an RDA must agree to pay its proportionate shares of $1.7 billion in FY 2011-12 and $400 million annually for subsequent years to the County Auditor for redistribution locally. K-12 schools receive the vast majority of the payment in the first year, which will help the State budget by reducing backfill requirements to schools. In subsequent years a portion of the payment is redistributed to special districts providing fire protection services and transit districts and the remainder goes to K-12 schools. Failure by the sponsor community to make the required payment would make their RDA subject to Dissolution under ABX1 26.

On July 18, 2011, the California Redevelopment Association ("CRA") and the League of California Cities ("League") filed a petition for writ of mandate with the California Supreme Court, requesting the Court to declare unconstitutional both the Dissolution (ABx1 26) and Continuation (ABX1 27) Acts that were passed as part of the 2011-2012 State Budget. CRA and the League contended that both acts were unconstitutional because they violated Proposition 22 which was passed by the voters in November 2010.

On August 11, 2011, the California Supreme Court issued an order in California Redevelopment Assn. v. Matosantos (S194861), directing the parties to show causes why the relief sought in the petition for a writ of mandate should not be granted, partially stayed the two measures and established an expedited briefing schedule designed to facilitate oral argument as early as possible in 2011, and a decision before January 15, 2012.

During the extended session, the legislature drafted a cleanup bill SBX 1 8 to address some technical issues with both the Dissolution and the Continuation Acts. SBX1 8 was passed by the legislature on the last day of the session and sent to engrossing and enrolling. The Governor vetoed this bill to allow the unadulterated acts to be adjudicated by the Supreme Court.

On November 10, 2011, the Supreme Court heard oral arguments from three parties: Petitioners CRA argued both Acts were invalid; Respondents Matosantos as Director of Finance for the State of California argued that both Acts were valid; and Interveners and Respondents Santa Clara County argued that while the Dissolution Act (ABX1 26) was valid, the Continuation Act (ABX1 27) was invalid.

On December 29, 2011, the California Supreme Court issued their decision declaring that the Continuation Act (ABX1 27) was invalid and that the Dissolution Act (ABX1 26) was valid with the exception of H&S §34172(a)(2). The Supreme Court also utilized their power of reformation to revise the effective dates or deadlines in part 1.85 of the law arising before May 1, 2012 by four months with the notable exception of actions to be taken by September 1, 2011 (e.g. §34173(d)(1)) were extended by 15 days, i.e., January 13, 2012 rather than January 1.

Note: In this document two dates are presented for dates revised by the Supreme Court. The revised date is presented in **bold font** first followed by the original date used in the bill enclosed by parentheses along with an asterisk footnote. For example: **February 1, 2012** (November 1, 2011)*

B) Overview & Key Concepts of the Redevelopment Dissolution Act

Under ABX1 26, on **February 1, 2012** (October 1, 2011)* redevelopment agencies and community redevelopment commissions in their authority to act as an RDA will cease to exist. [*H&S §34170(a)*] Until that date, RDAs are prohibited from specific redevelopment actions (new redevelopment activity and incurrence of debt) other than payment of existing indebtedness and performance of existing contractual obligations. ABX1 26 creates and establishes the duties of Successor Agencies and Oversight Boards, and imposes requirements on county auditor-controllers. The county auditor-controller duties include auditing the obligations of RDAs entering dissolution and the administering of the Redevelopment Property Tax Trust Fund established for each RDA to redistribute its tax increment under specified formulas. The restrictions on RDA operations are intended to preserve the revenues and assets of RDAs so that those resources not needed to pay enforceable obligations may be available for use by local governments to fund core governmental services. ABX1 26 also allows a community development commission to retain its authority in its capacity as a housing authority or for any other community development non-redevelopment purpose. However, unused balances in the Low and Moderate Income Housing Fund would be transferred to the Successor Agency and disbursed to the local taxing entities.

The Act also requires the California Law Revision Commission to draft a Community Redevelopment Law cleanup bill for consideration by the Legislature by January 13, 2013.

* Date Revised by Supreme Court

C) Structure of the Act

While these guidelines focus on the Auditor-Controller's Property Tax administration functions the enacted bill contains other noteworthy elements as well. The bill was organized into 16 sections as summarized below:

Section	Description
1	Legislative Declarations
2 & 3	Amended existing H&S §§ 33500 & 33501 to expand the time limits from 90 days to two years for legal actions to be brought against plan amendments/determinations and triggering events occurring after Jan 1, 2011
4 & 5	Amended exiting H&S §§ 33607.5 & 33607.7 to narrow for a five year period the usage restrictions on schools ability to use portions of statutory pass-through payments without impacting revenue limit calculations.
6	Added Part 1.8 to H&S Code Restrictions on RDA Operations Chapter 1 (commencing §34161) Suspension of Agency Activities and Prohibition of Creating New Debt Chapter 2 (§34169)Redevelopment Agency Responsibilities
7	Added Part 1.85 to H&S Code Dissolution of Redevelopment Agencies Chapter 1 (§34170) Effective Date, Creation of Funds and Definitions Chapter 2 (§34172) Effect of Redevelopment Agency Dissolution Chapter 3 (§34177) Successor Agencies Chapter 4 (§34179) Oversight Boards Chapter 5 (§34182) Duties of Auditor-Controller Chapter 6 (§34189) Effect of the Act Adding this Part on the Community Redevelopment Law Chapter 7 (§34190) Stabilization of Labor and Employment Relations Chapter 8 (§34191)† Application of Part to Former Participants of the Alternative Voluntary Redevelopment Program
8	Added §97.401 to R&T noting that required deposits to ERAF by non school entities to be the same as if the Bill was not enacted
9	Added §98.2 to R&T noting that this bill has no effect on TEA Calculations
10	Successful legal challenges to invalidate any provisions of the Act prohibits RDA from issuing new debt
11	Allocated $500,000 to DOF for Administration of the Act
12	Severability Clause: invalidity of any provision of act shall not affect other provisions. Expressly Part 1.85 is severable from Part 1.8
13	Declares that no State reimbursement is required to local governments for service mandated by the Act
14	Act is contingent with the enactment of ABX1 27
15	Declares Act to address declared fiscal emergency
16	Act provides appropriations related to Budget Bill and shall take effect immediately

†Although not specifically invalidated in the Supreme Court Decision, this chapter is considered not operable due to the declared invalidity of the VARP in the Decision.

D) Guideline Objectives & Principles

As with previous guidelines developed to implement other provisions of law, the objective of these guidelines are to: (1) develop a reasonable document counties may rely upon as an accepted standard to follow in complying with the statutes, (2) promote uniformity in the implementation of the statutes, (3) eliminate un-necessary and costly time consuming and burdensome documentation and record keeping, and (4) promote the efficiency and economies of leveraging existing property tax administration practices to the extent possible.

The primary responsibility for determining enforceable obligations and pass-through payments rests with the Successor Agency, Oversight Board, DOF and Audit functions. The Property Tax Administration functions may provide technical assistance but are not responsible for the ultimate resolution on these items. Accordingly the Property Tax function may rely on the judgment and determinations made by these parties and where appropriate can bring questionable matters to the attention of the County Auditor-Controller, DOF and SCO.

E) Acknowledgements

It is with deepest appreciation that we acknowledge the work of the following individuals who significantly contributed to these guidelines:

Connie Regnell, Shasta County Auditor-Controller, President, SACA
Marcia Salter, Nevada County Auditor-Controller, Chair, SACA Leg. Committee
Simona J. Padilla-Scholtens, Solano County Auditor-Controller
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Meret Agib	San Bernardino	Sharla Allison	Tulare
Vanessa Doyle	San Bernardino		

Also, we deeply appreciate the assistance of the following organizations:

Betty Moya Tling Ngo Priscilla Moss	The Office of the California State Controller
Marianne O'Malley	The Office of the California Legislative Analyst
Peter Faggiato	The Department of Education, State of California
Chris Hill Mark Hill	The Department of Finance, State of California
Jean Hurst Geoffrey Neill	The California State Association of Counties
Donald Frazer Marty Coren Libby Seifel Lee Squire	The California Redevelopment Association, Technical Committee
Dante Gumucio Carl Goodwin	Public Economics, Inc.

II – Overview of Restrictions of RDA Activities, Effect of Dissolution of RDAs & Successor Agencies

A) Effect of RDA Dissolution and Restrictions

Effective **February 1, 2012** (October 1, 2011)*, all redevelopment agencies and redevelopment agency components of community development agencies will be dissolved [*H&S §34172(a)(1)*] and no longer exist as a public body, corporate or politic. Authority to transact business or exercise powers previously granted under the Community Redevelopment Law (Part 1, commencing with H&S §33000) is withdrawn from former RDAs [*H&S §31472(b)*]. Examples of authority withdrawn from community redevelopment agencies includes, incurring new indebtedness or expanding existing monetary or legal obligations, amending agreements, entering into contracts (for complete restrictions see *H&S §34161* through *34165*).

Any actions taken by the RDA that conflict with the referenced above are considered void.

No legislative body or local government shall have the statutory authority to create or otherwise establish a new redevelopment agency or community development commission *[H&S §34166]*. The Supreme Court invalidated the bill's provision allowing a community in which an agency has been dissolved may create a new agency once the successor entity has paid off all the former agency's enforceable obligations [*H&S §34172. (a) (2)*].

Despite this dissolution, community development commissions retain their authority to act in its capacity as a housing authority. Community development commissions derive their authority solely from federal or local laws, or from state laws other than the Community Redevelopment Law *[H&S §34172 (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. Upon such election, 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 [*H&S §34176(a)*].

If no one elects to retain the responsibility for performing housing functions, 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:

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

* Date Revised by Supreme Court

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

- 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.

B) RDA Responsibilities

Until a Successor Agency is authorized, RDAs are required to make all scheduled payments for enforceable obligations *(defined in H&S §34167(d)*) and perform all required activities related to enforceable obligations, such as continuing disclosures and preservation of tax-exempt status of interest payable on outstanding bonds. For complete responsibilities, see *H&S §34169 (a) through (h)*.

The revenue and assets of RDAs that are not needed to pay for enforceable obligations of the RDA are to be preserved for use by local governments to fund core government services such as police, fire and schools *[H&S §34167(a)]*.

RDAs must adopt an **Enforceable Obligation Payment Schedule** at a public meeting by **August 29, 2011** (within 60 days of effective date) [*H&S §34169(g)(1)*]*,* and are required to post the schedule on the agency or its sponsoring community's website. The schedule may be amended at any public meeting of the agency and amendments must be posted on the agency's website at least three (3) days prior to making a payment pursuant to such amendments. The RDA is to transmit the Enforceable Obligation Payment Schedule to the County Auditor -Controller, the State Controller, and the Department of Finance by mail or electronically. Alternatively, a notification indicating the location on the internet website of the schedule and schedule amendments is sufficient to meet this requirement.

The Enforceable Obligation Payment Schedule must include the following information for each obligation:

- The project name associated with the obligation.
- The payee.
- Short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made.
- The amount of payments to be made, by month, through December 2011.

RDAs are required to prepare a preliminary draft of the initial **Recognized Obligation Payment Schedule** and provide it to their Successor Agency by **January 30, 2012** (September 30, 2011)[*].

[*] Date Revised by Supreme Court

C) Successor Agencies

The Successor Agency will be the Sponsoring Community of the Redevelopment Agency (RDA) unless it elects not to serve in that capacity. In that case, pursuant to *H&S §34173* the Successor Agency will be the first taxing entity submitting to the County Auditor-Controller a duly adopted resolution electing to become the Successor Agency. For special rules applied to successor agencies for RDAs in the form of a Joint Powers Authority (JPA) see *H&S §34173.*

Successor Agencies to the former redevelopment agencies are granted all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law that remains in existence *[H&S §34173 (a and b)]*.

All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on **February 1, 2012** (October 1, 2011)[*], to the control of the Successor Agency. [*H&S §34175(b)]*. Successor Agency's liability is limited to the extent of the total sum of property tax revenues it receives and the value of assets transferred to it [*H&S §34173(e)*].

Pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. 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. [*H&S §34175 (a)*].

The actions of the Successor Agency will be directed, monitored, and in some cases approved, by a seven member Oversight Board.

For a complete list of Successor Agency responsibilities see *H&S §34177;* Examples of Successor Agency responsibilities include:

- Continue to make payments due for enforceable obligations of the former RDA.

- Enforce all former redevelopment agency rights for the benefit of the taxing entities.

- Expeditiously dispose of assets and properties of the former redevelopment agency as directed by the Oversight Board and transfer these funds to the county **auditor-controller** for distribution as property tax proceeds.

[*] Date Revised by Supreme Court

- Effectuate the transfer of assets to the appropriate entity designated pursuant to *H&S §34176*.

- 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. In making the distribution, the **county auditor-controller** shall utilize the same methodology for allocation and distribution of property tax revenues provided in *H&S §34188*.

- Prepare a Recognized Obligation Payment Schedule for each six month period of each fiscal year, including identifying one or more sources of payment [*H&S §34177(l)(1)*] for all Enforceable Obligations of the former RDA.

- Prepare administrative budgets for Oversight Board approval and pay administrative costs (See "Administrative Cost Allowance" in definition of Terms).

- 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 [*H&S §34177(l)(1)*].
  3. Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.

- Provide administrative cost estimates, to the county auditor-controller for each six-month fiscal period. The cost estimates are based on the approved administrative budget and are paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund.

Recognized Obligation Payment Schedule:

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

- By **March 1, 2012** (November 1, 2011)[*], a **draft Recognized Obligation Payment Schedule** is prepared by the Successor Agency for the enforceable obligations of the former redevelopment agency.

- 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

[*] Date Revised by Supreme Court

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 *H&S §34182*.

- The certified Recognized Obligation Payment Schedule is submitted to and duly approved by the Oversight Board.

- A copy of the approved Recognized Obligation Payment Schedule is submitted to the **county auditor-controller** and to both the State Controller's Office (SCO) and the Department of Finance (DOF) and is posted on the Successor Agency's internet web site.

The recognized 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.

The Department of Finance and the State Controller shall each have the authority to require any documents associated with the recognized obligations to be provided to them in a manner of their choosing. Any taxing entity, the Department, and the State 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.

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 *H&S §34179*, from making payments for enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

Agreements, contracts, other arrangements:

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.

However, any of the following agreements are not invalid and may bind the Successor Agency:

- 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.

- 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.

- 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.

D) Oversight Boards *[H&S §§34179, 34180, 34181]*

Each Successor Agency will have an Oversight Board consisting of seven (7) appointed members [*H&S §34179(a)(1) through (10)*]. An Oversight Board directs the Successor Agencies in winding down redevelopment activities pursuant to *H&S §34181* and must approve certain actions taken by the Successor Agencies as defined in *H&S §34180.*

The names of Oversight Board members, along with their elected chairperson, shall be reported to the Department of Finance (DOF) by **May 1, 2012.** Positions not filled by **May 15, 2012** or any position that remains vacant for more than 60 days, may result in Governor appointment to fill any vacancies. [*H&S §34179 (b)*]. Any individual may simultaneously be appointed to up to 5 Oversight Boards and may hold an office in a city, county, city and county, special district, school district, or community college district unless the offices are incompatible (*see GC §1099*).

Oversight Boards have fiduciary responsibilities to holders of enforceable obligations and taxing entities that benefit from distributions of property tax and other revenues pursuant to *H&S §34188*. They have the authority to appeal any judgment or to set aside any settlement or arbitration decision [*H&S §34171(d)(1)(D)*] and also, approve the administrative cost allowance [*H&S §34171(b)*].

Because the DOF may review any action of the Oversight Board, all actions shall not be effective for three business days (pending a request for review by the department). If the DOF makes a request to review an action, the DOF will have 10 days from the date of the request to approve the action or return it to the board for reconsideration. If this happens the action cannot be effective until the DOF approves. This means the Oversight Board will have to resubmit to the DOF until approved. Each Oversight Board shall designate an official to whom the DOF may make a request. In doing so the Oversight Board is responsible to provide the DOF with the telephone number and e-mail contact information.

On or after July 1, 2016 Counties that have more than one Oversight Board shall only have one Oversight Board *[H&S §34179(j)]*.

If the Oversight Board has vacancies not filled by **July 15, 2016** or any position that remains vacant for more than 60 days, the Governor may appoint individuals to fill any Oversight Board member position *[H&S §34179(k)*].

Oversight Boards will cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid *[H&S §34179(m)]*.

E) Stabilization of Labor and Employment Relations

H&S §34190 attempts to stabilize the labor and employment relations of redevelopment agencies and successor agencies. This act is not intended to relieve any redevelopment agency of its obligations, prior to the dissolution, a redevelopment agency shall retain the authority to meet and confer over matters within the scope of representation *[H&S §34190(b)*]. The Successor Agency shall:

- Become the employer of all employees of the redevelopment agency as of the date of the RDAs dissolution *[H&S §34190(e)*].
- Retain the authority to bargain over matters within the scope of representation.
- Assume the obligations under any memorandum of understanding between the redevelopment agency and the employee organization as of the date of the redevelopment agency's dissolution.

Costs incurred by the local agency employer representatives in performing those duties and responsibilities are not reimbursable as state-mandated costs *[H&S §34190(f)*].

Transferred memorandums 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.

- 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
    - Note: The purpose of the Meyers-Milias-Brown Act is to promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, other terms and conditions of employment between public employers and public employee organizations.
- Individuals that are 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.

III – Auditor-Controller Responsibilities

A) Overview and Key Concepts

Under the Act revenues that would have been distributed to redevelopment agencies prior to their dissolution will instead be deposited by County Auditors into ***Redevelopment Property Tax Trust Funds*** (RPTTF) created in the County Treasury for each dissolved RDA. The revenues deposited into and distributed from the RPTTFs are considered property tax revenues.

The County Auditor administers the RPTTF and disburses twice annually from this fund amounts based on pass-through payment calculations to those affected taxing entities that would have received pass-through payments absent the Dissolution Act, an amount equal to the total of obligation payments that are required to be paid from tax increment as denoted on the ***Recognized Obligation Payment Schedule*** to the ***Redevelopment Obligation Retirement Fund*** (RORF) established in the treasury of each Successor Agency, and various allowed administrative fees and allowances. Any remaining balance is then distributed as property tax revenues by the County Auditor back to affected taxing entities under a prescribed method that accounts for any payments based on pass-through payment calculations. The County Auditor is also responsible for distributing other moneys received from the Successor Agency (from sale of assets etc.) to the affected taxing entities as property tax revenues.

Successor agencies in turn will use the amounts deposited into their respective RORF for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies [*H&S §34172(d)*].

Under this legislation the Auditor-Controller is not expected to make substantial changes to current property tax distribution cycles and other basic property tax processes. To that end Auditor-Controllers are expected to follow other published guidance for the calculations of tax increment calculations and pass-through payments. However, under some circumstances this legislation may require the Auditor-Controller to reduce the amount of pass-through payments to certain Affected Taxing Entities, e.g. subordinated pass-through agreements.

This legislation grants the State Controller's Office oversight over Auditor-Controller actions required under the Act and further provides a three day delay in effectiveness for all such actions to allow the SCO the opportunity to request a review.

Broadly speaking under this legislation the county Auditor-Controller is responsible for the following activities and functions which can be classified as one-time and ongoing.

One-time:

- Causing or performing an "agreed upon procedures" audit of each RDA being dissolved within the county. As this is an "audit" activity rather than a property tax administration function it will not be covered in these guidelines. The Department of Finance, State Controller and County Auditor-Controllers developed minimum procedures that were agreed to by all parties and can be found on the State Controller's website at www.sco.ca.gov.

- Establishing new ***Redevelopment Property Tax Trust Fund (RPTTF)*** for each RDA

- Reporting

Ongoing:

- Calculating the amount of Property Tax Revenues that would have been due the former RDA as Tax Increment

- Administering the RPTTF, including deposits, distributions and reporting of related activities

- Distributing other moneys received from the Successor Agency (proceeds for asset sales and unencumbered funds) and related reporting.

All actions taken by the Auditor-Controller related to this legislation are not effective for three business days subject to review by the State Controller.

B) One Time Activities – when RDA Enters Dissolution

1. Cause Agreed Upon Procedures Audit of RDA – addressed in other guidelines

2. Creation of Redevelopment Property Tax Trust Funds

a. For each RDA entering dissolution the county auditor-controller shall create a Redevelopment Property Tax Trust Fund (RPTTF) in the county treasury. [*H&S §34170.5(b) & H&S §34185*]

b. The RPTTF should be set up as interest bearing with the earned interest being deposited into the fund.

c. The county auditor-controller shall administer the RPTTF for the benefit of the holders of enforceable obligations and taxing entities that receive pass-through payments and other distributions under this part [*H&S §34182(c)(2.]*

d. Accounting should be done at the Project Area level and County Auditor-Controllers may wish to consider establishing separate accounts within the RPTTF (or separate RPTTFs) for RDAs with separate project areas to facilitate accounting and reporting.

3. Results of First Year Reporting

a. By October 1, 2012 report to the DOF and SCO the following specialized reporting for first year ending June 30, 2012. [*H&S §34182(d)*]. Copies of these reports should also be provided to Successor Agencies so that they may meet their reporting requirements to Affected Taxing Entities as well as to the Affected Taxing Entities themselves.

   i. Property Tax Revenues deposited to the RPTTF.

   ii. Amounts paid to Affected Taxing Entities based upon Pass-through payments calculations.

   iii. Recognized Obligation Payment Schedule (ROPS) payments remitted to Successor Agencies.

   iv. Administrative Cost Allowances paid to Successor Agencies.

   v. Residual amounts distributed to Affected Taxing Entities.

   vi. Any reductions to distributions due to insufficient moneys available to satisfy enforceable obligations per *H&S §34183(b)* – see **III C 2 b vii** page 25

b. This reporting should be summarized by each RDA and detailed by project area if appropriate. Amounts paid based on pass-through payment calculations along with residual distributions should also be reported at the affected taxing entity level.

c. Counties should consider providing these reports to the public via web access.

d. Exhibit E Standardized reporting similar to “estimates” Exhibit F to be developed with DOF/SCO

C) Ongoing Activities

1. Calculation of Property Tax Revenues

The Property Tax Revenues (the tax increment that would have gone to the RDA as if it still existed see Chapter E-3 of the *Property Tax Managers Reference Manual*) to the extent possible are to be deposited following the county's regular distribution cycles into each RDA's Property Tax Trust Funds (RPTTF) as follows:

a. Calculate the Secured (including State Assessed) & Unsecured Tax Increment using the August 20th equalized roll [§*34182(c)*] due the former RDA.

b. Deposit into the RPTTF the amounts of tax increment calculated above for:

   - Secured
   - Unsecured

c. Supplemental & unitary revenues due the former RDA are to be deposited into the trust fund as normally apportioned.

d. If necessary the amount of tax revenues calculated to be due the Successor Agency should be reduced for both any annual tax increment caps in the former RDA's plan [H&S §34182(c)(1)]and the "Wind Down" reduction amount per H&S §34187. The "Wind Down" reduction amount is required when obligations on the prior ROPs have been paid-off, matured or otherwise been satisfied. Note that the "wind down" reduction amount may need to be reduced under certain situations – (**See C 2 b viii** page 26).

e. For FY 2011-12 forward do not give the former RDA's Successor Agency any property tax revenue for pre-1989 bonds for the acquisition or improvement of real property. [*H&S §34183(a)(1)]*

   Note: For FY 2011-12 the RDA Increment will most likely be included in the tax rate calculations for pre-1989 bonds for the acquisition or improvement of real property. The reason for this is that at the time of the tax rate calculation which if any RDAs will be entering the voluntary continuation program [*H&S §34183(a)(1)]* may not be known. However, since all RDAs are entering dissolution due to the Supreme Court decision, upon dissolution effective date do not distribute the bond tax to the

RDA; rather distribute it back to the taxing entity that issued the bond and is levying the tax.

Note: That some RDAs may have pledged or may otherwise be dependent on the Tax Increment related to pre-1989 bonds to have sufficient funds for debt service. In this situation, it is suggested that the Department of Finance and State Controller be contacted for specific guidance.

2. Administration of the RDA's Property Tax Trust Fund (RPTTF)

The RPTTF for each former RDA dissolved under this legislation is administered by the county auditor-controller for the benefit of holders of former RDAs' enforceable obligations and the taxing entities that receive pass-through payments and other distributions pursuant to Part 1.85 starting with *H&S §34170*. Administration of the RPTTF consists of three basic functions: deposits, distributions and reporting. The legislation defines that most distributions are to be performed twice each year on the following cycles:

Distribution Date	Covers (forward looking) ROPS Period	All Other RPTTF Distributions
Jan 16th	Jan 1 through June 30th	May 1st through Dec 31st
June 1st	July 1st through Dec 31st	Jan 1st through April 30th

The first distribution date was revised to **May 16, 2012** (January 16, 2012)* but the second distribution dates to occur June 1, 2012 was not revised. See ***Exhibit H*** for matrix of ***Distribution, Reporting and Transaction Periods for RPTTFs***

The amounts distributed for ROPS are forward looking to the next six month period while all other distributions are actuals for the period indicated. This will create possible conflicts with ROPS requiring payment between Jan 1 & Jan 16 which should be resolved by the Successor Agency including estimates of these payments on the prior period ROPS to ensure enough money will be available for "dry" period payments.

a. Deposits

The Auditor is to deposit property tax revenues that would have been distributed to the former RDA as tax increment had this bill

* Date Revised by Supreme Court

not been enacted into the respective Successor Agency's RPTTF. See **III C 1** (page 20) Calculation of Property Tax Revenues on the details how to calculate this amount.

i. Interest Earnings: Interest earned by the RPTTF is to be deposited in the RPTTF and as a part of fund balance is available to fund any required distribution.

ii. **Do Not Deposit Other Moneys Received from Successor Agencies into the RPTTF**. See **III C 3** (page 28) *Distributions of Other Moneys Received from Successor Agencies.*

b. Distributions from the RPTTF

Distributions of the property tax revenues deposited into each former RDA's Property Tax Trust Fund (RPTTF) are to be made in this priority:

- Administration fees to Auditor for administering this Act & to the County Property Tax Administration fees (SB 2557 etc.)
- Amounts to ATEs based on Pass-through Payment Calculations
- Obligation Payments on the **ROPS** that are required to be paid from Property Taxes
- Successor Agency Administrative Cost Allowance
- Invoices from the SCO for Audit & Oversight
- Residual Balance

i. Administrative Fees: Before making any distributions, the auditor is first to deduct the following administrative fees [H&S §34183]:

1. A-C direct fees – The amount of costs incurred by the auditor to administer this part, including the costs to audit and the administration of the RPTTF.

2. SB2557 – The amount of property tax administrative fees that is to be charged against the property tax revenues deposited into the RPTTF. Although not specified, administration fees for supplemental taxes [R&T §75.60] are not to be affected by this legislation.

ii. Amounts based upon Pass-through Payments Calculations

1. The Auditor is now to calculate and pay amounts equal to all pass-through payments due the affected taxing entities of the dissolved RDA including Negotiated, Statutory (AB 1290) and Inflation. While prior to dissolution the responsibility to calculate and pay Negotiated and Statutory pass-through payments rested with the former RDA, post dissolution this responsibility to calculate is transferred to the auditor rather than to the former RDA's Successor Agency. [*H&S §34183(a)(1)*]

2. Distribute the pass-through payments no later than January 16 and June 1. [H&S §34183(a)(1)]

3. ATE property tax shares for purpose of calculating the distributions under H&S §34188(a) are:

   a. To be determined on the current property tax allocation laws at the time of the calculation [H&S §34188(b)]

   b. To exclude the Sales and Use Tax Triple Flip [R&T §97.68] and the VLF Swap [R&T §97.70]. [H&S §34188(b)]

   c. For school entities, including ERAF as defined as R&T §95(f). For example:

ERAF before FLIP & SWAP	$100
Less FLIP	20
Less SWAP	50
Net ERAF after Flip & SWAP	$ 30

   ERAF to be used for H&S §34188 is $100.

   d. Those counties that computes ERAF at the Jurisdictional Level will need to adjust the tax shares ratios for ERAF.

iii. Recognized Obligation Payments

1. Distribute amounts to Successor Agency's *Redevelopment Obligation Retirement Fund* (RORF). This distribution is limited to the sum of the obligation payments noted on the Oversight Board approved *Recognized Obligation Payment Schedule* (ROPS) that

are required to be paid from property taxes. [H&S §) 34183(a)(2)]

2. The ROPS covers six month periods beginning Jan 1 2012 through June 30, 2012 and are to be filed with the Auditor so that **May 16, 2012** (January 16, 2012)* January 16 thereafter) distribution funds the January-June ROPS period and the June 1st distribution funds the July-Dec ROPS period.

3. Items on the ROPS are to be funded in this priority:

   a. Debt service on tax allocation bonds.

   b. Payment on revenue bonds where revenues pledged are insufficient and agency's tax increment revenue is pledged.

   c. Payments on other debt listed on ROPS that are required to be paid by TI.

4. Differences between actual payments made and the estimated obligations on the ROPS must be reported on the subsequent ROPS. The Auditor-Controller shall adjust the amount to be transferred to the Successor Agency for deposit into its RORF for payments listed on its ROPS. The amounts and accounts shall be subject to audit by auditor-controllers and the SCO. [*H&S §34186*]

iv. Successor Agency's Administrative Cost Allowance
H&S §34171

1. Based on authorization by the Oversight Board, pay the Successor Agency administrative cost allowance per *H&S §34171(b)*.

   a. For Fiscal Year 2011-12 only the administrative cost allowance is limited to 5% of the amounts of revenues allocated to the Successor Agency, with a minimum of $250,000, or lesser amount if agreed to by the Successor Agency.

   b. For Fiscal Year 2012-13 and following, the administrative cost allowance is limited to 3% of the amounts of revenues allocated to the Successor

* Date Revised by Supreme Court

Agency's RORF, with a minimum of $250,000, or lesser amount if agreed to by the Successor Agency.

c. The allowance must exclude administrative costs that can be paid out of bond proceeds or sources other than property taxes.

v. SCO Billings *H&S §34183(d)* – Before distributing the Residual Balance (See **vi.** below) pay any invoices presented by the SCO for their costs of audit and oversight.

vi. Residual Balance: Twice a year beginning on **May 16, 2012** (January 16, 2012)* thereafter January 16th and June 1st distribute the residual balance of the RPTTF [H&S §34183(a)(4)] to local agencies and school entities per *H&S §34188.(a)* School entities include K-14 districts, ERAF, and county departments of education.

a. While legislation is written as if the RDA is comprised of only a single TRA and is comprised of only one project area, for purposes of these guidelines it is recommended that:

i. Auditors may use weighted average TRA factors for project areas with more than one TRA.

ii. For RDAs with multiple project areas, the auditor should consider performing these calculations at the individual project area. In some circumstances (for example, when debt is issued over multiple projects areas) a combined approach may be appropriate.

b. It is recommended that sufficient descriptions and coding be used for all pass-through payment transactions to ensure recipients have the ability to properly account for the transactions. This is particularly important for school districts and their revenue limit calculations.

vii. Insufficient funds

1. If the Successor Agency reports to the auditor-controller that there is not enough money in the RORF [*H&S §34183(b)*], from other funds transferred from the RDA,

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or from asset sales and all redevelopment operations to make the distributions required in sections 1.i. through 1.iv. in each six month fiscal year period according to the ROPS, the auditor-controller shall:

a. Notify the SCO and DOF within 10 days of notification from the Successor Agency,

b. Verify that there are insufficient funds and report the findings to the SCO.

2. The Successor Agency must report to the auditor-controller that there are insufficient funds no later than **April 1, 2012** (December 1, 2011)*, and May 1, 2012, and each December 1 and May 1 thereafter.

3. If the SCO concurs that there is insufficient funds, the amount of deficiency shall be deducted as is available from the following sources in the following order:

a. From the amount to be distributed related to any residual balance determined in 1.v. above,

b. From the amount to be distributed for the Successor Agency administrative cost allowance as determined in 1.iv. above

c. From the amount to be distributed for pass-through payments as determined in 1.ii. above, if the RDA made the pass-through payment obligations subordinate to debt service payments required for enforceable obligations, and only for servicing bond debt.

viii. **"Wind Down" Reduction Amount** - H&S § 34187

As currently written, the legislation contains a wind down provision that requires the amount of Tax Revenues (former TI) going to the Successor Agency to be methodically reduced as obligations on the ROPS are satisfied.

This requires that as an obligation listed on the ROPS is paid off or retired, the property tax revenue that would have been used for the payment of that obligation is to be distributed to taxing entities in the same manner that property tax would be apportioned per R&T. This would be cumulative in effect,

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meaning as more obligations are satisfied, the less Tax Revenues would be distributed to the RPTTF.

In practical terms this is to be implemented as a Tax Increment Cap.

Practice Tip

This could possibly create problems with having sufficient tax revenues remaining in the RPTTF to satisfy the payments for obligations on the ROPS in situations where the payment requirements for the remaining debt increase upon the payoff of other debt.

It is interpreted that this provision is to be implemented to the extent that it does not impair the ability to make the required ROPS payment. This means auditors may have to do multiple and iterative calculations of initial amounts of Tax Revenue, the reductions for satisfied obligations, net Tax Revenue to be deposited into RPTTF and the subsequent distributions to determine if sufficient balances remain to satisfy the ROPS distribution requirement. This process may have to be repeated multiple times before any distributions are actually made to ensure any adjustments to "wind down" reduction of tax revenue under H&S §34187 is necessary.

ix. Differences in estimated and actual payments on the ROPS are to be reported by Successor Agencies on subsequent ROPS and shall adjust ("true-up") the amounts to be transferred to the RORF. H&S § 34186. Both the Auditor-Controller and SCO have authority to audit the estimates and actual amounts H&S § 34186.

c. Reporting

i. Reports are due no later than **March 1, 2012** (November 1 thereafter)* and May 1 of the estimated amounts to be distributed **May 16, 2012** (Jan 16 thereafter)* and June 1 respectively from the RPTTF [H&S §34182(c)(3)]. These reports are to be remitted to the Department of Finance and entities receiving the distributions. See Exhibit J for sample of the DOF approved reporting format.

ii. Reporting of actual amounts distributed is currently only required by code for the year ending June 30, 2012. This report is to be remitted to the SCO and DOF by October 1, 2012. It is recommended that this report be also remitted to the related Successor Agency and its affected taxing

* Date Revised by Supreme Court

entities. While reporting of subsequent year actual distribution amounts are not currently required, it is recommended that subsequent year distributions also be reported in the same manner [H&S §34182(d)] Exhibit E Sample format to be provided by DOF – similar to "estimates"

iii. J-29 reporting to be provided by CDE

3. Distributions of Other Moneys Received from Successor Agencies

a. The auditor is required to distribute other moneys received from the Successor Agency as it wraps up the affairs of the former RDA. These moneys could be the Proceeds from Asset Sales [*H&S §34177(e)*] and Unencumbered Fund Balances [*H&S §34177(d)*] submitted by the Successor Agency

   These other moneys **are not to be deposited into the RPTTF** as the legislation also does not specifically allow it. Furthermore, it has been interpreted that the RPTTF is restricted for only the administration of Property Tax Revenues (Tax Increment that would have gone to former RDA). Accordingly, other moneys if not distributed as of the date of receipt by the auditor will need to be deposited into another trust/clearing fund administered by the auditor

b. These moneys are to be distributed under the methodology set forth under H&S §34188. The legislation does not specify any timeframes or other requirements as to when Successor Agencies are to remit the other moneys to Auditors nor does it specify timeframes for Auditors to perform the required distribution of such other moneys received to taxing entities. It is suggested that Auditors distribute these funds as of the same day the other revenues are received. Otherwise, the other moneys will need to be deposited into trust/clearing fund separate from the Redevelopment Property Tax Trust Fund for the respective Successor Agency.

4. Relationship with SCO & Their right of review *H&S §34182(f) - TBD*

5. Effects on other Property Tax Administration functions

a. Starting January 1, 2012, the ROPS supersedes the Statement of Indebtedness (SOI), which no longer needs to be prepared [H&S §34177(a)(3)] for those RDAs under the Dissolution Act.

b. No specific changes are required to county's current property tax distribution cycles by this legislation. However, if current processes would not allow sufficient amounts of property tax revenues (TI) to be deposited timely enough to make the required distribution dates a county may need to modify its processes. Any county that does not apportion Tax Increment in approximately even amounts during the fiscal year may be affected.

6. Reporting Requirements

The following reporting is required of the Auditor-Controller:

To Be Reported	Deadline	Report To
Estimates of amounts to be allocated and distributed out of the property tax revenues deposited into the RPTTF H&S §34182(c)(3)	November 1 and May 1 of each year (March 1, 2012 for initial year)	ATEs receiving distributions DOF
Property Tax Revenues or Sums Remitted or Paid: -To the RPTTF related to each former RDA -To each agency receiving pass-through payments -To each Successor Agency for payments on the ROPS -To each Successor Agency for the administrative cost allowance -To each ATE for any residual balance -Any amounts deducted from other distributions due to insufficient funds [H&S §34182d)(1-6)]	October 1, 2012 One Time Only per RDA entering Dissolution Recommend this be continued annually after first year	SCO DOF And as a courtesy: Successor Agency & ATEs
Notification by Successor Agency of insufficient funds for ROPS payments [H&S §34183(b)]	Within 10 days of Notification by Successor Agency	SCO DOF
Verification by A-C of insufficient funds for ROPS payments [H&S §34183(b)]	After verification of insufficient funds	SCO

7. AB860 ERAF Payment Adjustments

a. R&T §97.401 (Section 8 of Chapter 8 of ABX1 26) requires the continued ERAF payment, on behalf of the former RDA under R&T §97.4, from the designated taxing agencies based on the amount deposited into the RPTTF. As project areas within former redevelopment areas are paid off and those amounts are no longer deposited into the RPTTF ERAF's loss to redevelopment is restored and R&T §97.4, AB860, ERAF payments are no longer required. *This section only applies to counties who are required to make AB860 payments.*

> 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.

IV- Key dates

On and after **February 1, 2012** (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 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision (d) of 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under 34169 prior to the Successor Agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision.

From **February 1, 2012** (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.

By **April 15, 2012** (December 15, 2011)[*], for the period of **February 1, 2012** (January 1, 2012)[*] **to June 30, 2012** inclusive the Successor Agency is to submit the first Recognized Obligation Payment Schedule to the Controller's office and the Department of Finance.

[*] Date Revised by Supreme Court

Commencing on **May 1, 2012** (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.

Commencing **January 1, 2012**, the Recognized Obligation Payment Schedule supersedes the **Statement of Indebtedness**, which shall no longer to be prepared nor have any effect under the Community Redevelopment Law.

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.

Exhibit A - ABX1 26 RDA Dissolution – Flow of Funds

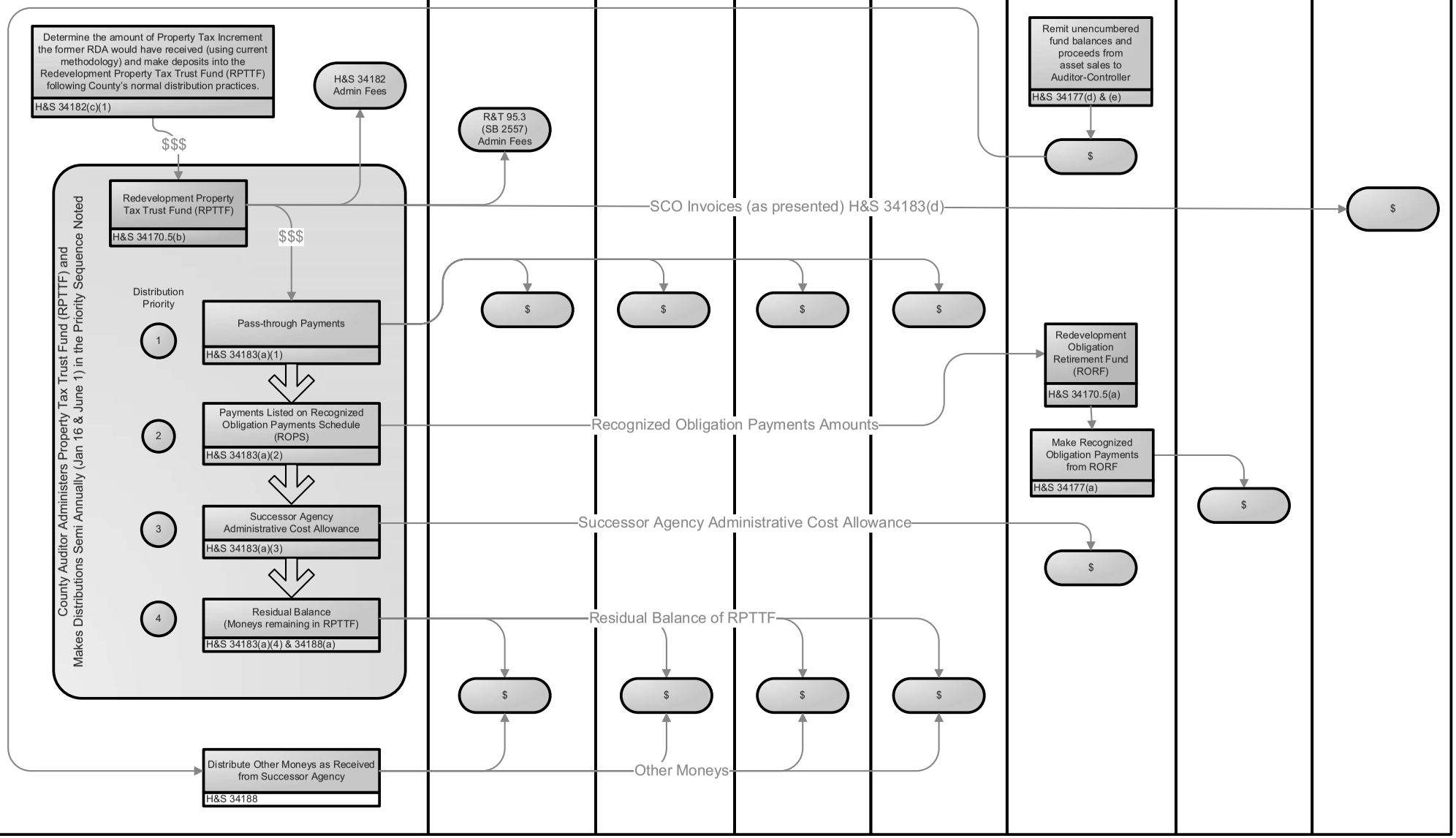

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EXHIBIT B - MATRIX OF IMPORTANT DATE
ABX1 26 - Redevelopment Dissolution

EXHIBIT F

Date by Original Legislation	Supreme Court Revised Dates*	H & S Code Reference	Guideline Section Reference	Task	Sponsor Community	Successor Agency	County Auditor-Controller	Governor
8/30/2011 or by 8/30 of year agency becomes subject to this part		§34169(g)(1) and §34169.5 (2)	Section II B	Adopt an EOPS	●			
9/30/2011		§34169(h)(2)	Section II B	Prepare preliminary draft of initial Recognized Obligation Payment Schedule and provide to Successor Agency	●			
10/1/2011	2/1/2012	§34172(a)(1)	Section II A	RDAs are Dissolved				
10/1/2011	2/1/2012	§34175(b)	Section II C	RDA Assets Transfer to Successor Agency		●		
10/1/2011	2/1/2012	§ 34170.5(a)	Section III A	Create Redevelopment Obligation Retirement Fund		●	○	
10/1/2011	2/1/2012	§ 34170.5(b)	Section III A	Create Redevelopment Property Tax Trust Fund (RPTTF)			●	
11/1/2011	3/1/2012	§34177(l)(2)(A)	Section II C	Successor Agency adopts draft Recognized Obligation Payment Schedule (ROPS) covering Period of Feb 1, 2012 to July 1, 2102		●		
12/1/2011 and May 1, 2012 and each 12/1 and 5/1 thereafter	4/1/2012 & 5/1/2012, each 12/1 & 5/1 therafter	§34183(b)	Section III C 2	Reports to A-C that insufficient funds in RORF		●		
1/1/2012	5/1/2012	§34177(3)	Section II C	Payments listed on ROPS may be made by Successor Agency		●		
1/1/2012	5/1/2012	§34179(a)	Section II E	Names of Oversight Board provided to DOF		●		
1/1/2012	5/1/2012	§34187	Section III C	Distribute to Taing Entities all property tax revenues associated with retired debt from the Recognized Obligation Payment Schedule.			●	
1/15/2012	5/15/2012	§34179(b)	Section II E	Governor appoints vacant postions to Oversight Board				●
Annually on 1/16 and 6/1	5/16/2012 / 6/1/2012	34183	Secton III C2	Distribute RPTTF funds			●	
3/1/2012	7/1/2012	§34182(a)(1)	Section III B	Agreed Upon Audit Procedures			●	
Upon completion (approx. March 2012)		§34177(l)(2)(B)	N/A	Certified (by external auditor) ROPS forwarded to Oversight Board		●		
3/15/2012	7/15/2012	§34182(b)	Section III B	Provide SCO with copy of audit report conducted above			●	

EXHIBIT B - MATRIX OF IMPORTANT DATE
ABX1 26 - Redevelopment Dissolution

EXHIBIT F

Date by Original Legislation	Supreme Court Revised Dates*	H & S Code Reference	Guideline Section Reference	Task	Sponsor Community	Successor Agency	County Auditor-Controller	Governor
Semi Annually: Before each Six Month Fiscal Period Begins: July 1st and January 1st		§34177(l)(1)	Section II C	Prepare ROPS for each 6 month period of each Fiscal Year		●		
Annually		§34177(j)	Section II C	Prepare and submit administrative budget to Oversight Board for Approval		●		
Annually 11/1 and May 1		§34182(c)(3)	Section III C	Provide estimates of amounts to be allocated and distributed to entities receiving distributions and DOF			●	
10 Days from Notification		§34177(l)(1)	N/A	Notify DOF and SCO of Insufficient Funds in RORF			●	
7/1/2016		§34179(j)	Section II C	Reduce Oversight Boards to one for all RDAs within a county		●		

* The Supreme Court using their power of reformation, revised each effective date or deadline for performance of an obligation in Part 1.85 (Sections 31470-34191) arising before May 1, 2012 to take effect four months later - with the exception for actions that were to be taken by September 1, 2011. The Supreme Court extended this deadline by 15 days from issuance of opinion and lifting of the stay to January 13, 2012 rather than January 1, 2012.

● To Be Performed by

◎ May be peformed by County Auditor for County Sponsored RDAs

Exhibit C

Definition of Terms

Administrative Budget – budget for administrative costs of successor agencies provided in *H&S §34177*. The following are some of the activities for which successor agencies may be entitled for the payment of administrative costs: implementation/payment of enforceable obligations or those items in the Recognized Obligation Payment Schedule; prepare or provide documents to DOF and SCO as requested; maintain reserves required by indentures or agency bonds; dispose of assets as directed by Oversight Board, etc..*(H&S 34171 (a)*)

Administrative Cost Allowance – administration fee approved by the Oversight Board paid from property tax revenues to Successor Agency. For FY 2011-12 this allowance is up to 5% of the property tax allocated to Successor Agency; for FY 2012-13 and thereafter, this amount is up to 3% of property tax allocated to Redevelopment Obligation Retirement Fund. Minimum payment is $250,000 and excludes administrative cost paid out of bond proceeds or from sources other than property tax. (*H&S §34171 (b)*)

Affected Taxing Entities (ATE) – cities, counties, a city and county, special districts, and **school entities** (includes ERAF see below) that are within in a RDA project area and consequently share property taxes derived from the project area with the RDA.

Designated Local Authority – is a public body formed with all the powers and duties of a Successor Agency when neither a sponsoring entity nor a local agency becomes a successor entity. (*H&S §34173(d)(3)*)

Enforceable Obligation – refers to the following:

- Bond issued by the former RDA
- Loans borrowed by the RDA
- Payments required by federal, state, and agency's employees related commitments such as pensions, UI, and other CBA obligations
- Judgments and settlements entered by a court of law
- Any legally binding and enforceable agreement or contract not otherwise void as violating debt limit or public policy
- Contracts or agreements necessary for the administration or operation of the Successor Agency

Note per H&S 34170(d)(2) "enforceable obligations" does not include any agreements, contracts, or arrangements between the community that created the redevelopment agency and the former redevelopment agency (except written agreements signed before January 1, 2011 solely for securing or repaying obligations deemed enforceable).

Enforceable Obligation Schedule (EOS)- The schedule of Enforceable Obligations prepared and adopted by the RDA within 60 days of the effective date of the bill or within 60 days of entering dissolution.

Indebtedness Obligation – bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the RDA, or by a joint exercise of powers authority created by the RDA, to third party investors or bondholders to finance or refinance redevelopment projects undertaken by the RDA.

Oversight Board – an appointed body comprised of 7 members selected by the county's Board of Supervisors, city mayor, county superintendent office of education, Chancellor of California Community Colleges, special district, and from the recognized employee organization representing the former employees of the RDA. The Oversight Board provides direction to the Successor Agency's activities in winding down the affairs of the former RDA.

Recognized Obligations – obligation listed in the Recognized Obligation Payment Schedule

Recognized Obligation Payment Schedule – the document which sets the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period per H&S §34177. Please see the definition of Enforceable Obligation to identify some of the items which may be included in this payment schedule. Also, effective January 1, 2012, this schedule supersedes the Statement of indebtedness which shall no longer be prepared. *H&S §34177(a)(3).*

Residual Balance – The actual cash balance if any in the RPTTF remaining after all other required distributions under H&S 34183 have been made for the period.

School Entity – school districts, community college districts, the Educational Revenue Augmentation Fund, and the county superintendent of schools (R&T §95(f))

Sponsor Community – the city, the county or the city and county that created the RDA

Successor Agency – the cities, counties, a city and county that authorized the creation of each redevelopment or another entity as provided in H&S §34173

"Wind Down" Reduction Amount (33487) – the amount that Tax Revenues due Successor Agencies are to be reduced for obligations on the ROPS that have been paid-off, retired or other satisfied.

Exhibit D
Distribution, Reporting, and Transaction Periods for Redevelopment Property Tax Trust Funds
ABX1 26 Dissolution of RDAs

4/5/2012

	Relationship to RPTTF Distribution Date															
		Resource Inflows Period		Outflows for the Period: Administrative Cost to Others			Outflows for the Period				Reporting for the Period					
	RPTTF Distribution Date H&S 34183(a)(1)-(4)	As Tax Increment direct to RDA	As Deposit Transactions into RPTTF* H&S 34182(c)(1)	PTAF† H&S 34183(a)	Period of Costs Incurred by A-C Admin H&S 34183(a)	SCO Invoices Received H&S 34183(d)	Pass-thru Payments Transactions H&S 34813(a)(1) H&S 34188	To Fund ROPS Covering Period H&S 34183(a)(2)	Successor Agency Admin Cost Allowance H&S 34183(a)(3) H&S 34171(b)	Residual Pmts H&S 34183(a)(4) H&S 34188	Related ROPS due to DOF/SCO/AC from SA§ H&S 34177(l)	Estimate of Admin Cost Allowance due to AC from SA¶ H&S 34177(k)	Estimate of Distribution due to DOF/TE from AC H& 34182(c)(3)	Supplemental Info to be Reported by AC on Estimate	AC Annual Report of Actuals¤ H&S 34182(d)	Comments
1st Year - FY 2011-12	**May 16, 2012** This date was originally Jan 16,2012 in bill but changed by Supreme Court Decision.	7/1/2011 - 1/31/2012	None as RDAs still existed during reporting/distribution period and accordingly there are no deposits into RPTTF	None†	None	None	None	1/1/2012 to 6/30/2012- These Enforceable Obligations are to Be Paid by existing RDA/SA Resources	None	None	3/1/2012 Draft (Nov 1, 2011) 4/15/2012 Final (Dec 15, 2011)	None	3/1/2012	Increment paid to former RDA 7/1/11-1/31/12 and any pass-through payments related this TI distributed by AC to ATEs and any PTAF (SB2557) that may have been charged against this distribution.	None	This first distribution is synchronized with the period the RDAs were still in existence and receiving Tax Increment Distributed 7/1/2011-1/31/2012 or end of RDA Life if earlier.
	June 1, 2012	N/A	2/1/2012 to 4/30/2012**	100%†	7/1/11 to 4/30/12	7/1/11 to 4/30/12	For deposits made to RPTTF during period 2/1/12 to 4/30/12 May have address any unpaid PTP stemming from TI distributed to RDAs for period 7/1/2011 to 1/31/12. Seems should be a RDA/SA obligation, but need to address if not paid by them.	7/1/2012 to 12/31/2012	3% of Distribution for ROPS during this Period - minimum of $250k / year	on 6/1/2012	AC needs to prepare estimates due to DOF/SCO.§ **DUE AC: 4/15/2012** **Final Version DUE DOF: 5/15/2012**	AC needs to prepare estimates due to DOF/SCO.¶ **DUE AC: 4/15/2012**	5/1/2012	None	By October 1, 2012, AC to Report to SCO/DOF, SA and ATEs for the period 2/1/2012 through 6/30/2012: . Property Tax Revenues Deposited into RPTTF . Pass-through payments to ATE . ROPS payment to SA . SA Admin Cost Allowance . RPTTF Residual Amounts to ATEs .Any reductions due to insufficient moneys available Although not required suggest following to also be reported: .Administrative Costs to County, AC and SCO distributed from RPTTF .Distributions of Other Moneys (proceeds from Asset Sales etc.)	
2nd Year and Thereafter - FY 2012-13	**Jan 16, 2013…**	N/A	5/1/2012... to 12/31/2012…	50%†	5/1/2012... to 12/31/2012…	5/1/2012... to 12/31/2012…	5/1/2012... to 12/31/2012…	1/01/13... to 6/30/13…	3% of Distribution for ROPS during this Period - minimum of $250k/ year‡	on Jan 16	10/1/2012...§	10/1/2012...¶	11/1/2012…	None	By October 1, AC to Report to SCO/DOF, SA and ATEs for the previous period 7/1 through 6/30: . Deposits into RPTTF . Outflows from RPTTF: ..Pass-through pmts .. ROPS payment to SA .. SA Admin Cost Allowance .. RPTTF Residual Amounts to ATEs .Any reductions due to insufficient moneys available .Distributions of Other Moneys (proceeds from Asset Sales etc.)	
	June 1, 2013…	N/A	1/01/2013... to 4/30/13…**	50%†	1/01/13... to 4/30/13…	1/01/13... to 4/30/13…	1/01/13... to 4/30/13…	7/01/13... to 12/31/13…	3% of Distribution for ROPS during this Period - minimum of $250k/ year‡	on June 1	4/1/2013...§	4/1/2013...¶	5/1/2013…	None		

* RPTTF Resource Inflow Period Ending cut-off dates of 12/31/xx & 4/30/XX are to allow time for Auditor to balance activity, calculate distribution and prepare necessary reporting as noted in Tax Managers Guidelines.
† Counties may vary on when they assess the Ptax Admin fees so this could be split between the two period cycle which for the first year of implementation the first cycle might have been already charged to the RDA TI that was distributed or one annual amount in either period.
‡ The Successor Agency's Administrative Cost Allowance (minimum annual amount is $250k) to be distributed as set forth in semi-annual estimates reporting to AC, subject to "true-up" in following period to actual. See footnote ¶ below.
§ Although no reporting date is specified by code, DOF established these deadlines which are 30 days prior to the Auditor's requirement to report estimates, except for **SA's ROPS reporting for the period 7/1/2012-12/31/2012 to be due 4/15/2012 to AC and 5/15/212 to DOF.**
- Any estimated items on prior period ROPS is to be "trued-up" on following period's ROPS by reporting the Prior Estimate, Prior Actual and difference which is to be netted against current period ROPS
¶ Although no reporting date is specified by code, DOF requires Successor Agencies to submit their estimated Administrative Cost Allowance as separate schedule along with ROPS (see previous footnote). Current period estimate to include "true-up" of prior Actuals to prior Estimates with difference being netted against current period estimate.
¤ Although not required in code, suggest annual report of deposits, and outflows for RPTTF including any necessary reductions due to insufficient funds continue to be reported to DOF, SCO, SA and ATEs along with distributions of other moneys for years beginning FY 2012-13
** This period is to include the 2nd major installment of Secured/Unsecured Tax Increment. Those counties, if any, that normally distribute this installment in May, will have to change their process to ensure it is included in this period.

AC Auditor Controller
DOF State Department of Finance
SCO State Controllers Office
TE Taxing Entities
PTAF Property Tax Administration Fees (R&T 95.3 - SB 2557)
SA Successor Agency of former RDA

EXHIBIT E

DOF Approved “Actuals” Report Format

To Be Developed

Exhibit F1

County of _____

Estimated Redevelopment Property Tax Trust Fund Allocations & Distributions for March 1, 2012 Covering the Period 7/1/2011 through 1/31/2012)

(Whole Numbers)

Redevelopment Property Tax Trust Fund (RPTTF) Activity	Successor Agency for _____ RDA	Successor Agency for _____ RDA	Successor Agency for _____ RDA	Successor Agency for _____ RDA	Successor Agency for _____ RDA	Successor Agency for _____ RDA
RPTTF Beginning Balance	$ -	$ -	$ -	$ -	$ -	$ -
Deposits:						
Secured & Unsecured Property Tax Increment	-	-	-	-	-	-
Supplemental & Unitary Property Tax Increment	-	-	-	-	-	-
Miscellaneous Revenues	-	-	-	-	-	-
Deposit totals	-	-	-	-	-	-
RPTTF Available Balance	-	-	-	-	-	-
H&S Code 34183 Distributions						
Administrative Fees to County Auditor-Controller	-	-	-	-	-	-
SB2557 Administration Fees	-	-	-	-	-	-
City Passthrough Payments	-	-	-	-	-	-
County Passthrough Payments	-	-	-	-	-	-
Special District Passthrough Payments	-	-	-	-	-	-
K-12 School Passthrough Payments - Tax Portion	-	-	-	-	-	-
K-12 School Passthrough Payments - Facilities Portion	-	-	-	-	-	-
Community College Passthrough Payments - Tax Portion	-	-	-	-	-	-
Community College Passthrough Payments - Facilities Portion	-	-	-	-	-	-
County Office of Education - Tax Portion						
County Office of Education - Facilities Portion						
ROPS Enforceable Obligations Payable from Property Taxes	-	-	-	-	-	-
Successor Agency Administrative Cost Allowance	-	-	-	-	-	-
SCO Invoices for Audit and Oversight	-	-	-	-	-	-
H&S Code 34183 Dist Totals	-	-	-	-	-	-
Residual Balance	-	-	-	-	-	-
Residual Distributions						
Residual Balance to Cities	-	-	-	-	-	-
Residual Balance to Counties	-	-	-	-	-	-
Residual Balance to Special Districts	-	-	-	-	-	-
Residual Balance to K-12 Schools	-	-	-	-	-	-
Residual Balance to Community Colleges	-	-	-	-	-	-
	-	-	-	-	-	-
Ending RPTTF Balance	$ -	$ -	$ -	$ -	$ -	$ -

No Activity in RPTTF

See Additional Reporting Information on Page 2

County of _____

Actual Property Tax Revenues Distributed from 7/1/11-1/31/2012

(Whole Numbers)

Additional Information

(Payments Made to RDAs Prior to 2/1/12 Dissolution Date)

	_____ RDA	_____ RDA	_____ RDA	_____ RDA	_____ RDA	_____ RDA
Tax Increment and Other Revenue						
Secured & Unsecured Property Tax Increment	-	-	-	-	-	-
Supplemental & Unitary Property Tax Increment	-	-	-	-	-	-
Miscellaneous Revenues (Bond Debt Increment & Interest)	-	-	-	-	-	-
Total Increment & Revenues	-	-	-	-	-	-
Pass-Through Payments Paid by A/C (withheld from RDA) If Applicable						
City Passthrough Payments	-	-	-	-	-	-
County Passthrough Payments	-	-	-	-	-	-
Special District Passthrough Payments	-	-	-	-	-	-
K-12 School Passthrough Payments - Tax Portion	-	-	-	-	-	-
K-12 School Passthrough Payments - Facilities Portion	-	-	-	-	-	-
Community College Passthrough Payments - Tax Portion	-	-	-	-	-	-
Community College Passthrough Payments - Facilities Portion	-	-	-	-	-	-
County Office of Education - Tax Portion	-	-	-	-	-	-
County Office of Education - Facilities Portion	-	-	-	-	-	-
Total Pass-Through Payments Made	-	-	-	-	-	-
Total Net Revenues Paid to RDAs	$ -	$ -	$ -	$ -	$ -	$ -

Exhibit F2

County of _____
Estimated Redevelopment Property Tax Trust Fund Allocations & Distributions for Period: _____
(Whole Numbers)

Redevelopment Property Tax Trust Fund (RPTTF) Activity	Successor Agency for _____ RDA	Successor Agency for _____ RDA	Successor Agency for _____ RDA	Successor Agency for _____ RDA	Successor Agency for _____ RDA	Successor Agency for _____ RDA
RPTTF Beginning Balance	$ -	$ -	$ -	$ -	$ -	$ -
Deposits:						
Secured & Unsecured Property Tax Increment	-	-	-	-	-	-
Supplemental & Unitary Property Tax Increment	-	-	-	-	-	-
Miscellaneous Revenues	-	-	-	-	-	-
Deposit totals	-	-	-	-	-	-
RPTTF Available Balance	-	-	-	-	-	-
H&S Code 34183 Distributions						
Administrative Fees to County Auditor-Controller	-	-	-	-	-	-
SB2557 Administration Fees	-	-	-	-	-	-
City Passthrough Payments	-	-	-	-	-	-
County Passthrough Payments	-	-	-	-	-	-
Special District Passthrough Payments	-	-	-	-	-	-
K-12 School Passthrough Payments - Tax Portion	-	-	-	-	-	-
K-12 School Passthrough Payments - Facilities Portion	-	-	-	-	-	-
Community College Passthrough Payments - Tax Portion	-	-	-	-	-	-
Community College Passthrough Payments - Facilities Portion	-	-	-	-	-	-
County Office of Education - Tax Portion						
County Office of Education - Facilities Portion						
ROPS Enforceable Obligations Payable from Property Taxes	-	-	-	-	-	-
Successor Agency Administrative Cost Allowance	-	-	-	-	-	-
SCO Invoices for Audit and Oversight	-	-	-	-	-	-
H&S Code 34183 Dist Totals	-	-	-	-	-	-
Residual Balance	-	-	-	-	-	-
Residual Distributions						
Residual Balance to Cities	-	-	-	-	-	-
Residual Balance to Counties	-	-	-	-	-	-
Residual Balance to Special Districts	-	-	-	-	-	-
Residual Balance to K-12 Schools	-	-	-	-	-	-
Residual Balance to Community Colleges	-	-	-	-	-	-
	-	-	-	-	-	-
Ending RPTTF Balance	$ -	$ -	$ -	$ -	$ -	$ -

APPENDICES

Legislative Text of

Assembly Bill No. 26 of the First Extraordinary Session

(ABX1 26)

in Connection with the

State of California Budget for Fiscal Year 2010-11

APPENDICES

ABX1 26, 1st Extraordinary Session

Table of Contents

APPENDIX A

Text of Original Bill

Assembly Bill 26

Assembly Bill No. 26

CHAPTER 5

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.

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

LEGISLATIVE COUNSEL'S DIGEST

AB 26, Blumenfield. 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.

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

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.

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.

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.

(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.

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, 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.

(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, 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.

(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, 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.

(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, 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.

(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, 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.

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, 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, 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.

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.

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 redevelopment 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 bargaining 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.

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.

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.

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.

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.

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.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB 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.

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.

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.

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.

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APPENDIX B

Bill Analysis - Senate

Assembly Bill 26

BILL ANALYSIS

SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 651-1520 Fax: (916) 327-4478	AB 26X1

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

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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;

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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

aa. 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 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

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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

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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 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

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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.

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

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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;

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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

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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.

1. 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

2. 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 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.

3. 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.

4. Requires the county auditor-controller to allocate funds from the Redevelopment Property Tax Fund in the following order:

CONTINUED

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

1. 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.

2. 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 employees of the RDA upon its dissolution and will assume all obligations under any memoranda of understanding.

CONTINUED

3. 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.

4. 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.

5. 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 ****

CONTINUED

APPENDIX C

Bill Analysis - Assembly

Assembly Bill 26

BILL ANALYSIS

CONCURRENCE IN SENATE AMENDMENTS
AB 26 X1 (Budget Committee)
As Amended June 15, 2011
Majority vote. Budget Bill Appropriation Takes Effect Immediately

ASSEMBLY:		(June 3, 2011)	SENATE:	21-15	(June 15, 2011)

(vote not relevant)

SUMMARY : Makes various changes to state laws to implement provisions relating to redevelopment in the 2011-12 budget agreement and is the first of two budget trailer bills that address redevelopment agencies (RDAs). This bill eliminates redevelopment agencies and directs the resolution of their activities. The second bill, SB 15 X1 or AB 27 X1, creates an alternative voluntary redevelopment program. This bill would not become effective unless the second bill also becomes effective. The requirements of this bill would affect RDAs that elect not to participate in the alternative voluntary redevelopment program.

The Senate amendments delete the Assembly version of this bill, and instead:

Addresses the suspension of RDA activities; dissolution of existing RDAs; establishment and duties of Successor Agencies; establishment and duties of Oversight Boards; use of property tax revenues that would otherwise have gone to RDAs and other matters described below.

Existing Redevelopment Agencies:

RDAs would no longer exist under the provisions of the bill as of October 1, 2011 and would be dissolved as of that date. In addition, as of the effective date of the adoption of this legislation, activities of RDAs would be curtailed, and an orderly wind-down process instituted for redevelopment activities. Specifically:

1) Prohibit, as part of the process of reducing RDAs activity prior to their elimination, an RDA from:

   a) issuing new or expanded debt of any type (except emergency refunding bonds, under certain conditions);

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 contingent on the issuance of debt;

i) adopting or amending redevelopment plans or making new findings with respect to blight;

j) entering into new partnerships, imposing new assessments, or increasing staff or compensation; and,

aa) other actions that would result in ongoing commitments or a depletion of assets.

2) Require RDAs to continue to make all scheduled payments for enforceable obligations (described below), perform obligations established pursuant to enforceable obligations, set aside required reserves, preserve assets, cooperate with Successor Agencies (described below), and to take all measures to avoid triggering a default under an enforceable obligation. Would also require the RDAs to prepare an enforceable obligation payments schedule, containing all payments obligated to be made and provide this to the county auditor-controller within 60 days of the effective date of this bill. This schedule would be reviewed by the county auditor-controller, the State Controller and the Department of Finance. The bill would 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) Extend the time period allowed for challenges to the validity of an RDA's 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) Require 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:

Successor Agencies would be established under the bill and would typically be the city, county, or city and county that established the RDA. Each Successor Agency would be responsible for maintaining payments on enforceable obligations. Specifically:

1) Establish Successor Agencies to the RDAs that would, except in certain situations, such as those involving an RDA based on a joint powers authority, be 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.

2) Require 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. Successor Agencies would be responsible for preparing on a semi-annual basis the Recognized Obligation Payment Schedule that would set forth a schedule of obligated payments including the date, amount, and source of funds for each payment.

3) Require the Successor Agencies' 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 and the Department of Finance. The first Recognized Obligation Payment Schedule would be submitted by December 15, 2011, with a draft of the schedule due November 1, 2011. The Recognized Obligation Payment Schedule would be established pursuant to the identification of enforceable obligations, which are obligations that were entered into by the RDA and are legally enforceable.

4) Define enforceable obligations for Successor Agencies to include, but not limited to:

   a) bonds, including debt service, reserves, or other required payments;

   b) loans borrowed by the agency for a lawful purpose including loans from the Low and Moderate Income Housing Fund;

   c) payments required by the federal government;

   d) pre-existing obligations to the state or obligations imposed by state law;

   e) legally enforceable payments to agencies' employees, including pension obligations and other obligations conferred through a collective bargaining agreement;

   f) judgments and settlements entered into by a court or arbitration, retaining appeal rights;

   g) legally binding contracts that do not violate the debt limit or public policy; and,

   h) contracts necessary for administration of the agency, such as for office space, equipment and supplies, to the extent permitted.

   Enforceable obligations would not include any agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA.

5) Require Successor Agencies to take control of all assets, properties, contracts, books and records, buildings and equipment of the RDAs on October 1, 2011. Successor Agencies are to dispose of RDAs' assets as directed by the Oversight Board with the proceeds transferred to the county auditor-controller for distribution to taxing agencies within the county. Governmental facilities, such as roads, school buildings, and fire or police stations would be conveyed to the appropriate public jurisdiction. 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.

6) Authorize the Successor Agencies 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 retained development projects, which must be funded from the Successor Agency's own budget.

Oversight Boards:

Oversight Boards established under the bill would be required to approve various actions by the Successor Agencies, including the Recognized Obligation Payment Schedule and various other activities outlined below. Specifically:

1) Establish 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 education; v) one member appointed by the Chancellor of the California Community Colleges; vi) one member of the public appointed by the county board of supervisors; and, 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 county, county and city, or joint powers authority formed the RDA. Beginning July 1, 2016, one Oversight Board will be formed in each county.

2) Require Oversight Boards to approve the following actions of the Successor Agencies:

   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;

e) acceptance of federal or state grants that are conditioned upon the provision of matching funds in an amount greater than 5%;

f) retention of RDA properties by city, county or city and county;

g) establishment of the Recognized Obligation Payment Schedule;

h) requests to hold portions of moneys in the housing fund in order to pay recognized obligations related to housing; and,

i) requests to pledge or enter into an agreement for the pledge of property tax revenues to provide financing for an approved development project.

3) Require that the Oversight Boards direct the Successor Agencies to:

a) dispose of all assets and properties except 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 former RDA and any public entity in the county which obligates the former 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 former 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.

4) Establish 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:

Property Tax Revenues that went to former RDAs would be used for the following purposes: continue pass-through payments to schools and local governments; fund outstanding former RDA debt and other enforceable obligations; and, provide funding for education and local governments. Specifically:

1) Create the Redevelopment Obligation Retirement Fund and the Redevelopment Property Tax Trust Fund. Property tax revenues associated with each former RDA in each county will be deposited in the Redevelopment Property Tax Trust Fund which will be 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.

2) Require 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.

3) Require 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) Redevelopment Obligation Retirement Fund for Successor Agencies' payments listed in the Recognized Obligation Payment Schedule and administration; and,

   c) Cities, the county, schools, community college districts, and non-enterprise special districts in the proportional shares of what would have been received absent redevelopment

and adjusted for pass-through agreements.

Other Matters:

1) Allow for the continuation of housing activities by Successor Agencies, 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 a 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.

2) Provide 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. The Successor Agency will become the employer of all employees of the former RDA upon its dissolution and will assume all obligations under any existing memoranda of understanding then in force.

3) Specify 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 Proposition 98 minimum funding guarantee. These amounts (as well as amounts going to other taxing agencies) would increase over time as enforceable obligations expire.

4) Establish that if a community elects to participate in the alternative voluntary alternative redevelopment program established in SB 15 X1 or AB 27 X1, and later fails to comply with the provisions established in that bill governing the program, then the provisions of this bill apply with conforming changes to implementation and reporting dates.

5) Appropriate $500,000 to the Department of Finance for costs of administration under the legislation.

6) Adds an appropriation allowing this bill to take effect immediately upon enactment.

AS PASSED BYTHE ASSEMBLY , this bill expresses the intent of the Legislature to enact statutory changes relating to the 2011 Budget Act.

FISCAL EFFECT : This legislation, together with SB 15 X1 or AB 27 X1, will result in $1.7 billion in additional funding as part of the 2011-12 Budget.

COMMENTS : It is anticipated that cities and counties with RDAs would choose to participate in an alternative voluntary redevelopment program as set forth in SB 15 X1 and AB 27 X1. This alternative program would allow RDAs to continue but require that cities or counties within which RDAs are located to provide voluntary payments that would partially offset the use of property tax increment for RDA purposes.

Analysis Prepared by : Mark Ibele / BUDGET / (916) 319-2099FN: 0001298

APPENDIX D

Senate Votes

Assembly Bill 26

UNOFFICIAL BALLOT
MEASURE:ABX1 26
AUTHOR: Blumenfield
TOPIC: Community redevelopment.
DATE: 06/15/2011
LOCATION: SEN. FLOOR
MOTION: Assembly 3rd Supp 1 AB26 Blumenfield By Leno
(AYES 21. NOES 15.) (PASS)

AYES
****

Alquist CalderonCorbett De León
DeSaulnier Evans Gaines Hancock
Hernandez Kehoe Leno Lieu
Liu Lowenthal Negrete McLeod Pavley
Price SimitianSteinberg Vargas
Wolk

NOES
****

AndersonBerryhill Blakeslee Cannella
Correa Dutton EmmersonFuller
Harman Huff La MalfaStrickland
Wright Wyland Yee

NO VOTE RECORDED
****

Padilla Rubio Runner Walters

APPENDIX E

Assembly Votes

Assembly Bill 26

UNOFFICIAL BALLOT
MEASURE:ABX1 26
AUTHOR: Blumenfield
TOPIC: Community redevelopment.
DATE: 06/15/2011
LOCATION: ASM. FLOOR
MOTION: AB 26 BLUMENFIELD Concurrence in Senate Amendments First Extraordinary Session
(AYES 52. NOES 24.) (PASS)

AYES
****

Allen Ammiano Atkins Beall
Block Blumenfield Bonilla Bradford
Brownley Buchanan Butler Charles Calderon
Campos Carter Cedillo Chesbro
Davis Dickinson Eng Feuer
Fong Fuentes Furutani Beth Gaines
Galgiani Gatto Gordon Hall
Hayashi Roger Hernández Hill Huber
Hueso Huffman Lara Logue
Bonnie Lowenthal Ma Mansoor Mitchell
Monning Nielsen Norby Pan
Perea Skinner Solorio Torres
Wieckowski Williams Yamada John A. Pérez

NOES
****

Achadjian Alejo Bill Berryhill Conway
Cook Donnelly Fletcher Garrick
Grove Hagman Jeffries Jones
Knight Mendoza Miller Morrell
Nestande Olsen V. Manuel Pérez Portantino
Silva Smyth Swanson Valadao

ABSENT, ABSTAINING, OR NOT VOTING
****

Gorell Halderman Harkey Wagner

APPENDIX F

Bill History @ 06/29/2011

Assembly Bill 26

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 26 (1st Ex. Sess.)
AUTHOR : Blumenfield
TOPIC : Community redevelopment.

TYPE OF BILL :
Inactive
Non-Urgency
Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2011
June 29 Chaptered by Secretary of State. Chapter 5, Statutes of 2011-12 First Extraordinary Session.
June 28 Approved by the Governor.
June 28 Enrolled and presented to the Governor at 4:15 p.m.
June 15 In Assembly. Concurrence in Senate amendments pending. May be considered on or after June 17 pursuant to Assembly Rule 77. Assembly Rule 77 suspended. (Page 213.) Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 52. Noes 24. Page 213.).
June 15 Pursuant to Joint Rule 33.1, Joint Rule 10.5 suspended. (Page 146.) Withdrawn from committee. Ordered to third reading. Read third time. Passed. Ordered to the Assembly. (Ayes 21. Noes 15. Page 150.).
June 14 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on B. & F.R.
June 8 Referred to Com. on B. & F.R.
June 6 In Senate. Read first time. To Com. on RLS. for assignment.
June 3 Read third time. Passed. Ordered to the Senate. (Ayes 49. Noes 21. Page 181.)
June 2 Without reference to committee. Ordered to second reading. (Page 171.) Read second time. Ordered to third reading.
May 20 From printer.
May 19 Read first time. To print.

APPENDIX G

Bill Status @ 06-29-2011

Assembly Bill 26

CURRENT BILL STATUS

MEASURE : A.B. No. 26 (1st Ex. Sess.)
AUTHOR(S) : Blumenfield.
TOPIC : Community redevelopment.
+LAST AMENDED DATE : 06/14/2011

TYPE OF BILL :
Inactive
Non-Urgency
Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/29/2011
LAST HIST. ACTION : Chaptered by Secretary of State. Chapter 5, Statutes of 2011-12 First Extraordinary Session.
COMM. LOCATION : SEN BUDGET AND FISCAL REVIEW

TITLE : 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.

APPENDIX H

California Supreme Court Decision
S194861

12-29/2011

Assembly Bill 26

Filed 12/29/11

IN THE SUPREME COURT OF CALIFORNIA

CALIFORNIA REDEVELOPMENT ASSOCIATION et al.,	)	
Petitioners,	)	S194861
v.	)	
ANA MATOSANTOS, as Director, etc., et al.,	)	
Respondents;	)	
COUNTY OF SANTA CLARA et al.,	)	
Interveners and Respondents.	)	

Responding to a declared state fiscal emergency, in the summer of 2011 the Legislature enacted two measures 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. (Assem. Bill Nos. 26 & 27 (2011-2012 1st Ex. Sess.) enacted as Stats. 2011, 1st Ex. Sess. 2011-2012, chs. 5-6 (hereafter Assembly Bill 1X 26 and Assembly Bill 1X 27); see also Assem. Bill 1X 26, § 1, subds. (d)-(i); Assem. Bill 1X 27, § 1, subds. (b), (c).) Assembly Bill 1X 26 bars redevelopment agencies from engaging in new business and provides for their windup and dissolution. Assembly Bill 1X 27 offers an alternative: redevelopment agencies can continue to operate if the cities and counties that

created them agree to make payments into funds benefiting the state's schools and special districts.

The California Redevelopment Association, the League of California Cities, and other affected parties (collectively the Association) promptly sought extraordinary writ relief from this court, arguing that each measure was unconstitutional. They contended the measures violate, inter alia, Proposition 22, which amended the state Constitution to place limits on the state's ability to require payments from redevelopment agencies for the state's benefit. (See Cal. Const., art. XIII, § 25.5, subd. (a)(7), added by Prop. 22, as approved by voters, Gen. Elec. (Nov. 2, 2010).) The state's Director of Finance, respondent Ana Matosantos, opposed on the merits but agreed we should put to rest the significant constitutional questions concerning the validity of both measures.[1] We issued an order to show cause, partially stayed the two measures, and established an expedited briefing schedule. We also granted leave to the County of Santa Clara and its auditor-controller, Vinod K. Sharma (collectively Santa Clara), to intervene as respondents.

We consider whether under the state Constitution (1) redevelopment agencies, once created and engaged in redevelopment plans, have a protected right to exist that immunizes them from statutory dissolution by the Legislature; and (2) redevelopment agencies and their sponsoring communities have a protected right not to make payments to various funds benefiting schools and special districts as a condition of continued operation. Answering the first question "no"

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[1] Two other respondents, state Controller John Chiang and Alameda County Auditor-Controller Patrick O'Connell, who was sued on behalf of a putative class of county auditor-controllers, took no position on the merits. All respondents have been sued in their official capacities.

and the second "yes," we largely uphold Assembly Bill 1X 26 and invalidate Assembly Bill 1X 27.

Assembly Bill 1X 26, the dissolution measure, is a proper exercise of the legislative power vested in the Legislature by the state Constitution. That power includes the authority to create entities, such as redevelopment agencies, to carry out the state's ends and the corollary power to dissolve those same entities when the Legislature deems it necessary and proper. Proposition 22, while it amended the state Constitution to impose new limits on the Legislature's fiscal powers, neither explicitly nor implicitly rescinded the Legislature's power to dissolve redevelopment agencies. Nor does article XVI, section 16 of the state Constitution, which authorizes the allocation of property tax revenues to redevelopment agencies, impair that power.

A different conclusion is required with respect to Assembly Bill 1X 27, the measure conditioning further redevelopment agency operations on additional payments by an agency's community sponsors to state funds benefiting schools and special districts. Proposition 22 (specifically Cal. Const., art. XIII, § 25.5, subd. (a)(7)) expressly forbids the Legislature from requiring such payments. Matosantos's argument that the payments are valid because technically voluntary cannot be reconciled with the fact that the payments are a requirement of continued operation. Because the flawed provisions of Assembly Bill 1X 27 are not severable from other parts of that measure, the measure is invalid in its entirety.[2]

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[2] Amicus curiae City of Cerritos et al. raises additional constitutional arguments against the validity of Assembly Bills 1X 26 and 1X 27 based on provisions neither raised nor briefed by the parties. We do not consider them.

I. BACKGROUND

A. *Government Finance: The Integration of State, School, and Municipal Financing*

For much of the 20th century, state and local governments were financed independently under the "separation of sources" doctrine. In 1910, the Legislature proposed, and the voters approved, a constitutional amendment granting local governments exclusive control over the property tax. (Cal. Const., art. XIII, former § 10, enacted by Sen. Const. Amend. No. 1, Gen. Elec. (Nov. 8, 1910); see Simmons, *California Tax Collection: Time for Reform* (2008) 48 Santa Clara L.Rev. 279, 285-286; Ehrman & Flavin, Taxing Cal. Property (4th ed. 2011) §§ 1:9-1:10, p. 1-14.) Each jurisdiction (city, county, special district, and school district) could levy its own independent property tax. (See, e.g., *Temescal Water Co. v. Niemann* (1913) 22 Cal.App. 174, 176 ["It is conceded . . . that a municipality has the right to assess all real property found within its limits for the purpose of maintaining the municipal revenues, and that the county taxing officials have the right to levy upon the same property for county purposes."].)

This system of finance had significant consequences for education. Under the state Constitution, the Legislature is obligated to provide for a public school system. (Cal. Const., art. IX, § 5; *Wells v. One2One Learning Foundation* (2006) 39 Cal.4th 1164, 1195.) Seeking to promote local involvement, the Legislature established school districts as political subdivisions and delegated to them that duty. (*Wells*, at p. 1195; *Butt v. State of California* (1992) 4 Cal.4th 668, 680-681; see also *California Teachers Assn. v. Hayes* (1992) 5 Cal.App.4th 1513, 1523.) Historically, school districts were largely funded out of local property taxes. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 592 (*Serrano I*); *Serrano v. Priest* (1976) 18 Cal.3d 728, 737-738 (*Serrano II*); see *County of Los Angeles v. Sasaki* (1994) 23 Cal.App.4th 1442, 1450.) Under the California system of financing as it

existed until the 1970's, different school districts could levy taxes and generate vastly different revenues; because of the difference in property values, the same property tax rate would yield widely differing sums in, for example, Beverly Hills and Baldwin Park. (*Serrano I*, at pp. 592-594.)

We invalidated that system of financing in *Serrano I* and *Serrano II*, holding that education was a fundamental interest (*Serrano I*, *supra*, 5 Cal.3d at pp. 608-609; *Serrano II*, *supra*, 18 Cal.3d at pp. 765-766) and that financing heavily dependent on local property tax bases denied students equal protection (*Serrano I*, at pp. 614-615; *Serrano II*, at pp. 768-769, 776). The *Serrano* decisions threw "the division of state and local responsibility for educational funding" into " 'a state of flux.' " (*Los Angeles Unified School Dist. v. County of Los Angeles* (2010) 181 Cal.App.4th 414, 419.) In their aftermath, a "Byzantine" system of financing (*California Teachers Assn. v. Hayes*, *supra*, 5 Cal.App.4th at p. 1525) evolved in which the state became the principal financial backstop for local school districts. Funding equalization was achieved by capping individual districts' abilities to raise revenue and enhancing state contributions to ensure minimum funding levels. (Lockard, *In the Wake of* Williams v. State*: The Past, Present, and Future of Education Finance Litigation in California* (2005) 57 Hastings L.J. 385, 388-391; see generally *Wells v. One2One Learning Foundation*, *supra*, 39 Cal.4th at p. 1194 [discussing current funding regime].)

A second event of seismic significance followed shortly after, with the voters' 1978 adoption of Proposition 13. (Cal. Const., art. XIII A, added by Prop. 13, as approved by voters, Primary Elec. (June 6, 1978).) As noted, before 1978 cities and counties had been able to levy their own property taxes. Proposition 13 capped ad valorem real property taxes imposed by all local entities at 1 percent (Cal. Const., art. XIII A, § 1, subd. (a)), reducing the amount of revenue available by more than half (Stark, *The Right to Vote on Taxes* (2001)

96 Nw.U. L.Rev. 191, 198). In place of multiple property taxes imposed by multiple political subdivisions, it substituted a single tax to be collected by counties and thereafter apportioned. (Cal. Const., art. XIII A, § 1, subd. (a).) Significantly, Proposition 13 did not specify how that 1 percent was to be divided, instead leaving the method of allocation to state law. (See Cal. Const., art. XIII A, § 1, subd. (a) [real property tax is "to be . . . apportioned according to law to the districts within the counties"]; *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 225-227; *County of Los Angeles v. Sasaki*, *supra*, 23 Cal.App.4th at pp. 1454-1457; *City of Rancho Cucamonga v. Mackzum* (1991) 228 Cal.App.3d 929, 945.)

Proposition 13 transformed the government financing landscape in at least three ways relevant to this case. First, by capping local property tax revenue, it greatly enhanced the responsibility the state would bear in funding government services, especially education. (See *County of Los Angeles v. Sasaki*, *supra*, 23 Cal.App.4th at pp. 1451-1452; *California Teachers Assn. v. Hayes*, *supra*, 5 Cal.App.4th at pp. 1527-1528.) Second, by failing to specify a method of allocation, Proposition 13 largely transferred control over local government finances from the state's many political subdivisions to the state, converting the property tax from a nominally local tax to a de facto state-administered tax subject to a complex system of intergovernmental grants. (See Rev. & Tax. Code, § 95 et seq.; *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization*, *supra*, 22 Cal.3d at pp. 226-227; *Sasaki*, at pp. 1454-1455; Stark, *The Right to Vote on Taxes*, *supra*, 96 Nw.U. L.Rev. at p. 198.)[3] Third, by imposing a unified,

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[3] State law dictates the formulas county auditor-controllers are to apply in allocating the property tax among cities, counties, special districts, and school districts. Setting aside for the moment the portion of the property tax going to

(footnote continued on next page)

shared property tax, Proposition 13 created a zero-sum game in which political subdivisions (cities, counties, special districts, and school districts) would have to compete against each other for their slices of a greatly shrunken pie.

In 1988, the voters added another wrinkle with Proposition 98, which established constitutional minimum funding levels for education and required the state to set aside a designated portion of the General Fund for public schools. (Cal. Const., art. XVI, § 8; see *Los Angeles Unified School Dist. v. County of Los Angeles*, *supra*, 181 Cal.App.4th at p. 420; *California Teachers Assn. v. Hayes*, *supra*, 5 Cal.App.4th at pp. 1517-1518.) Two years later, the voters revised and effectively increased the minimum funding requirements for public schools. (Prop. 111, Primary Elec. (June 5, 1990) amending Cal. Const., art. XVI, § 8; see *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1289.)

In response to these rising educational demands on the state treasury, the Legislature in 1992 created county educational revenue augmentation funds (ERAF's). (Stats. 1992, chs. 699, 700, pp. 3081-3125; Rev. & Tax. Code, §§ 97.2, 97.3; see *Los Angeles Unified School Dist. v. County of Los Angeles*, *supra*, 181 Cal.App.4th at pp. 420-421; *City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 272-274; *County of Los Angeles v. Sasaki*, *supra*, 23 Cal.App.4th at p. 1447.) It reduced the portion of property taxes allocated to local governments, deposited the difference in the ERAF's, deemed the balances part of the state's General Fund for purposes of satisfying Proposition 98

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redevelopment agencies, roughly 57 percent of the remainder goes to schools, 21 percent to counties, 12 percent to cities, and 10 percent to special districts. (Legis. Analyst's Off., The 2011-2012 Budget: Should California End Redevelopment Agencies? (Feb. 9, 2011) p. 10.)

obligations, and distributed these amounts to school districts. (*County of Sonoma v. Commission on State Mandates*, *supra*, 84 Cal.App.4th at pp. 1275-1276; see *Los Angeles Unified School Dist. v. County of Los Angeles*, *supra*, 181 Cal.App.4th at p. 426 [ERAF's are an " 'accounting device' " for reallocating property taxes to school districts from other local government entities].) Periodically thereafter, the Legislature through supplemental legislation required local government entities to further contribute to the ERAF's in order to defray the state's Proposition 98 school funding obligations. (*Los Angeles Unified School Dist.*, at pp. 420-421.) Local governments had no vested right to property taxes (*id.* at p. 425); accordingly, the Legislature could require ERAF payments as "an exercise of [its] authority to apportion property tax revenues." (*City of El Monte*, at p. 280; see Cal. Const., art. XIII A, § 1, subd. (a).)

B. *Redevelopment Agencies*

In the aftermath of World War II, the Legislature authorized the formation of community redevelopment agencies in order to remediate urban decay. (Stats. 1945, ch. 1326, p. 2478 et seq. [Community Redevelopment Act]; Stats. 1951, ch. 710, p. 1922 et seq. [codifying and renaming the Community Redevelopment Law, Health & Saf. Code, § 33000 et seq.];[4] see Cal. Const., art. XVI, § 16.) The Community Redevelopment Law "was intended to help local governments revitalize blighted communities." (*City of Cerritos v. Cerritos Taxpayers Assn.* (2010) 183 Cal.App.4th 1417, 1424; see *Marek v. Napa Community Redevelopment Agency* (1988) 46 Cal.3d 1070, 1082.) It has since become a principal instrument of economic development, mostly for cities, with nearly 400 redevelopment agencies now active in California.

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[4] All further unlabeled statutory references are to the Health and Safety Code.

A redevelopment agency may be (and usually is) governed by the sponsoring community's own legislative body. (§ 33200; Coomes et al., Redevelopment in California (4th ed. 2009) pp. 21-23.)[5] An agency is authorized to "prepare and carry out plans for the improvement, rehabilitation, and redevelopment of blighted areas." (§ 33131, subd. (a).) To carry out such redevelopment plans, agencies may acquire real property, including by the power of eminent domain (§ 33391, subd. (b)), dispose of property by lease or sale without public bidding (§§ 33430, 33431), clear land and construct infrastructure necessary for building on project sites (§§ 33420, 33421), and undertake certain improvements to other public facilities in the project area (§ 33445). While redevelopment agencies have used their powers in a wide variety of ways, in one common type of project the redevelopment agency buys and assembles parcels of land, builds or enhances the site's infrastructure, and transfers the land to private parties on favorable terms for residential and/or commercial development. (Coomes, pp. 16-19; see, e.g., *Marek v. Napa Community Redevelopment Agency*, *supra*, 46 Cal.3d at p. 1075.)

Redevelopment agencies generally cannot levy taxes. (*Huntington Park Redevelopment Agency v. Martin* (1985) 38 Cal.3d 100, 106; *City of Cerritos v. Cerritos Taxpayers Assn.*, *supra*, 183 Cal.App.4th at p. 1424; *City of El Monte v. Commission on State Mandates*, *supra*, 83 Cal.App.4th at p. 269.) Instead, they rely on tax increment financing, a funding method authorized by article XVI, section 16 of the state Constitution and section 33670 of the Health and Safety Code. (*City of Dinuba v. County of Tulare* (2007) 41 Cal.4th 859, 866; *City of El*

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[5] According to the Association's evidence, more than 98 percent of all redevelopment agencies are governed by a board consisting of the county board of supervisors or city council that created the agency.

Monte, at pp. 269-270.) Under this method, those public entities entitled to receive property tax revenue in a redevelopment project area (the cities, counties, special districts, and school districts containing territory in the area) are allocated a portion based on the assessed value of the property prior to the effective date of the redevelopment plan. Any tax 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. (Cal. Const., art. XVI, § 16, subds. (a), (b); § 33670, subds. (a), (b); *City of Dinuba*, at p. 866.) In essence, property tax revenues 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. (*City of Cerritos*, at p. 1424.)

The property tax increment revenue received by a redevelopment agency must be held in a special fund for repayment of indebtedness (§ 33670, subd. (b)), but the law does not restrict the amount of tax increment received in a given year to that needed for loan repayments in that year. (*Marek v. Napa Community Redevelopment Agency*, *supra*, 46 Cal.3d at p. 1083.) The only limit on the annual increment payment received is that it may not exceed the agency's *total* debt, less its revenue on hand. (§ 33675, subd. (g).) Once the entire debt incurred for a project has been repaid, all property tax revenue in the project area is allocated to local taxing agencies according to the ordinary formula. (§ 33670, subd. (b).)

A powerful and flexible tool for community economic development, tax increment financing nonetheless "has sometimes been misused to subsidize a city's economic development through the diversion of property tax revenues from other taxing entities . . . ." (*Lancaster Redevelopment Agency v. Dibley* (1993) 20 Cal.App.4th 1656, 1658; see *Regus v. City of Baldwin Park* (1977) 70 Cal.App.3d 968, 981-983.) This practice became more common in the era of

constricted local tax revenue that followed the passage of Proposition 13. Some small cities with blighted areas available for industrial redevelopment "were able to shield virtually all of their property tax revenue from other government agencies," but "[e]ven in ordinary cities . . . the temptation to use redevelopment as a financial weapon was considerable. Because it limited increases in property tax rates, Proposition 13 created a kind of shell game among local government agencies for property tax funds. The only way to obtain more funds was to take them from another agency. Redevelopment proved to be one of the most powerful mechanisms for gaining an advantage in the shell game." (Fulton & Shigley, Guide to California Planning (3d ed. 2005) pp. 263-264.) Today, redevelopment agencies receive 12 percent of all property tax revenue in the state. (See Assem. Bill 1X 26, § 1, subd. (f); Legis. Analyst's Off., The 2011-2012 Budget: Should California End Redevelopment Agencies?, *supra*, p. 1.)

Addressing these concerns, the Legislature has required redevelopment agencies to make certain transfers of their tax increment revenue for other local needs. First, 20 percent of the revenue generally must be deposited in a fund for provision of low and moderate income housing. (§§ 33334.2, 33334.3, 33334.6; see *City of Cerritos v. Cerritos Taxpayers Assn.*, *supra*, 183 Cal.App.4th at p. 1424.) Second, redevelopment agencies must make a graduated series of pass-through payments to local government taxing agencies such as cities, counties, and school districts from tax increment on projects adopted or expanded after 1994. (§ 33607.5, subd. (a)(2); see *Los Angeles Unified School Dist. v. County of Los Angeles*, *supra*, 181 Cal.App.4th at pp. 421-422.) The payments are distributed according to the taxing agencies' ordinary shares of property taxes. (*Id.* at pp. 422-423.)

Of greatest relevance here, the Legislature has often required redevelopment agencies, like cities and counties, to make ERAF payments for the

benefit of school and community college districts. (See §§ 33680, 33681.7 to 33681.15, 33685 to 33692; former § 33681 (Stats. 1992, ch. 700, § 1.5, pp. 3115-3116); former § 33681.5 (Stats. 1993, ch. 68, § 4, pp. 942-944); *Los Angeles Unified School Dist. v. County of Los Angeles*, *supra*, 181 Cal.App.4th at p. 421; *City of El Monte v. Commission on State Mandates*, *supra*, 83 Cal.App.4th at pp. 272-274.) In each of the 2004-2005 and 2005-2006 fiscal years, redevelopment agencies were charged amounts intended to generate a combined $250 million. (§ 33681.12, subd. (a)(2).) In the 2008-2009 fiscal year, the Legislature required a combined $350 million or 5 percent of the total statewide tax increment allocated to redevelopment agencies under section 33670, whichever was greater, to be transferred to ERAF's (§ 33685, subd. (a)(2)), although that revenue shift was ultimately invalidated in litigation. (*Cal. Redevelopment Assn. v. Genest* (Super. Ct. Sac. County, 2009, No. 34-2008-00028334-CU-WM-GDS.) Similar provisions for shifts of tax increment revenue in the 2009-2010 and 2010-2011 fiscal years (§§ 33690, 33690.5) are the subjects of pending litigation.

Tax increment financing remains a source of contention because of the financial advantage it provides redevelopment agencies and their community sponsors, primarily cities, over school districts and other local taxing agencies. Additionally, because of the state's obligations to equalize public school funding across districts (Ed. Code, § 42238 et seq.) and to fund all public schools at minimum levels set by Proposition 98 (Cal. Const., art. XVI, § 8), the loss of property tax revenue by school and community college districts creates obligations for the state's General Fund. (See *Los Angeles Unified School Dist. v. County of Los Angeles*, *supra*, 181 Cal.App.4th at pp. 419-422; Lefcoe, *Finding the Blight That's Right for California Redevelopment Law* (2001) 52 Hastings L.J. 991, 999 ["[W]here cities and counties shift property taxes from schools to redevelopment

projects, the state must make up the difference . . . ."].) The effect of tax increment financing on school districts' property tax revenues has thus become a point of fiscal conflict between California's community redevelopment agencies and the state itself, a conflict manifesting in the current dispute.

C. *Propositions 1A and 22*

In addition to sporadically shifting property tax revenue from local governments to schools via ERAF's, the state in 1999 rolled back the vehicle license fee, a tax traditionally relied on by local governments and constitutionally allocated to cities and counties. (Supplemental Voter Information Guide, Gen. Elec. (Nov. 2, 2004) Legis. Analyst's analysis of Prop. 1A, p. 5; see Cal. Const., art. XI, § 15.) Though the state committed to backfill this lost revenue with payments from the General Fund, in 2004 it deferred the replacement payments. (Supplemental Voter Information Guide, Gen. Elec. (Nov. 2, 2004) Legis. Analyst's analysis of Prop. 1A, p. 5.) Also in 2004, the state reduced local government's share of the sales tax by 0.25 percent, while making up for the lost revenue with additional property tax allocations, in order to permit the issuance of new state bonds. (See Rev. & Tax. Code, §§ 97.68, 7203.1; Gov. Code, § 99050 et seq.)

Local government interests responded to these fluctuations in their revenue sources by qualifying for the ballot Proposition 65, a set of constitutional amendments to restrict such state actions in the future, but they subsequently agreed to support a compromise measure, Proposition 1A, instead. (Supplemental Voter Information Guide, Gen. Elec. (Nov. 2, 2004) argument against Prop. 65, p. 15; see *id.*, Legis. Analyst's analysis of Prop. 1A, pp. 4-6.) The voters approved Proposition 1A and rejected Proposition 65. Among its reforms, Proposition 1A prevented the state from statutorily reducing or altering the existing allocations of property tax among cities, counties, and special districts. (Cal. Const., art. XIII,

§ 25.5, subd. (a)(1), (3).) Unlike Proposition 65, however, Proposition 1A did not extend its protections to redevelopment agencies. (See Cal. Const., art. XIII, § 25.5, subd. (b)(2); Rev. & Tax. Code, § 95, subd. (a) [omitting redevelopment agencies from the definition of a local agency]; Supplemental Voter Information Guide, Gen. Elec. (Nov. 2, 2004) Legis. Analyst's analysis of Prop. 1A, p. 7 [contrasting the two measures and expressly noting that "*Proposition 1A's* restrictions do not apply to redevelopment agencies"]; *id.*, text of Prop. 65, p. 18 [including redevelopment agencies in its definition of protected special districts].)

In November 2010, following further legislative requirements that redevelopment agencies make ERAF payments, the voters approved Proposition 22. Among the initiative's many statutory and constitutional revisions, one is most central to the Association's argument: the addition of section 25.5, subdivision (a)(7) to article XIII of the state Constitution. That provision limits what the Legislature may do with respect to redevelopment agency tax increment: "(a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following: [¶] . . . [¶] (7) Require a community redevelopment agency (A) to pay, remit, loan, or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction; or (B) to use, restrict, or assign a particular purpose for such taxes for the benefit of the State, any agency of the State, or any jurisdiction," with two exceptions not pertinent here. We address section 25.5, subdivision (a)(7) in more detail below. (See *post*, pts. II.B.1., II.C.)

D. *Assembly Bills 1X 26 and IX 27*

In December 2010, then Governor Schwarzenegger declared a state fiscal emergency. (See Cal. Const., art. IV, § 10, subd. (f)(1).) On January 20, 2011, incoming Governor Brown renewed the declaration and convened a special

session of the Legislature to address the state's budget crisis. (Legis. Counsel's Digest, Assem. Bill 1X 26; see also *Professional Engineers in California Government v. Schwarzenegger* (2010) 50 Cal.4th 989, 1001-1002 [detailing the ongoing crisis].)

As a partial means of closing the state's projected $25 billion operating deficit, Governor Brown originally proposed eliminating redevelopment agencies entirely. (See Legis. Analyst's Off., Governor's Redevelopment Proposal (Jan. 18, 2011) p. 4.) Parallel bills were introduced in the Senate and Assembly to "eliminate[] redevelopment agencies (RDAs) and specif[y] a process for the orderly wind-down of RDA activities . . . ." (Sen. Rules Com., Off. of Sen. Floor Analyses, analysis of Sen. Bill No. 77 (2011-2012 Reg. Sess.) as amended Mar. 15, 2011, p. 1; Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 101 (2011-2012 Reg. Sess.) as amended Mar. 15, 2011, p. 1.) Ultimately, however, the Legislature took a slightly different approach; in June 2011 it passed, and the Governor signed, the two measures we consider here.

Assembly Bills 1X 26 and IX 27 consist of three principal components, codified as new parts 1.8, 1.85 (both Assem. Bill 1X 26) and 1.9 (Assem. Bill 1X 27) of division 24 of the Health and Safety Code. Part 1.8 (§§ 34161 to 34169.5) is the "freeze" component: it subjects redevelopment agencies to restrictions on new bonds or other indebtedness; new plans or changes to existing plans; and new partnerships, including joint powers authorities (§§ 34162 to 34165). Cities and counties are barred from creating any new redevelopment agencies. (§ 34166.) Existing obligations are unaffected; redevelopment agencies may continue to make payments and perform existing obligations until other agencies take over. (§ 34169.) 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. (§ 34167, subd. (a).)

Part 1.85 (§§ 34170 to 34191) is the dissolution component. It dissolves all redevelopment agencies (§ 34172) and transfers control of redevelopment agency assets to successor agencies, which are contemplated to be the city or county that created the redevelopment agency (§§ 34171, subd. (j), 34173, 34175, subd. (b)). Part 1.85 requires successor agencies to continue to make payments and perform existing obligations. (§ 34177.) However, unencumbered balances of redevelopment agency funds must be remitted to the county auditor-controller for distribution to cities, the county, special districts, and school districts in proportion to what each agency would have received absent the redevelopment agencies. (See §§ 34177, subd. (d), 34183, subd. (a)(4), 34188.) Proceeds from redevelopment agency asset sales likewise must go to the county auditor-controller for similar distribution. (§ 34177, subd. (e).) Finally, tax increment revenues that would have gone to redevelopment agencies must be deposited in a local trust fund each county is required to create and administer. (§§ 34170.5, subd. (b), 34182, subd. (c)(1).) All amounts necessary to satisfy administrative costs, pass-through payments, and enforceable obligations will be allocated for those purposes, while any excess will be deemed property tax revenue and distributed in the same fashion as balances and assets. (§§ 34172, subd. (d), 34183, subd. (a).)

Part 1.9 (§§ 34192 to 34196), however, offers an exemption from dissolution for cities and counties that agree to make specified payments to both the county ERAF and a new county special district augmentation fund on behalf of their redevelopment agencies. Each city or county choosing this option must notify the state it will do so and pass an ordinance to that effect. (§§ 34193, subd. (b), 34193.1.) If it does, its redevelopment agency will be permitted to continue in operation without interruption, as is, under the Community Redevelopment Law.

(§ 34193, subd. (a).) The amounts owed are to be calculated annually by the state's Director of Finance based on the fractional share of net and gross statewide tax increment each redevelopment agency has received in prior years, multiplied by $1.7 billion for this fiscal year and $400 million for all subsequent fiscal years. (§ 34194, subds. (b)(2), (c)(1)(A).)[6]

Payments are due on January 15 and May 15 each year. (§ 34194, subd. (d)(1).) While remittances are nominally owed by cities and counties, the measure authorizes each community sponsor to contract with its redevelopment agency to receive tax increment in the amount owed, so that payments may effectively come from tax increment. (§ 34194.2.) Finally, any lapse in payments will result in a redevelopment agency's dissolution. (§ 34195.)

On August 17, 2011, we stayed parts 1.85 and 1.9, with minor exceptions, to prevent redevelopment agencies from being dissolved during the pendency of this matter. (Health & Saf. Code, div. 24, pts. 1.85, 1.9.)

II. DISCUSSION

A. *Jurisdiction*

Santa Clara pleads as an affirmative defense that we lack jurisdiction. Though it does not further argue the point, we have an independent obligation in this as in every matter to confirm whether jurisdiction exists. (See *Walker v. Superior Court* (1991) 53 Cal.3d 257, 267; *Abelleira v. District Court of Appeal*

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[6] It follows that, if all redevelopment agency sponsors opted in and paid their pro rata shares, Assembly Bill 1X 27 would generate $1.7 billion in 2011-2012 and $400 million in each subsequent fiscal year. Of these sums, $4.3 million is scheduled to go to transit and fire districts in 2011-2012 and $60 million in each subsequent year, with the balance going to schools and community colleges via the ERAF. (§ 34194.4, subd. (a).) ERAF payments in 2011-2012 count against the state's Proposition 98 obligations; in future years, they do not. (§ 34194.1, subds. (b), (c).)

(1941) 17 Cal.2d 280, 302-303; *Linnick v. Sedelmeier* (1968) 262 Cal.App.2d 12, 12; see also *Marbury v. Madison* (1803) 5 U.S. 137, 173-175.) Assembly Bill 1X 26 provides that "[n]otwithstanding any other law, any action contesting the validity of this part [1.8] or Part 1.85 . . . or challenging acts taken pursuant to these parts shall be brought in the Superior Court of the County of Sacramento." (§ 34168, subd. (a).) We conclude this provision does not deprive us of jurisdiction.

In filing a petition for writ of mandate with this court in the first instance, the Association has asked us to invoke our original jurisdiction. That jurisdiction is constitutional. (Cal. Const., art. VI, § 10 [vesting the Supreme Ct. with original jurisdiction "in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition"].) It may not be diminished by statute. (*Chinn v. Superior Court* (1909) 156 Cal. 478, 480 ["[W]here the judicial power of courts, either original or appellate, is fixed by constitutional provisions, the legislature cannot either limit or extend that jurisdiction."]; see also *Modern Barber Col. v. Cal. Emp. Stab. Com.* (1948) 31 Cal.2d 720, 731; *Standard Oil Co. v. State Board of Equal.* (1936) 6 Cal.2d 557, 562; *Lemen v. Edmunson* (1927) 202 Cal. 760, 762.)

The Legislature does retain the power to regulate matters of judicial procedure. (*Powers v. City of Richmond* (1995) 10 Cal.4th 85, 98-110; *Modern Barber Col. v. Cal. Emp. Stab. Com.*, *supra*, 31 Cal.2d at p. 731.) In some instances, the exercise of that power may appear to "defeat or interfere with the exercise of jurisdiction or of the judicial power" and thus come into tension with the general prohibition against impairing a constitutional grant of jurisdiction. (*Garrison v. Rourke* (1948) 32 Cal.2d 430, 436.) We avoid such constitutional conflicts whenever possible by construing legislative enactments strictly against the impairment of constitutional jurisdiction: " '[A]n intent to defeat the exercise

of the court's jurisdiction will not be supplied by implication.' " (*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 87, quoting *Garrison*, at p. 436; see also *Garrison*, at p. 435 ["The jurisdiction thus vested [by Cal. Const., art. VI] may not lightly be deemed to have been destroyed."].)

To avoid intrusion on our constitutional jurisdiction, section 34168, subdivision (a) is best read narrowly as applying only to, and designating a forum for, "action[s]" (*ibid.*), over which we retain appellate jurisdiction, while having no bearing on jurisdiction over "special proceedings" such as petitions for writs of mandate (see *Public Defenders' Organization v. County of Riverside* (2003) 106 Cal.App.4th 1403, 1409; compare Code Civ. Proc., pt. 2, § 307 et seq. [regulating civil actions] with Code Civ. Proc., pt. 3, § 1063 et seq. [regulating special proceedings of a civil nature]). It follows that, notwithstanding the fact the Association's petition challenges the validity of parts 1.8 and 1.85 of division 24 of the Health and Safety Code, we have jurisdiction to address it.

We will invoke our original jurisdiction where the matters to be decided are of sufficiently great importance and require immediate resolution. (E.g., *Strauss v. Horton* (2009) 46 Cal.4th 364, 398-399; *Raven v. Deukmejian* (1990) 52 Cal.3d 336, 340; *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization*, *supra*, 22 Cal.3d at p. 219.) Those circumstances are present here: Assembly Bills 1X 26 and 1X 27 place the state's nearly 400 redevelopment agencies under threat of imminent dissolution, while the Association's petition calls into question the proper allocation of billions of dollars in property tax revenue.

B. *The Constitutionality of Assembly Bill 1X 26*

We turn now to the merits. In assessing the validity of Assembly Bills 1X 26 and 1X 27, we are mindful that "all intendments favor the exercise of the Legislature's plenary authority: 'If there is any doubt as to the Legislature's

power to act in any given case, the doubt should be resolved in favor of the Legislature's action. Such restrictions and limitations [imposed by the Constitution] are to be construed strictly, and are not to be extended to include matters not covered by the language used.' [Citations.]" (*Methodist Hosp. of Sacramento v. Saylor* (1971) 5 Cal.3d 685, 691.)

1. *The Dissolution of Redevelopment Agencies Under Part 1.85 of Division 24 of the Health and Safety Code*

In enacting Assembly Bill 1X 26, the Legislature asserted that "[r]edevelopment agencies were created by statute and can therefore be dissolved by statute." (Assem. Bill 1X 26, § 1, subd. (h).) We conclude the Legislature was correct.

At the core of the legislative power is the authority to make laws. (*Nougues v. Douglass* (1857) 7 Cal. 65, 70 ["The legislative power is the creative element in the government . . . . [It] makes the laws . . . ."].) The state Constitution vests that power, except as exercised by or reserved to the people themselves, in the Legislature. (Cal. Const., art. IV, § 1; *McClung v. Employment Development Dept.* (2004) 34 Cal.4th 467, 472; *Nougues*, at p. 69 ["[I]n all cases where not exercised and not reserved, all the legislative power of the people of the State is vested in the Legislature . . ." (italics omitted)].)

Of significance, the legislative power the state Constitution vests is plenary. Under it, "the entire law-making authority of the state, except the people's right of initiative and referendum, is vested in the Legislature, and that body may exercise any and all legislative powers which are not expressly or by necessary implication denied to it by the Constitution." (*Methodist Hosp. of Sacramento v. Saylor*, *supra*, 5 Cal.3d at p. 691; see also *Marine Forests Society v. California Coastal*

Com. (2005) 36 Cal.4th 1, 31; *People v. Tilton* (1869) 37 Cal. 614, 626 [under the state Const., "[f]ull power exists when there is no limitation."].)[7]

We thus start from the premise that the Legislature possesses the full extent of the legislative power and its enactments are authorized exercises of that power. Only where the state Constitution withdraws legislative power will we conclude an enactment is invalid for want of authority. "In other words, 'we do not look to the Constitution to determine whether the legislature is authorized to do an act, but only to see if it is prohibited.' " (*Methodist Hosp. of Sacramento v. Saylor*, *supra*, 5 Cal.3d at p. 691, quoting *Fitts v. Superior Court* (1936) 6 Cal.2d 230, 234; accord, *State Personnel Bd. v. Department of Personnel Admin.* (2005) 37 Cal.4th 512, 523; *County of Riverside v. Superior Court* (2003) 30 Cal.4th 278, 284.)

A corollary of the legislative power to make new laws is the power to abrogate existing ones. What the Legislature has enacted, it may repeal. (See *People v. Superior Court* (*Romero*) (1996) 13 Cal.4th 497, 518 [if a "power is statutory, the Legislature may eliminate it"]; *Estate of Potter* (1922) 188 Cal. 55, 63 [rights that "are creatures of legislative will" may be withdrawn by the Legislature]; *County of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576, 589 [" ' "Every legislative body may modify or abolish the acts passed by itself or its predecessors." ' "].)

In particular, if a political entity has been created by the Legislature, it can be dissolved by the Legislature, barring some specific constitutional obstacle to a particular exercise of the legislative power. "In our federal system the states are

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[7] In this regard, the state and federal Constitutions operate in very different ways. Whereas under the federal Constitution, Congress has only those powers that are expressly granted to it, under the state Constitution, the Legislature has all legislative powers except those that are expressly withdrawn from it. (*Methodist Hosp. of Sacramento v. Saylor*, *supra*, 5 Cal.3d at p. 691.)

sovereign but cities and counties are not; in California as elsewhere they are mere creatures of the state and exist only at the state's sufferance." (*Board of Supervisors v. Local Agency Formation Com.* (1992) 3 Cal.4th 903, 914; see also *City of El Monte v. Commission on State Mandates*, *supra*, 83 Cal.App.4th at p. 279 ["Only the state is sovereign and, in a broad sense, all local governments, districts, and the like are subdivisions of the state."].) It follows from the fundamental nature of this relationship between a state and its political subdivisions that " 'states have "extraordinarily wide latitude . . . in creating various types of political subdivisions and conferring authority upon them." [Citation.]' " (*Board of Supervisors*, at pp. 915-916.) As the United States Supreme Court has recognized in the context of municipal corporations: "The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rests in the absolute discretion of the State. . . . The State, therefore, at its pleasure may modify or withdraw all such powers, . . . expand or contract the territorial area, unite the whole or a part of it with another municipality, [or] repeal the charter and destroy the corporation." (*Hunter v. Pittsburgh* (1907) 207 U.S. 161, 178-179, quoted with approval in *Board of Supervisors*, at p. 915.) The state (and, in particular, the Legislature) has "plenary power to set the conditions under which its political subdivisions are created" (*Board of Supervisors*, at p. 917); equally so, it has plenary power to set the conditions under which its political subdivisions are abolished (*Curtis v. Board of Supervisors* (1972) 7 Cal.3d 942, 951; *Petition East Fruitvale Sanitary Dist.* (1910) 158 Cal. 453, 457).[8]

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[8] The Legislature has in the past lawfully exercised this authority by dissolving municipal corporations formerly established under state law. (See, e.g., Stats. 1972, ch. 650, § 2, p. 1209 [disincorporating the Town of Hornitos].) As

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Redevelopment agencies are political subdivisions of the state and creatures of the Legislature's exercise of its statutory power, the progeny of the Community Redevelopment Law. (See § 33000 et seq.; 11 Miller & Starr, Cal. Real Estate (3d ed. 2001) § 30B:2, p. 6 ["The redevelopment agency is solely a creature of state statute, exercising powers delegated to it by the state legislature in matters of state concern, and the scope of its authority is, therefore, defined and limited by the Community Redevelopment Law . . . ."].) Consistent with that nature, the Legislature has in the past routinely narrowed and expanded redevelopment agencies' various rights. (E.g., Stats. 1976, ch. 1337, p. 6061 et seq. [imposing low income housing requirements]; Stats. 1993, ch. 942, p. 5334 et seq. [Community Redevelopment Law Reform Act of 1993, enacting wide-ranging reforms]; Stats. 2001, ch. 741 [amending redevelopment sunset provisions].) Most significantly, the Legislature has mandated that redevelopment plans receiving tax increment have finite durations. (§ 33333.2; *Community Redevelopment Agency v. County of Los Angeles* (2001) 89 Cal.App.4th 719, 722.)

The Association offers a twofold argument for why, notwithstanding the legislative authority over redevelopment agencies historically inherent in the state Constitution, the dissolution provisions of Assembly Bill 1X 26 are invalid. First, the Association posits that Assembly Bill 1X 26 is inconsistent with article XVI, section 16 of the state Constitution, governing tax increment revenue. Second, the

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well, we have recognized the power to dissolve with respect to school districts: "[T]he local-district system of school administration, though recognized by the Constitution and deeply rooted in tradition, is not a constitutional mandate, but a legislative choice. [Citation.] The Constitution has always vested 'plenary' power over education not in the districts, but in the State, through its Legislature, which may create, dissolve, combine, modify, and regulate local districts at pleasure." (*Butt v. State of California*, *supra*, 4 Cal.4th at p. 688.)

Association argues that Proposition 22 (as approved by voters, Gen. Elec. (Nov. 2, 2010)) amended the state Constitution to effectively withdraw from the Legislature the power to dissolve community redevelopment agencies for the financial benefit of the state.

What is now article XVI, section 16 was added by initiative in 1952,[9] shortly after the Legislature enacted the Community Redevelopment Law.[10] It made express the Legislature's authority to authorize property tax increment financing of redevelopment agencies and projects. However, nothing in its text creates an absolute right to an allocation of property taxes. (See Cal. Const., art. XVI, § 16 ["The Legislature *may* provide that any redevelopment plan *may* contain a provision" diverting tax increment to redevelopment agencies (italics added)].)[11] Nor does anything in the text of the section mandate that redevelopment agencies, once created, must exist in perpetuity. On its face, the provision is not self-executing and conveys no rights; rather, it authorizes the

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[9] It was originally adopted as article XIII, section 19 and, as part of a constitutional restructuring, was subsequently moved without material change to its present location.

[10] A principal purpose of the proposed constitutional amendment was to remove any doubt about the legality of the Community Redevelopment Law: "All of the provisions of the Community Redevelopment Law, as amended in 1951, which relate to the use or pledge of taxes or portions thereof as herein provided, or which, if effective, would carry out the provisions of this section or any part thereof, are hereby approved, legalized, ratified and validated and made fully and completely effective and operative upon the effective date of this amendment." (Cal. Const., art. XIII, former § 19, added by initiative, Gen. Elec. (Nov. 4, 1952).)

[11] In the same vein, article XVI, section 16 specifies that it does "not affect any other law or laws relating to the same or a similar subject but is intended to *authorize an alternative method of procedure* governing the subject to which it refers." (Italics added.) In other words, it permits, but does not require, tax increment financing as one new option for funding redevelopment.

Legislature to enact statutes, and local governments to adopt redevelopment plans, that are consistent with its scope.

What is apparent from the constitutional provision's text is confirmed by its history. The ballot materials provided to the voters gave no hint that the proposed amendment was intended to make redevelopment agencies or tax increment financing a permanent part of the government landscape. Rather, consistent with the text's use of the permissive "may," the Legislative Counsel explained that the proposed amendment was intended simply to "authorize"—but not require—the Legislature to provide for tax increment financing for redevelopment. (Proposed Amendments to Constitution: Propositions and Proposed Laws, Gen. Elec. (Nov. 4, 1952) Legis. Counsel's analysis of Assem. Const. Amend. No. 55, p. 19.) The arguments in favor of the proposed amendment similarly emphasized its nonmandatory character: "This constitutional amendment . . . is in effect an enabling act to give the Legislature authority to enact legislation which will provide for the handling of the proceeds of taxes levied upon property in a redevelopment project. It is permissive in character and can become effective in practice only by acts of the Legislature and the local governing body, the City Council or Board of Supervisors. It will make possible the passage of laws providing that tax revenues derived from any increase in the assessed value of property within a redevelopment area because of new improvements, shall be placed in a fund to defray all or part of the cost of the redevelopment project that would otherwise have to be advanced from public funds." (*Id.*, argument in favor of Assem. Const. Amend. No. 55, p. 20.)

Against these indicia of intent, the Association emphasizes the final sentence of article XVI, section 16: "The Legislature *shall* enact those laws as may be necessary to enforce the provisions of this section." (Italics added.) The word "shall," however, depending on the context in which it is used, is not

necessarily mandatory. (*People v. Lara* (2010) 48 Cal.4th 216, 227; *Nunn v. State of California* (1984) 35 Cal.3d 616, 625; see Garner's Dict. of Legal Usage (3d ed. 2011) pp. 952-953.) Moreover, consistent with its character as an "enabling act" (Proposed Amendments to Constitution: Propositions and Proposed Laws, Gen. Elec. (Nov. 4, 1952) argument in favor of Assem. Const. Amend. No. 55, p. 20), the final sentence directs only passage of those laws "as may be necessary." This portion of the text confirms the Legislature's authority to pass legislation it deems necessary to carry out the ends of redevelopment, but imposes no obligation to enact any particular law. It does not mandate that redevelopment agencies, or the allocation of tax increment to them, be made permanent.

The Association also looks to our decision in *Marek v. Napa Community Redevelopment Agency*, *supra*, 46 Cal.3d 1070. There, we determined that "indebtedness," the term used to measure how much property tax increment should be allocated to a redevelopment agency (see Cal. Const., art. XVI, § 16, subd. (b); §§ 33670, 33675), should be interpreted broadly (*Marek*, at pp. 1081-1086). We cautioned that neither article XVI, section 16 nor the Community Redevelopment Law, as then written, contemplated that "other tax entities [would] share in tax increment revenues at any time before the agency's total indebtedness has been paid or the amount in its 'special fund' is sufficient to pay its total indebtedness." (*Marek*, at p. 1087.) The Association contends Assembly Bill 1X 26 is invalid because it fails to continue allocating tax increment for existing indebtedness as broadly as in the past, most notably by allocating tax increment for only some, but not all, obligations owed by redevelopment agencies to their community sponsors. (See §§ 34171, subd. (d)(2), 34178, subd. (b).)[12]

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12 As Matosantos noted at oral argument, the Legislature could well recognize that because of the conjoined nature of the governing boards of redevelopment

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This argument misperceives both the role of article XVI, section 16 of the state Constitution and the nature of the issue we resolved in *Marek v. Napa Community Redevelopment Agency*, *supra*, 46 Cal.3d 1070. Article XVI, section 16 does not protect the receipt of tax increment funds up to the amount of a redevelopment agency's total indebtedness, nor does it grant a constitutional right to continue to receive tax increment for as long as redevelopment agencies have debt; rather, it authorizes the Legislature to statutorily grant redevelopment agencies rights to tax increment up to the amount of their total indebtedness. As the Legislature may extend that authorization (and did, in the Community Redevelopment Law), so it may limit or withdraw that authorization (as it has, in Assem. Bill 1X 26) without violating article XVI, section 16. In *Marek*, we addressed only the scope of the statutory term "indebtedness" and the corresponding scope of the constitutional authorization for redevelopment agencies to be granted statutory rights to tax increment; that issue has no bearing on the question we face here—whether article XVI, section 16 limits the Legislature's power to dissolve existing redevelopment agencies in the midst of ongoing projects. *Marek* thus is inapposite.

Finally, the Association draws our attention to the first two sentences of an uncodified section (§ 9) of Proposition 22, which, it contends, confirms that article XVI, section 16 is a guarantee of tax increment funding and a protection against dissolution. That section begins: "Section 16 of Article XVI of the Constitution requires that a specified portion of the taxes levied upon the taxable property in a redevelopment project each year be allocated to the redevelopment agency to

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agencies and their community sponsors, such obligations often were not the product of arm's-length transactions.

repay indebtedness incurred for the purpose of eliminating blight within the redevelopment project area. Section 16 of Article XVI prohibits the Legislature from reallocating some or that entire specified portion of the taxes to the State, an agency of the State, or any other taxing jurisdiction, instead of to the redevelopment agency." (Prop. 22, Gen. Elec. (Nov. 2, 2010) § 9.) Whether or not article XVI, section 16 originally required tax increment allocations to be made to redevelopment agencies, rather than simply authorizing the Legislature to pass legislation approving such allocations, the Association contends that after this voter-approved statement, article XVI, section 16 must now be read to so provide.

We reject this contention. The assertion in Proposition 22, section 9 that tax increment allocations to redevelopment agencies are constitutionally mandated, rather than constitutionally authorized and statutorily mandated, is a clear misstatement of the law as it stood prior to the passage of Proposition 22. Moreover, section 9 of Proposition 22 does not purport to amend article XVI, section 16 or to change existing law concerning the *source* of redevelopment agencies' entitlement, if any, to tax increment.[13] Accordingly, we decline to treat its immaterial misstatement of law as a basis for silently amending the state Constitution.

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[13] The purpose of section 9, instead, is simply to explain that the Legislature had been requiring the transfer of redevelopment agency tax increment, and that Proposition 22 was intended to eliminate future transfers: "The Legislature has been illegally circumventing Section 16 of Article XVI in recent years by requiring redevelopment agencies to transfer a portion of those taxes for purposes other than the financing of redevelopment projects. A purpose of the amendments made by this measure is to prohibit the Legislature from requiring, after the taxes have been allocated to a redevelopment agency, the redevelopment agency to transfer some or all of those taxes to the State, an agency of the State, or a jurisdiction; or to use some or all of those taxes for the benefit of the State, an agency of the State, or a jurisdiction." (Prop. 22, Gen. Elec. (Nov. 2, 2010) § 9.)

The various ways in which the Association contends Assembly Bill 1X 26 is inconsistent with article XVI, section 16 of the state Constitution all flow from the assumption that section 16 establishes for redevelopment agencies an absolute right to continued existence. Because we can find no such right in the constitutional provision, article XVI, section 16 does not invalidate Assembly Bill 1X 26.

The Association's alternate constitutional argument rests on article XIII, section 25.5, subdivision (a)(7) of the state Constitution, added in 2010 by Proposition 22. Examining both the text and the various ballot arguments in support of and against that initiative, we find nothing in them that would limit the Legislature's plenary authority over the existence *vel non* of redevelopment agencies.

Article XIII, section 25.5, subdivision (a)(7)(A) of the state Constitution generally prohibits the Legislature from requiring a redevelopment agency to pay property taxes "allocated to the agency pursuant to Section 16 of Article XVI to or for the benefit of the State" or its agencies and jurisdictions,[14] or otherwise restricting or assigning such taxes for the state's benefit. The provision, the Association reasons, both presumes and protects the existence of redevelopment agencies. Dissolving redevelopment agencies would entail an impermissible diversion of their tax increment to third parties, in contravention of section 25.5, subdivision (a)(7)(A). Moreover, if the state cannot assign tax increment to third parties, that increment must go to redevelopment agencies; hence, redevelopment agencies must be entitled to exist to receive it.

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14 "Jurisdiction" as used here includes both special districts and school districts. (See Cal. Const., art. XIII, § 25.5, subd. (b)(3); Rev. & Tax. Code, § 95, subds. (a), (b).)

This argument suffers from a surface implausibility. The constitutionalization of a political subdivision—the alteration of a local government entity from a statutory creation existing only at the pleasure of the sovereign state to a constitutional creation with life and powers of independent origin and standing—would represent a profound change in the structure of state government. Municipal corporations, though of far more ancient standing than redevelopment agencies, have never achieved such status. (See Cal. Const., art. XI, § 2, subd. (a) [specifying the Legislature's authority over city formation and powers].) Proposition 22 contains no express language constitutionalizing redevelopment agencies. (Cf. Cal. Const., art. XXXV, § 1, added by initiative, Gen. Elec. (Nov. 2, 2004) [creating the Cal. Institute for Regenerative Medicine as a constitutional entity]; *id.*, art. XXI, § 2, added by initiative, Gen. Elec. (Nov. 4, 2008) [creating the Citizens Redistricting Com. as a constitutional entity].) It would be unusual in the extreme for the people, exercising legislative power by way of initiative, to adopt such a fundamental change only by way of implication, in an initiative facially dealing with purely fiscal matters, in a corner of the state Constitution addressing taxation. As the United States Supreme Court has put it, the drafters of legislation "do[] not, one might say, hide elephants in mouseholes." (*Whitman v. American Trucking Assns., Inc.* (2001) 531 U.S. 457, 468.)

The principle of *inclusio unius est exclusio alterius* applies here. Proposition 22 expressly adds numerous limits to the Legislature's statutory powers (Prop. 22, Gen. Elec. (Nov. 2, 2010) §§ 3-5, 5.3, 6-6.1, 7), and in one instance withdraws from the Legislature a preexisting constitutional power (*id.*, § 5.6 [repealing Cal. Const., art. XIX, former § 6]), but makes no mention of any intent to divest the Legislature of the power to dissolve redevelopment agencies. If the initiative proponents and voters had intended to strip the Legislature of that

power or to alter the Legislature's article XVI, section 16 permissive authority, it stands to reason they would have said so expressly.

Had the voters in fact intended to amend the Constitution to fundamentally alter the relationship between the state and this class of political subdivision, we would, moreover, expect to find at least a single mention of such an intention in the various supporting and opposing ballot arguments. Instead, we find silence. The Legislative Analyst's review of the initiative identifies no such anticipated effect. (Voter Information Guide, Gen. Elec. (Nov. 2, 2010) pp. 30-35.) Indeed, the ballot argument in favor of Proposition 22 and the rebuttal to the argument against it do not even mention redevelopment. (Voter Information Guide, at pp. 36-37.) Only the opposing arguments highlight redevelopment and then only to criticize the initiative for how it secretly channels tax dollars to redevelopment agencies. (*Ibid.*)

The Association suggests it is not asserting an absolute right to perpetual existence, only a right for some form of agency to exist to receive redevelopment funds for as long as there is an active redevelopment plan and indebtedness. This framing does not change the analysis or conclusions. It would mean the Legislature's power to dissolve vanished as soon as a redevelopment agency was created; thereafter, an agency or its similarly tasked successor effectively could expire only of natural causes, after every project it might undertake in its jurisdiction had been completed and paid off. No hint of such a right is disclosed in the text or history of either article XVI, section 16 or article XIII, section 25.5, subdivision (a)(7) of the state Constitution.

Contrary to the Association's contention, declining to imply into article XIII, section 25.5, subdivision (a)(7) a constitutional guarantee of continued existence for redevelopment agencies does not render the subdivision a nullity. Though the Legislature retains the broad power to dissolve redevelopment

agencies, Proposition 22 strips it of the narrower power to insist on transfers to third parties of property tax revenue already allocated to redevelopment agencies, as it had done on numerous previous occasions. (See §§ 33680, 33681.7 to 33681.15, 33685 to 33692; former § 33681 (Stats. 1992, ch. 700, § 1.5, pp. 3115-3116); former § 33681.5 (Stats. 1993, ch. 68, § 4, pp. 942-944).) It is precisely such "raids" the text of Proposition 22 and the arguments in support of it denounce. (Voter Information Guide, Gen. Elec. (Nov. 2, 2010) p. 36; see Prop. 22, Gen. Elec. (Nov. 2, 2010) §§ 2, subds. (e), (g), 2.5, 9.) The protection so granted is not insignificant simply because it is conditioned on redevelopment agencies' existing and having property tax increment allocated to them.

Accordingly, we discern no constitutional impediment to the Legislature's electing to dissolve the state's redevelopment agencies under part 1.85 of division 24 of the Health and Safety Code.

2. *Freezing Redevelopment Agency Transactions Under Part 1.8 of Division 24 of the Health and Safety Code*

As a means of facilitating dissolution under division 24, part 1.85, the Legislature in division 24, part 1.8 has suspended redevelopment agencies' ability to make free use of their funds. (See, e.g., §§ 34161 [prohibiting new or expanded debts except as provided in pt. 1.8], 34162 [limiting new indebtedness], 34167, subd. (a) ["provisions of this part shall be construed as broadly as possible to . . . restrict the expenditure of funds to the fullest extent possible"].) The purpose of these restrictions is "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." (§ 34167, subd. (a); see also Assem. Bill 1X 26, § 1, subd. (j)(1) [the intent of pt. 1.8 is to bar new obligations pending dissolution].) The Association

contends these limits violate article XIII, section 25.5, subdivision (a)(7)(B) of the state Constitution, prohibiting restrictions on the use of property taxes allocated to redevelopment agencies for the benefit of the state or its agencies.[15] We conclude this portion of Assembly Bill 1X 26 is valid as well.

The power to abolish an entity necessarily encompasses the incidental power to declare its ending point.[16] If Proposition 22, as we have concluded, was not intended to strip the Legislature of the power to terminate redevelopment agencies, then it could not have been intended to deprive the Legislature of the ability to decide when redevelopment agencies could cease to exist as legal entities or at what point, as part of winding up and dissolving, they would be relieved of the ability to make new binding commitments and engage in new business. As a practical and perhaps constitutional matter, to require an existing entity that has entered into a web of current contractual and other obligations to dissolve instantaneously is not possible; doing so would inevitably raise serious impairment of contract questions. (See U.S. Const., art. I, § 10; Cal. Const., art. I, § 9.)

As Matosantos argues, and we agree, Proposition 22's limit on state restrictions of redevelopment agencies' use of their funds is best read as limiting the Legislature's powers during the operation, rather than the dissolution, of redevelopment agencies. Article XIII, section 25.5, subdivision (a)(7)(B) prohibits, with minor exceptions, further legislative restrictions on the use of

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15 California Constitution, article XIII, section 25.5, subdivision (a)(7) prohibits the Legislature from "[r]equir[ing] a community redevelopment agency . . . (B) to use, restrict, or assign a particular purpose for such taxes for the benefit of the State, any agency of the State, or any jurisdiction," with exceptions not applicable here.

16 The Legislature has already wielded an analogous power by imposing time limits on the life spans of agencies' redevelopment plans. (§ 33333.2.)

property taxes allocated to redevelopment agencies under article XVI, section 16. Article XVI, section 16, in turn, creates no absolute right to an allocation of property taxes. (See Cal. Const., art. XVI, § 16 ["The Legislature *may* provide that any redevelopment plan *may* contain a provision" diverting tax increment to redevelopment agencies (italics added)].) Thus, *if* the Legislature exercises its constitutional power to authorize allocation of property taxes to redevelopment agencies, and *if* a redevelopment plan so provides, *then* those taxes so allocated to an operating redevelopment agency may not be restricted to benefit the state by further legislative action.

The Legislature in fact exercised that constitutional power when adopting and subsequently amending the Community Redevelopment Law (see §§ 33670, 33675), but the right of redevelopment agencies to tax increment funding thereby created was statutory, not constitutional. In turn, Assembly Bill 1X 26 revises those statutory rights. The Legislature has determined that tax increment should no longer be allocated to redevelopment agencies (Assem. Bill 1X 26, § 1, subd. (i) [upon agencies' dissolution, property taxes are no longer to be deemed tax increment and allocated to redevelopment agencies]), except insofar as necessary to satisfy existing obligations. The measure exercises the Legislature's constitutional power to authorize property tax increment revenue for, or to withdraw that authorization from, redevelopment agencies. (See Cal. Const., art. XVI, § 16.) As such, the measure modifies the constitutional predicate for the operation of article XIII, section 25.5, subdivision (a)(7)(B) of the state Constitution. In the absence of property tax increment allocated under article XVI, the latter subdivision has no force or effect.

Redevelopment agencies, moreover, have a conditional right to the allocation of tax increment only to the extent of any existing indebtedness. (§§ 33670, 33675; Cal. Const., art. XVI, § 16, subd. (b); cf. *Marek v. Napa*

Community Redevelopment Agency, *supra*, 46 Cal.3d at p. 1082 [interpreting "indebtedness" to include all existing obligations, including executory ones].) They have no particular right to incur additional future indebtedness. The provisions of part 1.8 of division 24 the Health and Safety Code, which respect the need to satisfy existing indebtedness (see § 34167) while precluding the creation of additional indebtedness (§§ 34162-34163), invade no rights protected by article XIII, section 25.5, subdivision (a)(7)(B) of the state Constitution.

Accordingly, we conclude Proposition 22 does not invalidate the freeze portions of Assembly Bill 1X 26 as they apply to dissolving redevelopment agencies.[17]

C. *The Constitutionality of Assembly Bill 1X 27*

We turn to Assembly Bill 1X 27. The measure conditions the future operation of redevelopment agencies on continuation payments. (§§ 34193, subd. (a), 34193.2, subd. (a).) Analyzing its operation in light of the constitutional limitations adopted by Proposition 22, we conclude the condition the measure imposes is unconstitutional and Assembly Bill 1X 27 is, accordingly, facially invalid.

The Legislature may not "[r]equire a community redevelopment agency (A) to pay, remit, loan, or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction . . . ." (Cal. Const., art. XIII, § 25.5, subd. (a)(7),

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[17] We need not consider any constitutional objections to the freeze portions as they apply to redevelopment agencies whose community sponsors avail themselves of the provisions of Assembly Bill 1X 27 to continue operations because, as discussed below, we conclude Assembly Bill 1X 27 is invalid.

added by Prop. 22, Gen. Elec. (Nov. 2, 2010).) That the continuation payments called for by Assembly Bill 1X 27 will benefit the state and its jurisdictions, i.e., special districts and school districts, is uncontested; for fiscal year 2011-2012, they replace funding the state otherwise would have to supply under Proposition 98 (see § 34194.1, subd. (b)), and in this and future years they go to funds supporting school districts and special districts (§§ 34194, subd. (a), 34194.1, subd. (e), 34194.4).

Moreover, as we shall explain, Assembly Bill 1X 27's continuation payments involve the "direct[] or indirect[]" payment, remittance, loan, or transfer of tax increment allocated to community redevelopment agencies. (Cal. Const., art. XIII, § 25.5, subd. (a)(7).) In interpreting the scope of that constitutional provision, added by initiative, we " 'apply the same principles that govern statutory construction,' " beginning with the text as the best indicator of intent. (*Professional Engineers in California Government v. Kempton* (2007) 40 Cal.4th 1016, 1037.) Where the text is ambiguous we must turn to extrinsic sources, such as the context of adoption and the ballot materials presented to the voters. (*Ibid.*) Here, the text of article XIII, section 25.5, subdivision (a)(7) does not define clearly the intended scope of its prohibition against requiring "direct[] or indirect[]" payment, transfer, etc. of tax revenue. Presented with an ambiguity, we examine the historical backdrop against which the provision was drafted and adopted to discern its meaning.

In the two decades preceding passage of Proposition 22, redevelopment agencies were the subject of repeated ERAF shifts—directives to transfer money to county ERAF's. Each ERAF shift calculated the amount every redevelopment agency owed as a fraction of the tax increment it received. (§§ 33681.7, subd. (a)(2), 33681.9, subd. (a)(2), 33681.12, subd. (a)(2), 33685, subd. (a)(2), 33690, subd. (a)(2), 33690.5, subd. (a)(2); former § 33681, subd. (a)(2) (Stats. 1992,

ch. 700, § 1.5, p. 3115); former § 33681.5, subd. (a)(2) (Stats. 1993, ch. 68, § 4, pp. 942-943).) Notably, however, the shifts did not require payments to come specifically from tax increment; rather, they provided, in language the Legislature copied from year to year: "To make the allocation required by this section, an agency may use *any funds that are legally available and not legally obligated for other uses*, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income." (§ 33690.5, subd. (b), italics added [2010-2011 ERAF legislation]; accord, §§ 33681.7, subd. (c), 33681.9, subd. (c), 33681.12, subd. (c), 33685, subd. (c), 33690, subd. (b) [same language in 2002-2003, 2003-2004, 2004-2005, 2008-2009, and 2009-2010 ERAF legislation]; former § 33681, subd. (c) (Stats. 1992, ch. 700, § 1.5, p. 3116) [same language in 1992-1993 ERAF legislation]; former § 33681.5, subd. (c) (Stats. 1993, ch. 68, § 4, p. 943) [same language in 1993-1994 and 1994-1995 ERAF legislation]; see *Los Angeles Unified School Dist. v. County of Los Angeles*, *supra*, 181 Cal.App.4th at p. 421 & fn. 3.) Thus, although ERAF remittances were calculated as a portion of redevelopment agency tax increment, the Legislature was not particular about the source of funds actually used to make the payments.

Nor was the Legislature concerned with whether it was the redevelopment agencies or their community sponsors that actually made the payments. Beginning with the fiscal year 2003-2004 ERAF legislation, the Legislature included in each annual measure a provision allowing city councils and county boards of supervisors to agree to make the payments on behalf of their redevelopment agencies. (§§ 33681.11, subd. (a), 33681.14, subd. (a), 33687, subd. (a), 33692, subds. (a), (b); see, e.g., Sen. Budget & Fiscal Revenue Com., 3d reading analysis of Sen. Bill No. 1045 (2003-2004 Reg. Sess.) as amended July 29, 2003, p. 1 [the ERAF legislation "[a]llows any sponsor city or county to pay their RDA's ERAF

contribution in lieu of [the] RDA"].) Here, too, the Legislature did not specify the source of the funds to be used; a legislative body could apply "any funds that are legally available for this purpose." (§§ 33681.11, subd. (b), 33681.14, subd. (b), 33687, subd. (b), 33692, subd. (c); see, e.g., Sen. Budget & Fiscal Revenue Com., 3d reading analysis of Sen. Bill No. 1045 (2003-2004 Reg. Sess.) as amended July 29, 2003, pp. 1-2.)

As enacted in the years preceding Proposition 22, then, state ERAF legislation had at least two consistent and defining features: (1) each payment was calculated in proportion to the amount of net and gross tax increment received by a redevelopment agency, operating in effect as a levy on the receipt of tax increment funds, and (2) the legislation was indifferent as to the actual source of payment, be it from the tax increment itself, other assets a redevelopment agency might have, or any available funds a community sponsor might have.

This indifference made a certain practical sense. Redevelopment agencies and their community sponsors are conjoined to the extent that, in virtually all instances, the same individuals constitute both the redevelopment agency governing board and the city council or county board of supervisors that created the agency. The Legislature had no particular reason to care where ERAF payments might come from, and no reason to preclude local governments and redevelopment agencies from deciding in a given year whether the agency or its community sponsor might be better positioned to make payment.

This, then, was the historical context in which the backers of Proposition 22 drafted article XIII, section 25.5, subdivision (a)(7) of the state Constitution. Proposition 1A's passage in 2004 curtailed ERAF shifts aimed at cities and counties, but redevelopment agencies remained subject to them. Consequently, Proposition 22 was drafted with the specific intent of ending further ERAF shifts of the sort previously imposed on the agencies, and restricting the state's ability to

demand back, for schools or other state purposes, a percentage of the money county auditors allocated to redevelopment agencies. Section 2 of Proposition 22 identified among the past practices targeted by the initiative's constitutional amendments ERAF shifts from redevelopment agencies to schools. (Prop. 22, § 2, subd. (d)(3); see also Voter Information Guide, Gen. Elec. (Nov. 2, 2010) Legis. Analyst's analysis of Prop. 22, p. 33.) Section 2.5 of the initiative declared the intent to end such shifts. (Prop. 22, §§ 2, subd. (g), 2.5; see also *id.*, § 9; Voter Information Guide, Gen. Elec. (Nov. 2, 2010) Legis. Analyst's analysis of Prop. 22, p. 34 ["***Reduces State Authority.*** This measure prohibits the state from enacting new laws that require redevelopment agencies to shift funds to schools or other agencies."].)

The text of Proposition 22 mandates that "[t]he provisions of this act shall be liberally construed in order to effectuate its purposes." (Prop. 22, § 11.) Accordingly, we must interpret article XIII, section 25.5, subdivision (a)(7) of the state Constitution in light of the declared intent to end further shifts. Clearly the drafters meant the provision to be at least broad enough to foreclose ERAF legislation of the sort previously enacted, or else the new constitutional protection would amount to an empty gesture, as the Legislature could continue to enact the same legislation. As the voters were explicitly apprised of this intent in both the Legislative Analyst's analysis of the initiative and in the initiative text, they can be regarded as having approved a constitutional prohibition against ERAF shifts like those enacted before 2010.

Given the directive that we adopt a liberal construction as necessary to ensure the purposes of Proposition 22 are carried out, it follows that the constitutional prohibition against "directly or indirectly" requiring transfers of tax increment (Cal. Const., art. XIII, § 25.5, subd. (a)(7)) must extend to legislation that imposes a levy on the receipt of tax increment funds, even if the legislation

does not specify that payment must come directly from the redevelopment agency or from its tax increment funds. The prohibition against even "indirect[]" transfers must reasonably be read to extend to legislation that, like the ERAF shifts Proposition 22 was intended to prohibit, gives redevelopment agencies and their community sponsors latitude to decide the source of any payment.

Assembly Bill 1X 27 is such legislation. Like all prior ERAF legislation, it operates as a levy on the receipt of tax increment funds. That is, for each dollar a redevelopment agency receives, a set percentage must be paid back into ERAF's. (See § 34194 [calculating continuation payment as a fraction of the net and gross tax increment each redevelopment agency receives].) In 2011-2012, the levy rate is roughly 34 percent ($1.7 billion out of $5 billion in tax increment); in future years, it is substantially lower ($400 million out of $5 billion equates to 8 percent).

That Assembly Bill 1X 27 allows payment to come either from community sponsors (§ 34194.1, subd. (a)), or from redevelopment agencies pursuant to reimbursement agreements (§ 34194.2), does not distinguish it from past ERAF legislation. Nor does the leeway Assembly Bill 1X 27 grants redevelopment agencies and community sponsors to decide the source from which to make payments diminish the payments' character as a levy on tax increment funds. Reasoning by analogy, income tax is income tax, even if a taxpayer may pay the government out of nonincome assets rather than directly return a portion of his or her income; so too, section 34194 is a levy on the receipt of tax increment for the benefit of the state's subdivisions, whether the levy is paid directly out of the tax increment the redevelopment agency receives, or indirectly out of other assets it or its community sponsor may possess. The source of payment is a distinction without a difference in light of the Legislature's historic indifference to ERAF

payment sources and Proposition 22's broad prohibition on even "direct[] or indirect[]" transfers.[18]

As construed by the dissent, however, Proposition 22 would prohibit only funding schemes the Legislature has not employed for nearly a decade, while permitting the very schemes its adoption history plainly demonstrates the initiative was intended to prohibit. The dissent identifies as the saving grace of Assembly Bill 1X 27 the provision allowing community sponsors to make continuation payments. (Conc. & dis. opn., *post*, at p. 15; see § 34194.1.) But every ERAF scheme since 2003 has included that feature. (*Ante*, at p. 37).[19] Consequently, every such ERAF scheme would, under the dissent's construction, remain valid in its entirety even after Proposition 22,[20] and the Legislature could simply have

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[18] In light of this conclusion, we need not consider the Association's alternate arguments that other provisions of the state Constitution also broadly constrain the Legislature's ability to direct the reallocation of community sponsor funds. (See Cal. Const., art. XIII, §§ 24, subd. (b), 25.5, subd. (a)(1), (3); *id.*, art. XIII B, § 6, subd. (b)(3).)

[19] The Legislature last passed ERAF legislation without such a "community sponsor pays" option in 2002. (Stats. 2002, ch. 1127, §§ 15-16; see also Stats. 1992, chs. 699, 700, pp. 3081-3125; Stats. 1993, ch. 68, pp. 939-955.)

[20] The dissent implies that under its interpretation Proposition 22 would still materially constrain the Legislature in crafting ERAF legislation. Not so. Because under that interpretation a "sponsor pays" option is not prohibited by Proposition 22, no part of any ERAF funding scheme that includes such a provision is invalid. That is, so long as the Legislature includes in its funding scheme one nonprohibited option for payment, all other payment alternatives become optional, and thus lawful. Proposition 22, under that view, would do nothing to prohibit passage of any of the statutes identified by the dissent as potentially invalid (conc. & dis. opn., *post*, at pp. 11-14) so long as they were accompanied by a "sponsor pays" statute like section 33692.

reenacted without change 2009's scheme.[21] Such an interpretation cannot be squared with the available evidence of the drafters' and voters' intent, which was to prohibit these modern raids. (See Voter Information Guide, Gen. Elec. (Nov. 2, 2010) Legis. Analyst's analysis of Prop. 22, pp. 33-34 [singling out recent ERAF shifts as the sort of raid on tax increment Prop. 22 was intended to foreclose]; Prop. 22, §§ 2, subd. (d)(3), 2.5, 9 [same].)

The dissent justifies this rejection of expressed intent by relying on the grammar and syntax of Proposition 22. (Conc. & dis. opn., *post*, at pp. 15-16.) However, "[t]he rules of grammar and canons of construction are but tools, 'guides to help courts determine likely legislative intent. [Citations.] And that intent is critical. Those who write statutes seek to solve human problems. Fidelity to their aims requires us to approach an interpretive problem not as if it were a purely logical game, like a Rubik's Cube, but as an effort to divine the human intent that underlies the statute.' " (*Burris v. Superior Court* (2005) 34 Cal.4th 1012, 1017-1018.) Grammar and syntax thus are a means of gleaning intent, not a basis for preventing its effectuation. Where, as here, ballot materials clearly demonstrate the drafters' and voters' intent, syntax is not dispositive.

Moreover, nothing in the grammar of article XIII, section 25.5, subdivision (a)(7) of the state Constitution precludes giving the provision its intended effect. A required "indirect[]" transfer of tax increment by a redevelopment agency may include circumstances where the redevelopment agency, governed by the same people as its community sponsor (see *ante*, p. 9 & fn. 5), must persuade that

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[21] That the Legislature did not, and instead believed it needed to add the purported option of dissolution to render its scheme constitutional, suggests the Legislature read Proposition 22 just as we do on this point.

sponsor to pay, with or without reimbursement, a specified percentage of the tax increment the agency receives as the price for that receipt.

In her briefing, Matosantos does not focus on whether Assembly Bill 1X 27 involves "direct[] or indirect[]" payments of tax increment funds, but instead on the argument that Assembly Bill 1X 27 does not "[r]equire" payment within the meaning of article XIII, section 25.5, subdivision (a)(7).[22] She acknowledges that Proposition 22 forbids the Legislature from directly requiring payment to special districts and school districts on the state's behalf. She contends, however, that the payments provided for under Assembly Bill 1X 27 are not required but are voluntary and constitutional, because the measure affords local governments an option between payment and dissolution.

This is indeed the way in which Assembly Bill 1X 27 is most distinct from the past ERAF legislation Proposition 22 specifically targeted. Effectively, however, the difference is only a change in the sanction for nonpayment. Before, nonpayment resulted in a range of limitations on a redevelopment agency's operations (see, e.g., §§ 33686, subd. (e), 33691, subd. (e)); now, it will result in dissolution (§ 34195).

This is another distinction without a difference. Assembly Bill 1X 27 on its face imposes not an optional condition but an absolute requirement: going forward, *every* redevelopment agency must have its community sponsor annually pay the portion of its tax increment assessed by the state under Assembly Bill

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[22] Similarly, when asked at oral argument whether "were [payment] not voluntary," the various constitutional provisions relied on by the Association "would cover the community sponsor funds" and shield them from the state's reach, Matosantos's counsel replied, "I think that's right," but went on to defend Assembly Bill 1X 27 as giving community sponsors a choice whether or not to pay.

1X 27. Cities and counties operating redevelopment agencies, whether agencies that existed before Assembly Bill 1X 27 or agencies they establish for the first time to address new blight, must pay without exception in this and every future year. (See §§ 34194, 34195.) A condition that must be satisfied in order for any redevelopment agency to operate is not an option but a requirement.[23] Such absolute requirements Proposition 22 forbids. (See Cal. Const., art. XIII, § 25.5, subd. (a)(7)(A).)

The Association argues that this conclusion is sufficient to invalidate not only Assembly Bill 1X 27, but also the dissolution provisions of Assembly Bill 1X 26. Not necessarily. How broadly the taint of the invalid exercise of legislative power extends is a question of severability. (See, e.g., *Sonoma County Organization of Public Employees v. County of Sonoma* (1979) 23 Cal.3d 296, 319-320 [preserving the state's bailout of local governments notwithstanding an unconstitutional condition placed on that bailout because the one could be severed from the other].) Accordingly, we turn to an analysis of severability and the impact of the invalid continuation payment program (Assem. Bill 1X 27, § 2; Health & Saf. Code, div. 24, pt. 1.9) on the remaining provisions of Assembly Bill 1X 27 and on Assembly Bill 1X 26.

D. *Severability*

We conclude Assembly Bill 1X 27 is invalid in its entirety, while Assembly Bill 1X 26 may be severed and enforced independently.

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[23] Whether to establish a redevelopment agency is voluntary, but that has always been the case. Now, however, if a city or county does establish a redevelopment agency, the agency must through its community sponsor make the payments required under Assembly Bill 1X 27.

In determining whether the invalid portions of a statute can be severed, we look first to any severability clause. The presence of such a clause establishes a presumption in favor of severance. (*Santa Barbara Sch. Dist. v. Superior Court* (1975) 13 Cal.3d 315, 331 [" 'Although not conclusive, a severability clause normally calls for sustaining the valid part of the enactment . . . .' "].) We will, however, consider three additional criteria: "[T]he invalid provision must be grammatically, functionally, and volitionally separable." (*Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 821.) Grammatical separability, also known as mechanical separability, depends on whether the invalid parts "can be removed as a whole without affecting the wording" or coherence of what remains. (*Id.* at p. 822; see also *Santa Barbara*, at pp. 330-331.) Functional separability depends on whether "the remainder of the statute ' "is complete in itself . . . ." ' " (*Sonoma County Organization of Public Employees v. County of Sonoma*, *supra*, 23 Cal.3d at p. 320.) Volitional separability depends on whether the remainder " 'would have been adopted by the legislative body had the latter foreseen the partial invalidation of the statute.' " (*Santa Barbara*, at p. 331; accord, *Gerken v. Fair Political Practices Com.* (1993) 6 Cal.4th 707, 714.)

With respect to the portions of Assembly Bill 1X 27 apart from the section 2 continuation payment program, the Legislature in section 5 included a nonseverability clause: "If Section 2 of this act, or the application thereof, is held invalid in a court of competent jurisdiction, the remaining provisions of this act are not severable and shall not be given, or otherwise have, any force or effect." (Assem. Bill 1X 27, § 5.) Such a clause conclusively negates the possibility of volitional separability: the Legislature would not have enacted the rest of Assembly Bill 1X 27 without the invalid section 2. Accordingly, the remaining provisions of Assembly Bill 1X 27 cannot be severed and are unenforceable as well.

In direct contrast, the Legislature in section 4 of Assembly Bill 1X 27 expressed in a severability clause its intent to preserve Assembly Bill 1X 26: "The provisions of Section 2 of this act [Assem. Bill 1X 27] are distinct and severable from the provisions 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 [enacted by Assem. Bill 1X 26] and those provisions shall continue in effect if any of the provisions of this act are held invalid." (Assem. Bill 1X 27, § 4.) Grammatically and mechanically, Assembly Bill 1X 26 can be separated from Assembly Bill 1X 27: it was passed as a distinct measure and is codified in a different portion of the Health and Safety Code. Functionally as well, it is separate: the freeze (pt. 1.8) and dissolution (pt. 1.85) procedures can be implemented whether or not the continuation payment program (pt. 1.9) is valid. (Indeed, invalidating pt. 1.9 alone would produce a result no different than if each redevelopment agency and sponsoring local government entity had elected not to make payments and had instead chosen to dissolve.)

The Association concedes grammatical separability but contends Assembly Bills 1X 26 and 1X 27 are neither functionally nor volitionally separable. As to functional separability, the Association posits that the Legislature likely expected Assembly Bill 1X 27 to be upheld and Assembly Bill 1X 26 thus to come into play only for those redevelopment agencies that elected to dissolve. Speculation as to what the Legislature may have expected is immaterial here; the issue under this prong is simply whether Assembly Bill 1X 26 is complete in itself such that it can be enforced notwithstanding Assembly Bill 1X 27's invalidity. Assembly Bill 1X 26 outlines an independent mechanism for redevelopment agency dissolution that does not depend in any way on Assembly Bill 1X 27.

Alternatively, the Association identifies a small handful of provisions in Assembly Bill 1X 26 that are meaningful only if Assembly Bill 1X 27 is valid.

(See §§ 34172, subd. (a)(2) [permitting communities to create new redevelopment agencies provided they make Assem. Bill 1X 27 continuation payments], 34178.7, 34188.8, 34191, subd. (a) [governing redevelopment agencies that fail to keep up with continuation payments].) The provision allowing communities to establish new redevelopment agencies subject to continuation payments under Assembly Bill 1X 27 is invalid for precisely the same reasons applicable generally to Assembly Bill 1X 27. Its invalidity does not, however, affect the rest of Assembly Bill 1X 26, as the provision is grammatically, functionally, and volitionally separable from the rest of Assembly Bill 1X 26. (See Assem. Bill 1X 26, § 12 [providing for internal severability for Assem. Bill 1X 26].) Those provisions applicable only to redevelopment agencies that start but then cease continuation payments are not invalid, but are simply irrelevant; in light of Assembly Bill 1X 27's invalidity, no redevelopment agency will ever become subject to them. Neither set of provisions impairs Assembly Bill 1X 26's functional separability.

As for volitional separability, the Association points to evidence that the Legislature rejected Governor Brown's proposal simply to end redevelopment agencies in favor of the two-bill package it ultimately passed. The Association further quotes statements from various individual legislators during the June 15, 2011, floor debates suggesting they (1) viewed Assembly Bills 1X 26 and 1X 27 as a package deal (remarks of Sen. Steinberg; remarks of Assemblyman Blumenfield) and (2) preferred to mend redevelopment rather than end it (remarks of Sen. Hancock).

We may accept that the Legislature treated Assembly Bills 1X 26 and 1X 27 as a package, and accept as self-evident that the Legislature preferred dissolution with an option to buy a reprieve over dissolution without any such option; after all, it passed Assembly Bill 1X 27 in addition to Assembly Bill 1X 26, when it could have opted for some variation of Governor Brown's outright

dissolution proposal. We need not further consider what weight, if any, to accord the statements of individual legislators because this evidence goes to answering the wrong question. The issue, when assessing volitional separability, is not whether a legislative body would have preferred the whole to the part; surely it would have, and the legislative history the Association points to tells us no more than that. Instead, the issue is whether a legislative body, knowing that only part of its enactment would be valid, would have preferred that part to nothing, or would instead have declined to enact the valid without the invalid. (See, e.g., *Gerken v. Fair Political Practices Com.*, *supra*, 6 Cal.4th at p. 719; *Calfarm Ins. Co. v. Deukmejian*, *supra*, 48 Cal.3d at p. 822; *Sonoma County Organization of Public Employees v. County of Sonoma*, *supra*, 23 Cal.3d at p. 320.)

As to that question, the interstatutory severability clause the Legislature enacted is conclusive. (See Assem. Bill 1X 27, § 4.) It is no generic severability clause, providing nonspecifically that if any provision of a measure is invalidated the remaining portions of an act should remain in force. (Cf. § 34168, subd. (b).) Rather, it deals with the precise severability question we face: whether, if section 2 of Assembly Bill 1X 27 were to be invalidated, the Legislature would have wanted the provisions of Assembly Bill 1X 26 to remain in force. The interstatutory severability clause answers that question unequivocally in the affirmative: Assembly Bill 1X 27, section 2 is severable from Assembly Bill 1X 26, and the Legislature intended the freeze and dissolution provisions to continue in effect notwithstanding the invalidation of the continuation payment program. (Assem. Bill 1X 27, § 4; see also Assem. Budget Com., Conc. in Sen. Amend., analysis of Assem. Bill 1X 27 (2011-2012 1st Ex. Sess.) as amended June 14, 2011, p. 4 [highlighting that while most provisions of Assem. Bill 1X 27 were not severable, the bill *was* severable from "[Assem. Bill 1X 26], which eliminates redevelopment. Thus, if provisions of this bill are found invalid, the

provisions of the first bill could remain in effect."]; Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill 1X 27 (2011-2012 1st Ex. Sess.) as amended June 15, 2011, p. 6 [same].)[24] Accordingly, whatever individual legislators may have said at one point or another, what the Legislature actually *did* establishes it would have passed Assembly Bill 1X 26 irrespective of the passage of Assembly Bill 1X 27, and that Assembly Bill 1X 26 is volitionally separable. Consequently, it is severable.

We summarize our conclusions concerning the constitutional landscape. The Legislature, pursuant to its plenary power to establish or dissolve local agencies and subdivisions as it sees fit, may, but need not, authorize redevelopment agencies. (Cal. Const., art. IV, § 1.) If it does choose to authorize such agencies, it may, but need not, authorize their receipt of property tax increment. (*Id.*, art. XVI, § 16.) However, if it authorizes such agencies and, moreover, authorizes their receipt of tax increment, it may not thereafter require that such allocated tax increment be remitted for the benefit of schools or other local agencies. (*Id.*, art. XIII, § 25.5, subd. (a)(7)(A).) Assembly Bill 1X 26

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[24] As discussed, Assembly Bill 1X 27 contains, in addition to an interstatutory severability clause (Assem. Bill 1X 27, § 4), an intrastatutory nonseverability clause that invalidates the remainder of Assembly Bill 1X 27 if Assembly Bill 1X 27's section 2 is struck down. (Assem. Bill 1X 27, § 5.) The Association and amicus curiae Community Redevelopment Agency of the City of Los Angeles suggest the intrastatutory nonseverability clause invalidates the interstatutory severability clause. But the clear intent of an intrastatutory nonseverability clause like section 5 of Assembly Bill 1X 27 is to prevent the other *substantive* provisions of an enactment from taking effect; it is not to invalidate other metaprovisions of an enactment—such as section 5 itself—that speak to the effectiveness of provisions of an enactment in the event of partial invalidation. The section 4 interstatutory severability clause, another metaprovision, is likewise exempt from the invalidating reach of section 5.

respects these narrow limits on the Legislature's power; Assembly Bill 1X 27 does not.

E. *The Future Implementation of Assembly Bill 1X 26*

When we accepted jurisdiction over the Association's petition, we stayed implementation of the provisions of part 1.85 of division 24 of the Health and Safety Code. (§§ 34170-34191.) Numerous critical deadlines contained in that part have passed and can no longer be met. (See §§ 34170, subd. (a) [all provisions in pt. 1.85 are operative on Oct. 1, 2011, unless otherwise specified], 34172, subd. (a)(1) [dissolving redevelopment agencies], 34173 [creating successor agencies], 34175, subd. (b) [transferring redevelopment agency assets to successor agencies], 34177, subd. (*l*)(2)(A) [requiring successor agency to prepare a draft obligation payment schedule by Nov. 1, 2011].)

This impossibility ought not to prevent the Legislature's valid enactment from taking effect. As Matosantos urges, and the Association does not contest, we have the power to reform a statute so as to effectuate the Legislature's intent where the statute would otherwise be invalid. (*Kopp v. Fair Pol. Practices Com.* (1995) 11 Cal.4th 607, 660-661.) Here, the problem is not invalidity but impossibility: the need, recognized by both sides, to put to rest constitutional questions concerning these measures, when combined with a stay issued to preserve the court's jurisdiction to issue meaningful relief, has rendered it impossible for the parties and others affected to comply with the legislation's literal terms. By exercising the power of reform, however, we may as closely as possible effectuate the Legislature's intent and allow its valid enactment to have its intended effect. Reformation is proper when it is feasible to do so in a manner that carries out those policy choices clearly expressed in the original legislation, and when the legislative body would have preferred reform to ineffectuality. (*Id.*

at p. 661.) We think it clear that (1) the Legislature would have preferred Assembly Bill 1X 26 to take effect on a delayed basis, rather than not at all, and (2) the timeline provided for in Assembly Bill 1X 26 can be reformed in a fashion that cleaves sufficiently to legislative intent.

In recognition of the eventuality that upholding any part of Assembly Bill 1X 26 or 1X 27 would require us to address the impact of our stay on their statutory deadlines, we solicited input from the parties as to appropriate new deadlines. Because we have invalidated Assembly Bill 1X 27, we need consider only the extent to which deadlines in part 1.85 must be extended to account for the stay, while taking effect as promptly as the Legislature intended.

The parties' proposals involve elaborate schedules shifting each deadline in part 1.85 by a varying number of days. We decline to adopt any of the proposed schedules, whose implementation would overly complicate future compliance. Instead, we note that our stay of part 1.85 has been in place for four months and has delayed operation of that part of Assembly Bill 1X 26 by a like amount. By reforming Assembly Bill 1X 26 to extend each of its deadlines by the duration of our stay, we retain the relative spacing of events originally intended by the Legislature and simplify compliance for all affected parties.

Accordingly, we exercise our power of reformation and revise each effective date or deadline for performance of an obligation in part 1.85 of division 24 of the Health and Safety Code (§§ 34170-34191) arising before May 1, 2012, to take effect four months later.[25] By way of example, under section 34170,

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[25] We make an exception for actions that were to be taken by September 1, 2011. (See, e.g., § 34173, subd. (d)(1).) There, we extend the deadline to 15 days after the issuance of our opinion and lifting of the stay, i.e., January 13, 2012, rather than January 1.

subdivision (a), all provisions in part 1.85 were to be operative on October 1, 2011, unless otherwise specified; our reformation makes them operative on February 1, 2012. The draft obligation payment schedules due on November 1, 2011, under section 34177, subdivision (*l*)(2)(A), are now due March 1, 2012.[26] Successorship agency board membership, required to be determined by January 1, 2012 (§ 34179, subd. (a)), must be complete by May 1, 2012. Similar reformations apply to all other imminent obligations throughout part 1.85. In contrast, no reformation is needed for future obligations to be carried out in subsequent fiscal years. (E.g., §§ 34179, subds. (j)-(*l*) [provisions for successorship agency boards in 2016 and later], 34182, subd. (c)(3) [ongoing county auditor-controller obligation to prepare estimates of allocations and distributions every Nov. 1 and May 1].)

Where a provision imposes obligations in both this and subsequent fiscal years, we reform the provision only as it relates to obligations arising before May 1, 2012. Thus, for example, section 34183 requires certain calculations from county auditor-controllers by January 16, 2012, and June 1, 2012, for this fiscal year, and on January 16 and June 1 in subsequent years. (§ 34183, subd. (a).) We reform the January 16, 2012, deadline by extending it to May 16, 2012, and leave the remaining deadlines unchanged. Likewise, section 34185 provides for distributions on each January 16 and June 1; we reform the first distribution deadline by extending it to May 16, 2012, and leave all subsequent deadlines unchanged, so that future distributions may occur on the schedule, and in the same fiscal year, originally contemplated by the Legislature.

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26 In contrast, the period to be covered by these schedules—through July 1, 2012, the end of the fiscal year—is not an obligation and is thus unchanged by our reformation. (See § 34177, subd. (*l*)(2)(A).)

III. DISPOSITION

For the foregoing reasons, we discharge the order to show cause, deny the Association's petition for a peremptory writ of mandate with respect to Assembly Bill 1X 26, except for Health and Safety Code section 34172, subdivision (a)(2), and grant its petition with respect to Assembly Bill 1X 27. We direct issuance of a peremptory writ compelling the state Director of Finance and state Controller not to implement Health and Safety Code sections 34172, subdivision (a)(2) and 34192-34196. We extend all statutory deadlines contained in Health and Safety Code, division 24, part 1.85 (§§ 34170-34191) and arising before May 1, 2012, by four months. Given the urgency of the matters addressed by the Association's petition, our judgment is final forthwith. (See, e.g., *Senate of the State of Cal. v. Jones* (1999) 21 Cal.4th 1142, 1169.)

WERDEGAR, J.

WE CONCUR:

KENNARD, J.
BAXTER, J.
CHIN, J.
CORRIGAN, J.
LIU, J.

CONCURRING & DISSENTING OPINION
BY CANTIL-SAKAUYE, C. J.

I concur in parts II.A., II.B., and II.E. of the majority opinion, but respectfully dissent from the remainder of the opinion concerning the constitutionality of Assembly Bill 1X 27.[1] The majority concludes that Assembly Bill 1X 27 is unconstitutional because it violates article XIII, section 25.5, subdivision (a)(7)(A) of the California Constitution (added by Prop. 22, approved by voters, Gen. Elec. (Nov. 2, 2010)). I part with the majority on this point because, although it may be possible that Assembly Bill 1X 27 may cause some community sponsors[2] to utilize funds otherwise protected by Proposition 22, petitioners have not met their burden of supporting this contention. In fact, they provide documentation that suggests quite the opposite. Moreover, on its face, nothing in Assembly Bill 1X 27 compels community sponsors to violate Proposition 22. Ultimately, the majority's conclusion rests on an impermissibly

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[1] This bill added part 1.9 to division 24 of the Health and Safety Code and enacted 14 statutes, Health and Safety Code sections 34192, 34192.5, 34193, 34193.1-34193.3, 34194, 34194.1-34194.5, 34195, 34196. For sake of consistency, I will use the same designation used by the majority, Assembly Bill 1X 27, in making general references to these statutes.

[2] Also consistent with the majority's terminology, I will use the term "community sponsor" to describe the local government body, such as a city or county, that may elect to make payments required by Assembly Bill 1X 27 in order to continue redevelopment practices.

broad reading of Proposition 22 plain language, on unsupported assumptions concerning the intent behind Proposition 22, and on speculation that constitutional problems *could* result from the implementation of Assembly Bill 1X 27. In doing so, the majority does not apply well-settled rules of statutory and constitutional construction.

I. Facial Challenges and the Rules of Statutory and Constitutional Construction

I first address the applicable rules concerning petitioners' facial challenge of Assembly Bill 1X 27 and the interpretative framework governing challenges to the constitutionality of the statutes enacted by this bill.

A. Facial Challenges versus "As Applied" Challenges

Generally, a facial challenge to the constitutionality of legislation "considers only the text of the measure itself, not its application to the particular circumstances of an individual." (*Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1084.) In contrast, an "as applied" challenge to the constitutionality of legislation involves an otherwise facially valid measure that has been applied in a constitutionally impermissible manner. This type of challenge "contemplates analysis of the facts of a particular case or cases to determine the circumstances in which the [measure] has been applied and to consider whether in those particular circumstances the application deprived the individual to whom it was applied of a protected right." (*Ibid.*)

Petitioner California Redevelopment Association concedes that it is making a facial challenge to Assembly Bill 1X 27.[3] "A facial challenge to a legislative

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[3] Given the procedural posture of this case — an application to declare the statutes enacted by Assembly Bill 1X 26 and Assembly Bill 1X 27 unconstitutional after we have substantially stayed their enforcement — it seems

(footnote continued on next page)

Act is, of course, the most difficult challenge to mount successfully, since the challenger must establish that no set of circumstances exists under which the Act would be valid." (*United States v. Salerno* (1987) 481 U.S. 739, 745.) The circumstance that an act "might operate unconstitutionally under some conceivable set of circumstances is insufficient to render it wholly invalid" under a facial challenge. (*Ibid.*)

B. Petitioners' Burden Under a Facial Challenge

In describing petitioners' burden, we have sometimes articulated differing standards. Under the strictest standard, " '[t]o support a determination of facial unconstitutionality, voiding the statute as a whole, petitioners cannot prevail by suggesting that in some future hypothetical situation constitutional problems may possibly arise as to the particular *application* of the statute . . . . Rather, petitioners must demonstrate that the act's provisions inevitably pose a present total and fatal conflict with applicable constitutional prohibitions.' " (*Arcadia Unified School Dist. v. State Dept. of Education* (1992) 2 Cal.4th 251, 267, quoting *Pacific Legal Foundation v. Brown* (1981) 29 Cal.3d 168, 180-181.) Under the more lenient standard, petitioners need only demonstrate that the measure "conflicts with [the Constitution] 'in the *generality* or *great majority* of cases.' [Citations.]" (*Guardianship of Ann S.* (2009) 45 Cal.4th 1110, 1126.)

(footnote continued from previous page)

very difficult, if not impossible, for petitioners to perfect an "as applied" challenge by arguing that the measures have been or will be enforced in an unconstitutional manner in any particular case. (*Tobe v. City of Santa Ana*, *supra*, 9 Cal.4th at pp. 1092-1093.) In any event, as I will explain in greater detail in part II.D., the documentation that petitioner presents does not establish that the enforcement of Assembly Bill 1X 27 necessarily will result in a violation of Proposition 22 in any particular case.

It is unclear which standard the majority employs, but, as I will explain, I believe petitioners have not met their burden under either standard concerning the alleged unconstitutionality of the statutes enacted by Assembly Bill 1X 27.

C. The Applicable Interpretative Rules of Constitutional and Statutory Construction

In assessing the merits of petitioners' facial challenge, we are governed by a specific interpretative framework that constrains how we must view the interaction between the statutes enacted by Assembly Bill 1X 27 and Proposition 22.

As the majority notes, Proposition 22, which added subdivision (a)(7)(A) to section 25.5 of article XIII of the California Constitution, limits what the Legislature may do with respect to redevelopment agency tax increment funds. Respondent Matosantos correctly argues that Proposition 22 imposes a constitutionally based limitation on the powers of the Legislature, and we must construe such limits strictly. (*White v. Davis* (2003) 30 Cal.4th 528, 539-540; *Pacific Legal Foundation*, *supra*, 29 Cal.3d at p. 180.) This strict construction of the constitutional limits on legislative power is required because " ' "we do not look to the Constitution to determine whether the legislature is authorized to do an act, but only to see if it is prohibited." [Citation.]' " (*White v. Davis*, *supra*, at p. 539, quoting *Methodist Hosp. of Sacramento v. Saylor* (1971) 5 Cal.3d 685, 691.) Given that legislative power is " ' "practically absolute," ' " any constitutional limitations on this power are strictly construed and may not be given effect as against the general power of the Legislature " ' "unless such limitations clearly inhibit the act in question." ' " (*Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243, 1255 (*Amwest*).) Accordingly, in the face of a constitutionally based limitation on its power, " ' "[i]f there is any doubt as to the Legislature's power to act in any given case, the doubt should be resolved in favor of the

Legislature's action." ' " (*White v. Davis*, *supra*, at p. 539, quoting *Methodist Hosp. of Sacramento v. Saylor*, *supra*, at p. 691.)

Furthermore, although " '[t]he judiciary's traditional role of interpreting ambiguous statutory language or "filling in the gaps" of statutory schemes is . . . as applicable to initiative measures as it is to measures adopted by the Legislature,' " we have warned that "the initiative power is strongest when courts give effect to the voters' formally expressed intent, without speculating about how they might have felt concerning subjects on which they were not asked to vote." (*Ross v. RagingWire Telecommunications, Inc.* (2008) 42 Cal.4th 920, 930, quoting *Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1202.) Therefore, unless "the text is ambiguous and supports multiple interpretations," our court must rely upon "the text as the first and best indicator of intent." (*Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 321.) Even "a command that a constitutional provision or a statute be liberally construed 'does not license either enlargement or restriction of its evident meaning' " because unambiguous language requires no need for engaging in liberal construction.[4] (*Apartment Assn. of Los Angeles County, Inc. v. City of Los Angeles* (2001) 24 Cal.4th 830, 844, quoting *People v. Cruz* (1974) 12 Cal.3d 562, 566.)

As for our interpretation of the statutes enacted by Assembly Bill 1X 27, we presume the constitutionality of a legislative act, resolving all doubts in its favor, and we must uphold it unless a " 'conflict with a provision of the state or federal Constitution is clear and unquestionable.' " (*Amwest*, *supra*, 11 Cal.4th at p. 1252.) This presumption is particularly appropriate when, as here, "the statute

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[4] In interpreting Proposition 22, the majority opinion fails to acknowledge this particular rule of interpretation.

represents a considered legislative judgment as to the appropriate reach of the constitutional provision." (*Pacific Legal Foundation v. Brown*, *supra*, 29 Cal.3d at p. 180; see Legis. Analyst's Off., The 2011-12 Budget: Should California End Redevelopment Agencies? (Feb. 9, 2011) p. 12 [warning the Legislature that Prop. 22 and other measures limit "the state's authority to shift property taxes and/or redirect tax increment revenues" and that "[d]rafting a plan for local governments to carefully unwind their redevelopment programs and successfully navigate the many legal, administrative, and financial factors will be complex"].)

From these principles, I conclude that our analysis must begin with the presumption that Assembly Bill 1X 27 is constitutionally valid unless it conflicts with the state Constitution in a clear and unquestionable manner. Because Proposition 22 restricts the Legislature's power, it must be strictly construed. But even though Proposition 22 contains a demand that it be liberally construed, as with any statute, we cannot give Proposition 22 an interpretation beyond its formally expressed intent if its language is clear.

II. Interpreting Proposition 22

I conclude that, even assuming the circumstances most favorable to petitioners — applying the more lenient standard for facial challenges and broadly construing Proposition 22 — petitioners have failed to sustain their burden to show that Assembly Bill 1X 27 is unconstitutional.

A. Proposition 22 and Assembly Bill 1X 27 Generally

Proposition 22 prohibits the Legislature from requiring "a community redevelopment agency . . . to pay, remit, loan, or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI [i.e., its tax increment funds]." (Cal. Const., art. XIII, § 25.5, subd. (a)(7)(A).) Given the

rules of interpretation described *ante*, it is important to note what, exactly, this constitutional provision expressly prohibits: the Legislature cannot require *a redevelopment agency* to directly or indirectly reallocate its tax increment funds.

In contrast, Assembly Bill 1X 27 does not require or compel any redevelopment agency to make any payment. It specifically provides that the community sponsor, whether it be a city, county, or other local government entity, "may use any available funds not otherwise obligated for other uses" to make a payment. (Health & Saf. Code, § 34194.1, subd. (a).)[5] The payments required by Assembly Bill 1X 27 to establish or continue redevelopment agencies are to be made by community sponsors, not redevelopment agencies. Although Assembly Bill 1X 27, through the enactment of section 34194.2, permits a community sponsor to enter into an agreement with its redevelopment agency to use its tax increment to fund the payment, such agreements are not compelled or required by Assembly Bill 1X 27.[6] Moreover, nothing in Assembly Bill 1X 27 requires that a

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[5] Unless otherwise noted, all further statutory references are to the Health and Safety Code.

[6] Petitioner County of Santa Clara argues that one of the statutes enacted by Assembly Bill 1X 27 is unconstitutional because section 34194.2 allows loans of tax increment funds to finance Assembly Bill 1X 27 payments in violation of article XVI, section 16, of the state Constitution, which mandates that tax increment funds be used to finance redevelopment projects. But section 34194.2 cannot be facially unconstitutional because its language is permissive — "a city or county *may* enter into an agreement with the redevelopment agency" to make such loans of local tax increment funds. (Italics added.) This provision, therefore, does not "inevitably pose a present total and fatal conflict with applicable constitutional prohibitions." (*Pacific Legal Foundation v. Brown*, *supra*, 29 Cal.3d 168, 181.) Moreover, even under the more liberal standard for facial challenges, as I will explain in part II.D., petitioners have failed to show that section 34194.2 will generate potential violations of the state Constitution " 'in the *generality* or *great majority* of cases.' " (*Guardianship of Ann S.*, *supra*, 45 Cal.4th 1110, 1126.)

redevelopment agency's tax increment be reallocated, either directly or indirectly, to satisfy the payments. Instead, the measure is neutral as to the source of funds for the Assembly Bill 1X 27 payments.[7]

B. The Applicable Language of Proposition 22 Does Not Require a Liberal Construction

The majority asserts that California Constitution article XIII, section 25.5, subdivision (a)(7) (as added by Prop. 22) is ambiguous, thereby requiring an examination of its history to ascertain its intended meaning. The majority identifies as ambiguous Proposition 22's use of the words "indirectly" and "directly," especially in view of prior statutory shifts involving ERAF's pursuant

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[7] For this same reason, Assembly Bill 1X 27's revenue-neutral provision, clarifying that a community sponsor "may use any available funds not otherwise obligated for other uses" to make the Assembly Bill 1X 27 payments (Health & Saf. Code, § 34194.1, subd. (a)), also forecloses petitioners' facial challenge based on other provisions of Proposition 22 and on Proposition 1A (as approved by voters, Gen. Elec. (Nov. 2, 2004)). Proposition 1A amended the state Constitution to limit the Legislature's ability to reallocate property taxes unless passed by a two-thirds vote, but nothing in Assembly Bill 1X 27 requires the payments to come from this source. In addition, the mere fact that section 34194.1, subdivision (b) labels its payments as "property taxes" for a single fiscal year, for the purpose of offsetting the state's school funding obligations in that year, does not violate Proposition 1A as petitioner County of Santa Clara argues. No provision of Assembly Bill 1X 27 alters the existing distribution of local property tax revenue actually collected by counties, and section 34194.1's terminology is simply an extension of the "accounting device" established by the Educational Revenue Augmentation Funds (ERAF's). (*Los Angeles Unified School Dist. v. County of Los Angeles* (2010) 181 Cal.App.4th 414, 426.) Similarly, another provision of Proposition 22 amended the state Constitution to ensure that the Legislature could not "reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purposes." (Cal. Const., art. XIII, § 24, subd. (b).) But nothing in Assembly Bill 1X 27 redirects the proceeds of an otherwise dedicated local tax toward making the Assembly Bill 1X 27 payments.

to which the Legislature diverted redevelopment agency tax increment revenue to fund schools.

The majority notes that a distinct provision in each of those prior ERAF shifts, going back to 2003, allowed the shift to be funded in a revenue-neutral and source-neutral manner and without necessarily using tax increment funds. For instance, in the legislation enacting the last ERAF shift, which directly led to Proposition 22's placement on the November 2010 ballot, the Legislature included statute that did not require the ERAF shift payment to come specifically from tax increment funds, but instead provided that in order "[t]o make the allocation required by this section, an agency may use *any funds that are legally available and not legally obligated for other uses*, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income." (Health & Saf. Code, § 33690.5, subd. (b), italics added.) It also included a "catch-all" statute that allowed a local legislative body, *in lieu of the redevelopment agency*, to make the ERAF payments "from *any funds that are legally available for this purpose*." (Health & Saf. Code, § 33692, subd. (c), italics added.) Accordingly, the majority reasons that Proposition 22's language, prohibiting the direct or indirect transfer of tax increment funds, is specifically intended to stop the kind of payments described by Assembly Bill 1X 27.

However, Proposition 22's plain language simply does not prohibit the kind of payments described by Assembly Bill 1X 27.

Proposition 22 prohibits the Legislature from requiring "*a community redevelopment agency* . . . to pay, remit, loan, or otherwise transfer, directly or indirectly," its tax increment funds. (Cal. Const., art. XIII, § 25.5, subd. (a)(7)(A), italics added.) As previously described, however, the Assembly Bill 1X 27 payments must be made by community sponsors, not redevelopment agencies.

Nothing in Assembly Bill 1X 27 requires *a redevelopment agency* "to pay, remit, loan, or otherwise transfer, directly or indirectly," its tax increment funds. If Proposition 22 intended to prohibit the payments described by Assembly Bill 1X 27, it could have been written to prohibit the Legislature from requiring *a local government body* or community sponsor "to pay, remit, loan, or otherwise transfer, directly or indirectly," its tax increment funds. But it was not drafted that way.

Additionally, nothing in Proposition 22 restricts the Legislature from using tax increment funds as the *basis* for a particular calculation. Certainly, Assembly Bill 1X 27 uses the size of tax increment funds as a "yardstick" or, as the majority characterizes it a "levy," to determine the size of the described payments, but such use is not prohibited by Proposition 22's plain language.

Pointedly, the word "levy" appears nowhere in Proposition 22. Instead, the drafters of Proposition 22 listed a very specific catalog of actions, prohibiting the Legislature from requiring a redevelopment agency "to pay, remit, loan, or *otherwise transfer*" its tax increment funds. (Cal. Const., art. XIII, § 25.5, subd. (a)(7)(A), italics added.) " '[W]hen a statute contains a list or catalogue of items, a court should determine the meaning of each by reference to the others, giving preference to an interpretation that uniformly treats items similar in nature and scope. [Citations.] In accordance with this principle of construction, a court will adopt a restrictive meaning of a listed item if acceptance of a more expansive meaning would make other items in the list unnecessary or redundant, or would otherwise make the item markedly dissimilar to the other items in the list. [Citations.]' " (*Commission on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal.4th 278, 294, quoting *Moore v. California State Bd. of Accountanc*y (1992) 2 Cal.4th 999, 1011-1012.) Placing aside the problem that the list of verbs applies only to redevelopment agencies, expansively reading the word "levy" into the list of prohibited actions would conflict with the other words

in the list describing actions that "otherwise transfer" tax increment funds, making the remaining words unnecessary or redundant. If Proposition 22 truly intended to prevent the Legislature from using tax increment funds as the basis for *calculating* certain payments or as the basis of a *levy*, it could have been written to prohibit the Legislature from requiring "a community redevelopment agency to pay, remit, loan, or otherwise transfer, directly or indirectly," its tax increment funds "*or to levy such revenues or use them as the basis for certain remittances*." But again, it was not drafted that way.

C. A Liberal Construction of Proposition 22 Does Not Render Assembly Bill 1X 27 Facially Unconstitutional

Even if Proposition 22's use of the words "directly" or "indirectly" is ambiguous and raises colorable questions of whether Proposition 22 might apply to community sponsors or whether it might prohibit the use of tax increment funds as a "yardstick" or "levy," I still cannot agree with the majority's conclusion that Assembly Bill 1X 27 is unconstitutional.

1. A Broad Construction of the Word "Indirectly"

The express obligation to make the payments to establish or continue redevelopment agencies rests on community sponsors, and not on redevelopment agencies themselves and Assembly Bill 1X 27 does not expressly compel the use of tax increment funds to make the Assembly Bill 1X 27 payments. However, the majority relies on the history of prior ERAF legislation and apparently infers that Proposition 22 intended its use of the word "indirectly" to cover the entire scenario posed by the Assembly Bill 1X 27 payments. But a careful dissection of the 2009 ERAF legislation, much of which was the immediate trigger for Proposition 22, illustrates why this reasoning is erroneous.

As relevant here, the 2009 ERAF shift legislation covered two fiscal years and was comprised of four different statutes. (Assem. Bill No. 26 (2009-2010 4th

Ex. Sess.) enacted as Stats. 2009, 4th Ex. Sess., ch. 21, §§ 6-9; §§ 33690 [for fiscal year 2009-2010], 33690.5 [for fiscal year 2010-2011], 33691, and 33692.)[8] A review of the first three of these statutes reveals that the Legislature clearly targeted redevelopment agencies and their tax increments as the funding source for the ERAF shifts. But the fourth statute, section 33692, was a stand-alone, catch-all provision that, unlike the other three statutes, expressed a revenue-neutral stance as to the money used to fund the ERAF shifts. As I will explain, no liberal construction of Proposition 22 can stretch to prohibit similar revenue-neutral provisions enacted by Assembly Bill 1X 27.

The first two statutes specify that a redevelopment agency "*shall* remit" the ERAF shifts, and that payments were to be based directly on a proportion of the redevelopment agency's net tax increment. (§§ 33690, subd. (a), 33690.5, subd. (a), italics added.) Both statutes state that the ERAF remittance for each fiscal year is "declared to be an indebtedness of the redevelopment project to which they relate, payable from" tax increment funds. (§§ 33690, subd. (e), 33690.5, subd. (e).) Each statute also states, however, that the redevelopment agency could make the payment by using any of the redevelopment agency's other available revenue sources. (§§ 33690, subd. (b), 33690.5, subd. (b).) Each further declares, "[i]t is the intent of the Legislature, in enacting this section, that these

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[8] Over a year later, the Legislature added a fifth statute, section 33691.5, that allowed indebted redevelopment agencies to enter into a long-term payment plan with the state to eventually pay off any outstanding ERAF remittances for fiscal years 2009-2010 and 2010-2011. (Sen. Bill No. 863 (2009-2010 Reg. Sess.) enacted as Stats. 2010, ch. 722, § 8.) Because this measure was signed into law on October 19, 2010, well after Proposition 22 qualified for placement on the November 2, 2010 election ballot, section 33691.5 could not have affected the intent of the drafters of Proposition 22. Accordingly, it bears no relevance to our analysis of what Proposition 22 intended to prohibit.

allocations *directly or indirectly* assist in the financing or refinancing, in whole or in part, of the community's redevelopment project pursuant to Section 16 of Article XVI of the California Constitution." (§§ 33690, subd. (f), 33690.5, subd. (f), italics added.)

Under both the plain language of Proposition 22 and a liberal construction of its use of the word "indirectly," the Legislature is clearly prohibited from enacting future legislation identical to these first two statutes. Because these first two statutes, sections 33690 and 33690.5, compelled redevelopment agencies to make the ERAF remittances and defined the revenue shifts, whether from tax increment funding or other available revenue, as part of the redevelopment agency's indebtedness, payable from tax increment funds, the drafters of Proposition 22 responded by including language that would prohibit the Legislature from enacting future legislation requiring "*a community redevelopment agency* . . . to pay, *remit*, loan, or otherwise transfer, *directly* or indirectly," its tax increment funds. (Cal. Const., art. XIII, § 25.5, subd. (a)(7)(A), italics added.)

To the extent that sections 33690 and 33690.5 also provide that the redevelopment agency could make the ERAF remittances by using any of the agency's other revenue sources not related to tax increment funds, a liberal construction of Proposition 22 also would forbid similar measures in the future. Although a redevelopment agency's use of otherwise available, non-tax-increment revenue cannot be a compelled *direct* remittance of its tax increment funds, such use may constitute an *indirect* remittance of its tax increment funds by imposing an additional, immediate financial obligation on the redevelopment agency's otherwise fixed budget. Thus, the provisions in these first two statutes allowing the ERAF remittance to be funded by other redevelopment agency revenue would be prohibited by Proposition 22 because such a provision would require "*a*

community redevelopment agency . . . to pay, *remit*, loan, or otherwise transfer, directly or *indirectly*," its tax increment funds. (Cal. Const., art. XIII, § 25.5, subd. (a)(7)(A), italics added.)

A third statute from the 2009 ERAF legislation allows a redevelopment agency to make partial ERAF remittances if its existing indebtedness made it impossible for the agency to fund the entire ERAF shift. (§ 33691.) "Existing indebtedness" is defined in this section as a financial obligation incurred by the redevelopment agency that required "the payment of which is to be made in whole or in part, *directly or indirectly*, out of" tax increment funds. (§ 33691, subd. (a)(1), italics added.) This section contains a provision allowing the redevelopment agency to obtain a loan from its local government for the ERAF payment, but it also specifies that this loan becomes part of the agency's indebtedness that "*shall* be payable from tax revenues apportioned to the agency pursuant to Section 33670 [i.e., tax increment funds], and any other funds received by the agency." (§ 33691, subd. (d)(2), italics added.)

Again, both the plain language of Proposition 22 and a liberal construction of it would prohibit this kind of statute in the future. The loan anticipated by section 33691 must be directly tied into a redevelopment agency's tax increment funds, and the loan also is indirectly tied to tax increment funding by virtue of continued reliance on "other funds received by the agency." (§ 33691, subd. (d)(2).) Pointedly, Proposition 22 mirrors the same "directly or indirectly" language used by section 33691, subdivision (a)(1). A future version of this third statute, therefore, would be prohibited under Proposition 22 because it would require "*a community redevelopment agency* . . . to pay, remit, *loan*, or otherwise transfer, *directly or indirectly*," its tax increment funds. (Cal. Const., art. XIII, § 25.5, subd. (a)(7)(A), italics added.)

Finally, a fourth statute from the 2009 ERAF legislation is markedly different from its sister statutes. This fourth statute contains a catch-all phrase allowing a local "legislative body" to make the ERAF remittances on behalf of the redevelopment agency using "any funds that are legally available for this purpose." (§ 33692, subd. (c).) The statute's revenue source is neutral and allows payment with "no strings attached," in the sense that it contains no provision, unlike section 33691, subdivision (d), that converts the payment into an redevelopment agency debt that is payable, either directly or indirectly, through its tax increment funds. To use the majority's terminology, this fourth statute acts as a kind of "levy" on tax increment funds that can be paid by a local government body using any available revenue source.

Here, I expose the Achilles' heel of the majority's reasoning concerning the unconstitutionality of Assembly Bill 1X 27. Proposition 22's plain language simply says nothing about the "yardstick" or "levy" scenario posed by this fourth statute in section 33692. The language of Proposition 22 constrains the Legislature from requiring "a community redevelopment agency" from making certain allocations of its tax increment, either "directly or indirectly." (Cal. Const., art. XIII, § 25.5, subd. (a)(7)(A).) Proposition 22 does not address a local "legislative body" nor does it address in any respect the use of otherwise unrelated local revenue to pay a "levy" on tax increment funds.

Even a liberal construction of Proposition 22 yields no different conclusion. The only possible ambiguity in the relevant language concerns the use of the word "indirectly," but that word is bound to the otherwise precise transitive verbs, "pay," "remit," "loan," and "transfer," all of which are bound to the subject, "a community redevelopment agency," and the constitutionally protected object, tax increment funds. Simple rules of grammar, therefore, necessarily limit how liberally we may construe the word "indirectly." (Civ. Code, § 13; *Busching v.*

Superior Court (1974) 12 Cal.3d 44, 52 ["ordinary rules of grammar" normally "must be applied unless they lead to an absurd result"].) Therefore, the word "indirectly" in plain language prohibits any compulsion being placed on a redevelopment agency to make certain reallocations (not levies) of its tax increment funds (but not other sources of local revenue).

As petitioner California Redevelopment Association conceded at oral argument, there are several sources of local revenues not protected by either Proposition 1A or Proposition 22, including, among other things, rental income, lease income, interest income, sales of government-owned assets, sales of bonds, investment income, and fines, fees, and penalties. Given that such revenues bear no relation to any financing received by a redevelopment agency, it seems impossible to conclude on a facial challenge, as the majority does, that Assembly Bill 1X 27 payments funded by these revenues could ever cause a redevelopment agency to indirectly transfer tax increment funds already allocated to it.

Certainly, as previously described, a liberal construction of the word "indirectly" can be applied to prohibit the first three statutes of the 2009 ERAF legislation because they each contained mandates directed at redevelopment agencies and either directly targeted agencies' tax increment funds or indirectly targeted their tax increment funds by assigning the ERAF shift as indebtedness payable from the redevelopment agency's revenue sources. Sections 33690 through 33691 express the premise that the ERAF remittances must come from the redevelopment agency, and, to the extent they do not, the nonpayment becomes part of the redevelopment agency's debt. In fact, the legislation specifically defines a redevelopment agency's preexisting debt as redevelopment agency payments that have to be made, *directly or indirectly*, out of tax increment funds. Further, the 2009 ERAF legislation asserts that the ERAF remittances were intended to *directly or indirectly* further redevelopment projects within the

meaning of article XVI of the Constitution. Accordingly, article XVI, section 25.5, subdivision (a)(7)(A) of the Constitution, as enacted by Proposition 22, is completely responsive to the circumstances contemplated by sections 33690 through 33691 by prohibiting the Legislature from requiring "a community redevelopment agency . . . to pay, remit, loan, or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI [i.e., its tax increment funds]."

But the fourth statute — section 33692 — poses an entirely different scenario, one that does not require a redevelopment agency to do anything, let alone require it to reallocate its tax increment funds, either directly or indirectly. It contemplates a situation not addressed by Proposition 22, even under a broad construction of that measure. Nevertheless, simply because section 33692 has an analog in Assembly Bill 1X 27 in the form of section 34194.1,[9] the majority hastily concludes that Proposition 22 prohibits similar levies on tax increment funds. The plain language, however, of section 25.5, subdivision (a)(7)(A) of article XIII of the California Constitution, as enacted by Proposition 22, does not support such a conclusion, even when liberally construed.

The majority criticizes my reliance on the grammar and syntax of Proposition 22 and cites our decision in *Burris v. Superior Court* (2005) 34 Cal.4th 1012 (*Burris*) for the notion that the normal rules of grammar must yield to the drafters' intent " 'to solve human problems' " and that we should approach

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[9] Like section 33692 from the 2009 ERAF legislation, section 34194.1 likewise explains that the Assembly Bill 1X 27 payments can be funded from any available city or county "funds not otherwise obligated for other uses." (§ 34194.1, subd. (a).)

" 'an interpretive problem not as if it were a purely logical game, like a Rubik's Cube, but as an effort to divine the human intent that underlies the statute.' " (*Id*. at p. 1017, quoting *J.E.M. AG Supply v. Pioneer Hi-Bred* (2001) 534 U.S. 124, 156 (dis. opn. of Breyer, J.).) Placing aside the fact that the quote originally came from a dissenting opinion by Justice Breyer that had nothing to do with rules of grammar or syntax,[10] any exception to the rules of grammar or syntax might have some justification if we have been presented with the same scenario we faced in *Burris*, where the disputed language "could readily refer" to two different circumstances, and the legislative history of the measure supplied no "evidence the Legislature chose a particular construction in order to implement one rule or the other." (*Burris v. Superior Court*, *supra*, 34 Cal.4th 1012, 1018.) But as I have already explained, the relevant language of Proposition 22 is hardly ambiguous, and, to the extent that it is ambiguous, any ambiguity cannot be stretched to give the meaning the majority now assigns to it.[11]

The only way the majority's interpretation of Proposition 22 could be reconciled with its conclusion that it renders Assembly Bill 1X 27 unconstitutional would be if Proposition 22 had been written with a different subject and a different object, stating that the Legislature shall not: "Require a ~~community redevelopment agency~~ local government body . . . to pay, remit, loan, levy or

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10 Instead, Justice Breyer used this language as a reason to take exception to "interpretive canon that disfavors repeal by implication." (*J.E.M. AG Supply v. Pioneer Hi-Bred*, *supra*, 534 U.S. 124, 155 (dis. opn. of Breyer, J.).)

11 More importantly, even ignoring the measure's actual language, in part II.C.2., I will explain that the drafters' express intent behind Proposition 22 does not support the majority's broad "human intent" interpretation, but instead is entirely consistent with the measure's plain language. Thus, my reliance on the syntax and grammar of Proposition 22 is but one additional reason, among others, that causes me to depart from the views of my colleagues.

otherwise transfer, directly or indirectly, funds based on taxes on ad valorem real property and tangible personal property allocated to ~~the~~ its redevelopment agency pursuant to Section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction . . . ." But Proposition 22 was not written that way. If the proponents of Proposition 22 had intended to preclude a future version of section 33692, the fourth statute in the 2009 ERAF legislation and its catch-all allowing a "local legislative body" to make remittances on behalf of the redevelopment agency by using "any funds that are legally available for this purpose," they had every opportunity to draft such language, but they did not. Therefore, the plain language of Proposition 22 does not cover a section 33692 scenario, in which a city, county, or other local government body makes the payment described by Assembly Bill 1X 27, nor can it properly be "liberally construed" as doing so.[12]

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[12] In a footnote (maj. opn., at p. 41, fn. 20), the majority claims that my interpretation would not prohibit the Legislature from implementing in the future any of the same statutes that were part of the 2009 ERAF legislation as long as it also was accompanied by the fourth statute containing a catch-all option not expressly prohibited by Proposition 22. This contention misconstrues both the precise language of the 2009 ERAF statutes and the nature of facial challenges to an individual statute. As previously described, on their face, the first three statutes of the 2009 ERAF legislation are not "options," and each contains mandatory language prohibited by Proposition 22. Because these three statutes either *require* the redevelopment agency to remit its tax increment funds or *require* loans to be backed by its tax increment funds, then their future iterations would be facially barred under Proposition 22. By itself, any future iterations of the fourth catch-all statute, section 33692, would never pose a problem of facial unconstitutionality as measured against Proposition 22, because it is the only one of the four statutes that truly presents an "option" under its plain language.

2. The History of Proposition 22

In some circumstances involving constitutional amendments, "[t]he literal language of enactments may be disregarded to avoid absurd results and to fulfill the apparent intent of the framers. [Citations.]" (*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 245.) Proposition 22, however, does not present such circumstances.

Nothing in the history of Proposition 22 suggests that its plain language must bend to some greater intention to shield tax increment funds from being used as a mere yardstick or "levy" for certain ERAF payments or that to hold otherwise would generate an absurd result. Uncodified sections of Proposition 22 refer to protecting against the reallocation of tax increment funds in a manner not more expansive than, and entirely consistent with, the language it enacted in article XIII, section 25.5, subdivision (a)(7)(A) of the state Constitution. (Prop. 22, Gen. Elec. (Nov. 2, 2010) §§ 2, subd. (d)(3) [noting that the Legislature has previously "[t]aken local community redevelopment funds on numerous occasions"], 9 [asserting that the "[t]he Legislature has been illegally circumventing Section 16 of Article XVI in recent years by requiring *redevelopment agencies to transfer a portion* of those taxes for purposes other than the financing of redevelopment projects" (italics added)].) Nothing in Proposition 22's history suggests that a broader reading — one that applies to and prohibits other entities' legislative bodies, or community sponsors, being compelled to make certain ERAF payments or prohibits using tax increment funds as a "levy" or yardstick to measure the size of those payments — is required. Nor is this result absurd because the plain language of section 25.5 (a)(7)(A) in article XIII of the California Constitution, as enacted by Proposition 22, fully encompasses the clearly stated purpose of Proposition 22 — "to prohibit the Legislature from requiring, after the taxes have been allocated to a redevelopment agency, the redevelopment agency to transfer

some or all of those taxes to the State, an agency of the State, or a jurisdiction; or to use some or all of those taxes for the benefit of the State, an agency of the State, or a jurisdiction." (Prop. 22, § 9.) Proposition 22 succeeds in ensuring that a redevelopment agency's largest source of revenue, the tax increment, cannot be reallocated by the state.

Nor does anything in the history of Proposition 22 suggest that its plain language must be construed to accommodate any hypothesized intention to protect *all conceivable local government revenues* or that to hold otherwise would generate an absurd result. Although uncodified sections of Proposition 22 complain that "state politicians in Sacramento have seized and borrowed billions of dollars in local government and transportation funds" (Prop. 22, § 2, subd. (c)) and broadly state that "[t]he purpose of this measure is to conclusively and completely prohibit state politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending, or otherwise taking or interfering with revenues that are dedicated to funding services provided by local government or funds dedicated to transportation improvement projects and services" (*id.*, § 2.5), the actual express limits that Proposition 22 imposes on the Legislature are quite discrete.

In addition to its language protecting tax increment funds, Proposition 22 provides that "[t]he Legislature may not reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purposes." (Cal. Const., art. XIII, § 24, subd. (b), as added by Prop. 22, Gen. Elec. (Nov. 2, 2010) § 3.) Thus, Proposition 22 protects local taxes specifically earmarked for local government purposes. It also prohibits the Legislature from borrowing from certain funds related to transportation programs, reduces or eliminates the Legislature's authority to change the distribution of state fuel taxes and vehicle license fees, and

ends the Legislature's ability to order temporary ERAF loans of local property taxes during state financial hardships. (Prop. 22, §§ 4-7.)

The majority broadly concludes that Proposition 22 was drafted with the intent of ending ERAF shifts similar to those that had occurred before, but this history of Proposition 22 does not allow us to paint with such a broad brush. Although the majority assumes the drafters of Proposition 22 and the voters who endorsed it must have intended to preclude the kinds of ERAF shifts that had taken place since 2003, it is noteworthy that the term "ERAF" appears nowhere in either the voter guide or the text of the measure itself and that it is only vaguely referenced as to redevelopment agencies in the Legislative Analyst's summary of Proposition 22. (Voter Information Guide, Gen. Elec. (Nov. 2, 2010) Legis. Analyst's analysis of Prop. 22, p. 33 ["Recently, the state required redevelopment agencies to shift $2 billion of revenues to schools over two years"].) Nor was there any explanation of how the prior ERAF shifts were both revenue and source neutral. To the extent these materials explicitly refer to state-mandated shifts of local revenues to schools, the materials were precise as to Proposition 22's intentions — it prevents compelling a redevelopment agency to use its tax increment funds to make future payments to schools and it ends the state's ability to take loans of local property taxes to make temporary payments to schools in state fiscal emergencies.

Proposition 22's language and history evince nothing more, yet the majority somehow concludes that the drafters of Proposition 22 fully informed the voters that the measure carried the intent of precluding every previously expressed method of funding the prior ERAF shifts. But what part of Proposition 22, in either its history or codified its language, informed voters that the measure intended to also protect "any funds that are legally available for" funding future ERAF payments? (§ 33692, subd. (c).) By assuming such an intended protection,

the majority broadly conflates the circumstances leading to Proposition 22's placement on the ballot with the clear expressed intent of its drafters as documented in both its history and its codified language.

Given the specificity with which Proposition 22 expressly curtails the Legislature's ability to seize and/or borrow local government revenue, it is far more reasonable to conclude that Proposition 22 was narrowly intended to protect specific local government revenues and not, expansively, to cover "any funds that are legally available for" funding the Assembly Bill 1X 27 payments. (§ 33692, subd. (c).) More important, it would be improper to rely upon uncodified sections of Proposition 22 to support an unspoken intent to preclude the use of any otherwise available local funds to make the payments required by Assembly Bill 1X 27. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 562 ["Where the words of the statute are clear, we may not add to or alter them to accomplish a purpose that does not appear on the face of the statute or from its legislative history"].) Indeed, it would be an absurd result if we interpreted Proposition 22 to protect *all conceivable local revenues* in light of its otherwise clear language discretely isolating specific local revenue sources for protection.

Finally, I note that, in many ways, the payments described by Assembly Bill 1X 27 are not inconsistent with Proposition 22's expressly stated intent to prevent "[s]tate raids of revenues dedicated to funding vital local government services and transportation improvement projects and services." (Prop. 22, Gen. Elec. (Nov. 2, 2010) § 2, subd. (b).) The statutes governing Assembly Bill 1X 27 payments for every fiscal year after 2011-2012 provide that the payments are directed solely toward fire, transit, and school districts within the redevelopment project area. (§§ 34194, subds. (a), (c), 34194.1, subds. (b), (c), 34194.4, subds. (a)-(c).) In particular, the portions of Assembly Bill 1X 27 payments used to fund schools in the redevelopment project area are made in addition to any

funding provided to those schools by the state, potentially resulting in more funding for schools in financially troubled areas. (§ 34194.1, subds. (b), (c).) Far from being a "raid" of local revenues dedicated to essential government services, it seems apparent the Legislature had in mind the needs of local communities when deciding how to best balance the continued benefits of redevelopment.

D. Petitioners Fail to Show That Assembly Bill 1X 27 Conflicts with the Constitution "in the Generality or Great Majority of Cases"

Even assuming the broadest possible construction of Proposition 22 and applying the more lenient standard for facial challenges, petitioners have failed to provide evidence to support a finding that Assembly Bill 1X 27 is unconstitutional.

Petitioners provide declarations on behalf of only seven of California's 482 incorporated cities and only one of its 58 counties. Given such a small sampling, even if they all described identical inevitable conflicts between Assembly Bill 1X 27 and the state Constitution, this evidence would fail to establish a constitutional violation " 'in the *generality* or *great majority* of cases.' " (*Guardianship of Ann S.*, *supra*, 45 Cal.4th 1110, 1126.) This showing is insufficient to establish that Assembly Bill 1X 27 payments must come, either directly or indirectly, from redevelopment agencies' tax increment funds in the generality or great majority of cases.

Moreover, the declarations provided by petitioners actually show quite the opposite. The declaration from the executive director of the California Redevelopment Association explains that the tax increment funds of most redevelopment agencies are tied up with existing debt, and that, as a result, "many redevelopment agencies will be unable to fund the required [Assembly Bill 1X 27] payments." The great majority of the other declarants make similar statements about their respective redevelopment agencies. Only one declarant, Mayor Jean

Quan, City of Oakland, unequivocally states that her city "can make the Assembly Bill1X 27 payment by utilizing its current property tax increment [funds] and all of its remaining reserves. . . ." If these declarations are accepted as true, then they suggest that neither community sponsors nor most redevelopment agencies will actually be compelled to use their tax increments funds to make the Assembly Bill 1X 27 payments and there is no violation of Proposition 22.

Thus, petitioners' own evidence defeats the very notion that Assembly Bill 1X 27 will compel a violation of Proposition 22 in the generality or great majority of cases. Given this lack of evidence, the best we can conclude is that it *could* be possible that the statutes enacted by Assembly Bill 1X 27 *might* cause some redevelopment agencies to waive their constitutional protections as they relate to tax increment funds. But such speculation on a facial challenge cannot render legislation unconstitutional.

This evidentiary failure is unsurprising given that counsel for petitioner California Redevelopment Association candidly admitted at oral argument that his clients' worst case scenario would be a world where Assembly Bill 1X 26 is found constitutional and Assembly Bill 1X 27 is not. Implicit in that admission is the recognition that an overly broad interpretation of Proposition 22's protections would forever place petitioners' largest and most critical revenue source, tax increment financing, under lock and key. Given that we agree that, under Assembly Bill 1X 26, redevelopment agencies can be dismantled and their previously allocated tax increment revenue can be redistributed, how can they now ever be reconstituted and refinanced unless Assembly Bill 1X 26 itself is wholly reversed? The irony of these circumstances concerning Proposition 22 should not be ignored — the very measure that was crafted to protect financing for new redevelopment projects has been broadly interpreted in a manner that effectively

ends all financing for new redevelopment projects. This cannot be a necessary result intended by the proponents of Proposition 22 concerning redevelopment.

III. Conclusion

Given the procedural posture of this case, the rules of statutory and constitutional construction, and the nature of petitioners' burden of proof, I believe we cannot declare Assembly Bill 1X 27 unconstitutional in the manner articulated by the majority.

Although the system of redevelopment in this state has been far from perfect, it certainly is worth noting redevelopment projects like the restored Public Market Building in downtown Sacramento, the Bunker Hill project in downtown Los Angeles, Horton Plaza and the Gaslamp Quarter in downtown San Diego, HP Pavilion in San Jose, and Yerba Buena Gardens in downtown San Francisco. When faithfully administered and thoughtfully invested in the interests of the community, a redevelopment agency can successfully create jobs, encourage private investment, build local businesses, reduce crime and improve a community's public works and infrastructure.

A close reading of Assembly Bill 1X 27 indicates that the Legislature sought to preserve these benefits by carefully attempting to craft legislation that did not run afoul of our state Constitution. As noted earlier (see *ante*, pp. 23-24), it even sought to redress some of the inequity the prior system had created by funneling additional money into schools and fire and transit districts within each redevelopment project area. (§§ 34194, subds. (a), (c), 34194.1, subds. (b), (c), 34194.4, subds. (a)-(c).) In advocating for the constitutionality of Assembly Bill 1X 27, the California Teachers Association and the state's largest school district, Los Angeles Unified School District, both point out that Assembly Bill 1X 27 would provide schools with an additional $340 million per year, beginning with

every fiscal year following 2011-2012. But today, the Legislature's attempt to balance the benefits of continued redevelopment with the need to fund vital local government services has apparently failed with little or no alternative to continued redevelopment available.

For the reasons set forth above, I conclude that petitioners fail to establish that Assembly Bill 1X 27 is unconstitutional on its face.

CANTIL-SAKAUYE, C. J.

See last page for addresses and telephone numbers for counsel who argued in Supreme Court.

Name of Opinion California Redevelopment Association v. Matosantos

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Unpublished Opinion
Original Appeal
Original Proceeding XXX
Review Granted
Rehearing Granted

Opinion No. S194861
Date Filed: December 29, 2011

Court:
County:
Judge:

Counsel:

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