



REPORT TO COUNCIL AND REDEVELOPMENT AGENCY 8

City of Sacramento

915 I Street, Sacramento, CA 95814-2671

www.CityofSacramento.org

Staff Report

August 9, 2011

**Honorable Mayor and Members of the City Council
Chair and Members of the Redevelopment Agency Board**

Title: Adopt an Emergency Ordinance to Take Effect Immediately Authorizing the City of Sacramento to Participate in the Alternative Voluntary Redevelopment Program and the Approval of a Remittance Agreement between the City and the Redevelopment Agency of the City of Sacramento (Requires 2/3rd Vote)

Location/Council District: all

Recommendation: Staff recommends that 1) the City Council adopt an emergency **Ordinance** authorizing the City to participate in Assembly Bill X1 27 (AB 27) Voluntary Alternative Redevelopment Program (VARP), and 2) a **City Council Resolution** a) authorizing the Interim City Manager to execute a Remittance Agreement through which the VARP payments will be made to the County Auditor-Controller, and b) authorizing the Interim City Manager, or his designee, to receive and expend the funds necessary to make payment under the terms of the Remittance Agreement, and 3) the **Redevelopment Agency Board** adopt a **Resolution** authorizing suspension of the allocation of Tax Increment to the Low and Moderate Income Housing Fund (LMIHF) for the 2011-2012 Fiscal Year, and 4) the **Redevelopment Agency Board** adopt a **Resolution** a) authorizing the Executive Director, or her designee, to execute, upon the effective date of an ordinance that complies with Part 1.9 of the California Health and Safety Code, a Remittance Agreement with the City of Sacramento, b) authorizing the Executive Director, or her designee, to appropriate the funds needed to make the payment under the terms of the Remittance Agreement in the Agency's 2012 budget and amend the Agency's 2011 budget, as needed, to appropriate the funds needed to make payment under the terms of the Remittance Agreement, and c) authorizing the Executive Director, or her designee, to document existing and on-going administrative services and overhead costs associated with administering the City redevelopment project areas and to report such cost annually to the state controller to comply with the provisions of AB X1 27.

Contact: La Shelle Dozier, Executive Director, 440-1319

Presenters: LaShelle Dozier, Executive Director

Department: Sacramento Housing and Redevelopment Agency

Description/Analysis

Issue: On June 15, 2011, the State Legislature passed two related redevelopment bills (AB X1 26 and AB X1 27 attached hereto) and the Governor signed these bills into law on June 29, 2011. The purpose of the redevelopment bills are (1) to dissolve redevelopment agencies, and (2) to provide for a “voluntary” alternative redevelopment program (VARP). VARP exempts redevelopment agencies from dissolution if the community (e.g., the City Council) enacts an ordinance before November 1, 2011 to comply with the new legislation and makes certain required payments to the County Auditor Controller.

Agency staff has evaluated the fiscal impact of the VARP legislation and has determined that the Agency will be able to make the anticipated payments to continue to operate. Since it is the City’s obligation to make the VARP payments, it is recommended that the City and Agency enter into a Remittance Agreement that establishes the respective City and Agency actions to ensure the VARP remittances are made. Further, staff is also recommending that the Agency adopt a resolution which finds and declares that it is necessary to suspend the 2011-12 LMIHF’s as such monies are necessary to complete the VARP remittances.

Policy Considerations: The recommended actions are consistent with prior Redevelopment Agency Board direction related to the implementation of Five-Year Redevelopment Area Plans in the City of Sacramento. The actions will also further enable the Agency to fulfill its affordable housing production goals throughout the City. In addition, through the normal course of business over the past several years the Agency has entered into numerous project agreements and contracts utilizing local tax increment funds to support a number of other sources of funding including federal Community Development Block Grant (CDBG), Economic Development Administration (EDA), Office of Economic Adjustment (OEA), and California Transportation (Cal Trans) funds, among others. Most existing or anticipated projects have matching funds requirements that are met with Redevelopment Tax Increment (TI) funds. It is important that receipt of these various and significant sources of outside funds not be jeopardized or cause other agencies to withhold or withdraw their funding due to uncertainty over continued TI match funding. The City’s general fund would not be pledged to make these payments. The proposed ordinance further reserves all rights to challenge the validity of the legislation and it also reserves the right of the City Council to repeal the ordinance at any time in the future, at the City’s sole discretion. The emergency ordinance requires a 2/3rd vote.

Should the city fail to make the required remittance after opting to participate in VARP pursuant to AB X1 27, the state will have a right to any payment owed to the city from the redevelopment agency pursuant to an agreement between the redevelopment agency and the city. In addition, the redevelopment agency will be subject to the wind down provisions provided for in AB X1 26.

Environmental Considerations:

California Environmental Quality Act (CEQA): The proposed actions, to adopt an ordinance and associated actions to allow the Redevelopment Agency to continue to operate, constitute administrative activities and government fiscal activities which do not involve commitment to any specific project and will not result in any physical impacts on the environment. As such, the proposed actions do not constitute a project under the California Environmental Quality Act (CEQA) per Guidelines Section 15378.

Sustainability Considerations: not applicable

Other: National Environmental Policy Act (NEPA): There is no federal funding or other federal action associated with the proposed actions; therefore, the National Environmental Policy Act (NEPA) does not apply.

Committee/Commission Action: At its meeting of August 3, 2011, the Sacramento Housing and Redevelopment Commission was briefed on this item.

Rationale for Recommendation: Adoption of the ordinance and resolutions will enable the Agency to effectively and efficiently carry out projects that remove blighting influences and improve the quality of life for individuals residing in the redevelopment areas. Specifically, the following projects will be immediately impacted if the ordinance is not adopted: 800 K Street, 65th Street Bus Transfer Relocation, 14th Avenue Extension, Rio Linda Superblock, Grand Theater Renovation, Martin Luther King, Jr. Boulevard Street Enhancements, and the Township 9 affordable housing component. The following projects may also be impacted if they require a commitment of additional Agency resources to complete: La Valentina Mixed-use Development, Del Paso Nuevo, 700 K Street, Broadway Triangle, and the San Juan Motel Redevelopment Project.

Financial Considerations: If the Agency adopts the Ordinance authorizing the City to participate in VARP, the State Department of finance has determined that the payment for FY 2011-12 is \$18.3 million. For FY 2012-13 forward, the ongoing payment is estimated to be \$4.2 million but will fluctuate as tax increment revenues fluctuate. The payment is divided into two installments. The first half payment is due on January 15, 2012, with the remaining balance due May 15, 2012.

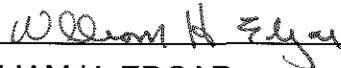
Pursuant to a review of the property tax information provided by the County Assessor's Office, 2011-12 projections for non-housing tax increment will be insufficient to meet the total debt and other obligations including its priority program needs and the obligation under the remittance agreement. Therefore, it is necessary for the Agency to suspend its 2011-12 allocation to its low and moderate income housing funds.

M/WBE Considerations: Not applicable.

Respectfully Submitted by:


LA SHELLE DOZIER
Executive Director

Recommendation Approved:


WILLIAM H. EDGAR
Interim City Manager

Approved as to form:

Agency Counsel

APPROVED AS TO FORM:

CITY ATTORNEY

Table of Contents

Report	pg. 1
Attachments	
1. Background	pg. 5
2. AB 1X 26 text	pg. 7
3. AB 1X 27 text	pg. 49
4. City Resolution – Remittance Agreement	pg. 60
Exhibit A – Remittance agreement	pg. 62
5. RDA Resolution – Remittance Agreement	pg. 67
Exhibit A – Remittance Agreement	pg. 60
6. Redevelopment Resolution – LMIHF	pg. 74
7. Ordinance	pg. 76



Background

Staff has evaluated the fiscal impact of the VARP legislation outlined in AB 27 and has determined that the Agency will be able to make the anticipated payments in order to continue to operate. The estimated payments are subject to appeal and revision on the basis that the information in the State Controller's report was in error or that the percentage of tax increment necessary to pay for tax allocation bonds and interest payments has increased by 10 percent or more over the percentage calculated pursuant to the State Controller's redevelopment agency 2008-09 annual report. The Agency has reviewed the State criteria and concluded that the decline in tax increment revenues for City project areas meets the threshold for appeal. We will be submitting our appeal with the State Department of Finance prior to August 15, 2011, but the amount of reduction permitted is at the sole discretion of the State Director of Finance.

Sufficient funds are available to make the estimated required payments through a combination of project defundings and anticipated 2011-12 tax increment including the suspension of the 2011-12 low and moderate income housing funds. The current estimate for 2012 tax increment is approximately \$45 million for City project areas, of this amount, the non-housing tax increment revenues total \$35 million and are insufficient to meet the total debt and other obligations which include priority program needs and the obligation under the remittance agreement estimated at \$51.8 Million. Therefore, it is necessary for the Agency to recommend the suspension of its 2011-12 allocation to its low and moderate income housing funds.

By making the VARP payment the Agency will be able to continue to fund existing affordable housing projects, as well as other redevelopment capital projects and the cost of Agency and City redevelopment administration identified in the Agency's adopted 2011 budget. However, the Agency's ability to undertake new projects would be severely curtailed. In addition, the VARP payment may impact existing projects as well. The Agency plans to use the following guidelines and criteria when evaluating existing projects for possible defunding:

- **Project Area Fair Share:** To the maximum extent possible, each project area will contribute their fair share of funding to the state payment obligation.
- **Low Mod Funds Repayment:** Project areas with segregated low mod funds can use them in the future outside of their project area to offset any deficits in payment contributions.
- **Development Assistance Funds:** Funds that are segregated to pay for project delivery costs associated with future project delivery will have the highest priority for defunding.
- **Project Readiness:** Projects that are near construction, third party contracts that have been awarded and have all financing in place are the lowest priority for defunding.
- **Project Finance Leverage** Priority will be given to fund projects that have the highest amount of leverage with other funding sources. Focus on defunding

projects that may have additional Tax Increment revenue that exceeds the minimum match requirements for other funding.

- **Project Phasing:** Defund a portion of the project if it can be split into phases with future phases. Funding for future phases would come at a later date without jeopardizing the entire project.

Adoption of the ordinance will permit the Agency to continue utilizing redevelopment as a tool for community improvement, but it comes at a cost of approximately \$22.5 over the next two fiscal years, with continued payments required over the life of the redevelopment project areas. If the City Council elects not to adopt the Ordinance, the Agency would retain the limited authorities outlined in ABX1 26 to manage its affairs until the Agency is dissolved on October 1, 2011. The Agency would continue to be prohibited from undertaking most redevelopment activities with the exception of making scheduled payments on and performing obligations required under the "Enforceable Obligations" schedule.

After October 1, 2011 the Agency would be replaced by the City as the Successor Agency which would report to an Oversight Board tasked to wind down the affairs of the Agency. Under the provisions of AB X1 26, the City would become the successor entity unless it elects not to serve as a successor agency and files a copy of a duly authorized resolution of its governing board to that effect with the County Auditor Controller by September 1, 2011. The Successor Entity would receive only the amount of tax increment necessary to retire existing bond debt and other enforceable obligations. Also, existing agreements between the City and the Agency would not be recognized as enforceable obligations and the City could have liability to third parties to make payments owed under contracts made in expectation of receipt of Agency funding. In addition, all Agency assets, including the 800 K Street and Docks properties, would have to be sold rather than redeveloped under the authority of the Agency.

The California Redevelopment Association and California League of Cities believe that the redevelopment bills violate the State Constitution and other laws. However, to maximize the City's and Agency's options and to allow the Agency to continue operating while the legality of the legislation is being litigated, staff is recommending that the City adopt the VARP Ordinance as emergency legislation which will commit the "community" (i.e. the City) to comply with and make the payments required by the legislation. The legislation states that adoption of such an ordinance and payment of the remittances (the first of which would be due on January 15, 2012) exempts the redevelopment agency from the bill that purports to dissolve it. Since the emergency ordinance will take effect immediately upon adoption it will allow the Agency to continue to function so long as the required payments can be made. Since it is the City's obligation to make the VARP payments, it is recommended that the City and Agency enter into a Remittance Agreement that establishes the respective City and Agency actions to ensure the VARP remittances are made. The ordinance would limit the City's commitment to make these payments to available net tax increment funds and other unencumbered Agency funds or assets that the Agency transfers to the City for this purpose.



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, Blumenfeld. 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 entity, 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) Expediently 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 XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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.

O



Assembly Bill No. 27

CHAPTER 6

An act to add Part 1.9 (commencing with Section 34192) to Division 24 of the Health and Safety 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 27, Blumenfield. Voluntary Alternative Redevelopment Program.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in those communities and requires agencies to prepare, or cause to be prepared, and to approve a redevelopment plan for each project area.

This bill would, notwithstanding specified law, upon the enactment of specified legislation concerning redevelopment, establish a voluntary alternative redevelopment program whereby a redevelopment agency would be authorized to continue to exist upon the enactment of an ordinance by the community to comply with the bill's provisions. The bill would require the city or county that created a redevelopment agency to notify the county auditor-controller, the Controller, and the Department of Finance on or before November 1, 2011, that the community will comply with the bill's provisions. The bill would require a participating city or county to make specified remittances to the county auditor-controller, who shall allocate the remittances for deposit into a Special District Allocation Fund, for specified allocation to certain special districts, and into the county Educational Revenue Augmentation Fund, as prescribed. The bill would authorize the city or county to enter into an agreement with the redevelopment agency in that jurisdiction, whereby the redevelopment agency would transfer a portion of its tax increment to the city or county for the purpose of financing certain activities within the redevelopment area, as specified. The bill would impose specified sanctions on a city or county that fails to make the required remittances, as determined by the Director of Finance. This bill would authorize the county auditor-controller to charge a fee that does not exceed the reasonable costs to the county auditor-controller to implement the provisions of this bill.

This bill would authorize a community to establish a new redevelopment agency only after the debt obligations of the former redevelopment agency have been retired and the community satisfies the provisions of this bill, as specified.

The bill would appropriate \$500,000 from the General Fund to the Department of Finance for the costs to comply with the bill.

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.

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) Section 16 of Article XVI of the California Constitution delegates authority to the Legislature to establish redevelopment agencies by statute. The Legislature retains the authority to dissolve redevelopment agencies by statute or to establish conditions for the continued operation of redevelopment agencies that apply to communities on a voluntary basis.

(b) The diversion of over five billion dollars (\$5,000,000,000) in property tax revenue to redevelopment agencies each year has made it increasingly difficult for the state to meet its funding obligations to the schools.

(c) The establishment of voluntary conditions on communities to allow for the continuation of redevelopment agencies provides a way to stabilize school funding in communities and allow redevelopment agencies to continue to make investments to remediate blight and create jobs in their communities.

SEC. 2. Part 1.9 (commencing with Section 34192) is added to Division 24 of the Health and Safety Code, to read:

PART 1.9. ALTERNATIVE VOLUNTARY REDEVELOPMENT
PROGRAM

CHAPTER 1. APPLICATION OF THIS PART

34192. Notwithstanding any provision of law, if a city or county that includes a redevelopment agency participates in the program established pursuant to this part and complies with all requirements and obligations contained in this part, a redevelopment agency included in that city or county shall be exempt from Part 1.8 (commencing with Section 34161), Part 1.85 (commencing with Section 34170), and any other conflicting provision of law.

34192.5. (a) This part shall be operative only if Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) are enacted and operative at the time the act adding this part takes effect.

(b) To the extent that Part 1.8 (commencing with Section 34161) or Part 1.85 (commencing with Section 34170) conflict with this part, the provisions of this part shall control.

CHAPTER 2. CONTINUED AGENCY EXISTENCE

34193. (a) Notwithstanding Part 1.8 (commencing with Section 34161), Part 1.85 (commencing with Section 34170), or any other law, a redevelopment agency may continue to exist and carry out the provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)) only upon the enactment of an ordinance enacted by the community to comply with this part on or before November 1, 2011, except as provided in clause (ii) of subparagraph (L) of paragraph (2) of subdivision (b) of Section 34194.

(b) If a city or county intends to enact the ordinance provided for in this section after October 1, 2011, it shall indicate that intention by adopting a nonbinding resolution of intent to that effect prior to October 1, 2011, and notify the Department of Finance, the Controller, and the county auditor before October 1, 2011, concerning the resolution. This action shall delay the dissolution of a redevelopment agency until November 1, 2011. If a city or county does not enact an ordinance pursuant to this part, Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) shall apply, as applicable, to a redevelopment agency.

34193.1. On or before November 1, 2011, a city or county that has created a redevelopment agency and enacted an ordinance pursuant to Section 34193 shall notify the county auditor-controller, the Controller, and the Department of Finance that the city or county agree to comply with the provisions of this part.

34193.2. The community remittances that are made under this part are intended to benefit the community by ensuring improved educational and other community services in the areas served by the redevelopment agency.

(a) A city or county's agreement to remit revenues to school entities and special districts under this part is a precondition to continue redevelopment pursuant to this part.

(b) Participation in the alternative voluntary redevelopment program shall also constitute an agreement, on the part of a city or county, that it assigns its rights to any payments owed from a redevelopment agency, including, but not limited to, payments from loan agreements, to the state, in the event that the city or county fails to make a remittance required pursuant to this part.

34193.3. The actions of any redevelopment agency of a participating city or county that has enacted an ordinance pursuant to Section 34193, taken after the date of the adoption of that ordinance, and which are subject

to the provisions of Sections 33500 or 33501, shall not be subject to subdivision (c) or (d) of Section 33500 or of subdivision (c) of Section 33501. Instead, these actions shall be subject to the other provisions of those sections notwithstanding that the actions occurred after January 1, 2011.

CHAPTER 3. COMMUNITY REMITTANCES

34194. (a) A city or county that includes a redevelopment agency that has complied with this part shall make the remittances required by this section to the county auditor-controller. The county auditor-controller shall deposit an amount as determined by Section 34194.4 into the Special District Allocation Fund, and remaining funds shall be remitted to the county Educational Revenue Augmentation Fund, created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(b) (1) For the 2011–12 fiscal year, a city or county shall remit an amount equal to the amount determined for the redevelopment agencies in that city or county pursuant to subparagraph (I) of paragraph (2).

(2) Utilizing the Controller’s redevelopment agency 2008–09 annual report, the Director of Finance shall do all of the following for the 2011–12 fiscal year:

(A) Determine the net tax increment apportioned to each redevelopment agency pursuant to Section 33670, calculated as a redevelopment agency’s tax increment revenue, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, and excluding all amounts used to pay for tax allocation bonds and interest payments specified in the Controller’s report, in the 2008–09 fiscal year.

(B) Determine the net tax increment apportioned to all redevelopment agencies pursuant to Section 33670, calculated as all redevelopment agencies’ tax increment revenue, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, and excluding all amounts used to pay for tax allocation bonds and interest payments specified in the Controller’s report, in the 2008–09 fiscal year.

(C) Determine each redevelopment agency’s proportionate share of statewide net tax increment by dividing the amount determined pursuant to subparagraph (A) by the amount determined pursuant to subparagraph (B).

(D) Determine a proportionate amount of net tax increment for each redevelopment agency by multiplying one billion seven hundred million dollars (\$1,700,000,000) by the proportionate share determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each redevelopment agency pursuant to Section 33670, calculated as a redevelopment agency’s tax increment revenue, including any amounts apportioned to affected taxing agencies pursuant to Section 33401,

33492.140, 33607, 33607.5, 33607.7, or 33676, and including all amounts used for payments of tax allocation bonds and interest payments specified in the Controller's report, in the 2008–09 fiscal year.

(F) Determine the total amount of property tax revenue apportioned to all redevelopment agencies pursuant to Section 33670, calculated as all redevelopment agencies' tax increment revenue, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, and including all amounts used for payments of tax allocation bonds and interest payments specified in the Controller's report, in the 2008–09 fiscal year.

(G) Determine each redevelopment agency's proportionate share of property tax revenue by dividing the amount determined pursuant to subparagraph (E) by the amount determined pursuant to subparagraph (F).

(H) Determine a proportionate amount of property tax revenue for each redevelopment agency by multiplying one billion seven hundred million dollars (\$1,700,000,000) by the proportionate share determined pursuant to subparagraph (G).

(I) Average the amounts determined pursuant to subparagraphs (D) and (H).

(J) On or before August 1, 2011, notify each city or county of the amount determined pursuant to subparagraph (I) for a redevelopment agency of that city or county.

(K) Notify each county auditor-controller of the amounts determined pursuant to subparagraph (I) for each agency in his or her county.

(L) (i) After receiving the notification from the Director of Finance pursuant to subparagraph (J), a city or county may appeal the amount of remittance to the director on or before August 15, 2011, on the basis that the information in the Controller's report was in error or that the percentage of tax increment necessary to pay for tax allocation bonds and interest payments has increased by 10 percent or more over the percentage calculated pursuant to the Controller's redevelopment agency 2008–09 annual report. Any appeal shall include documentation that clearly and convincingly establishes the basis of the appeal and the amount of the claimed discrepancy.

(ii) The director may reject the appeal or approve it, in whole or in part, at the director's sole discretion. The director shall notify the city or county and the county auditor-controller of the decision on the appeal by September 15, 2011. However, the director may extend the decision deadline, at the director's discretion and upon notification of the city or county and the county auditor-controller, until October 15, 2011, in which case the date by which the city or county must enact the ordinance required by this part shall be extended until December 1, 2011. If the director determines that the percentage of tax increment necessary to pay for tax allocation bonds or interest payments has increased by 10 percent or more, as described by this subparagraph, then the director shall recalculate the remittance amount for the city or county identified in subparagraph (I) by reducing the amount in subparagraph (D) to reflect any percentage increase that is in excess of 10 percent.

(c) For the 2012–13 fiscal year and each fiscal year thereafter a participating community shall remit an amount equal to the sum of the amounts specified in paragraphs (1) and (2):

(1) For a community subject to a remittance amount determined for the 2011–12 fiscal year pursuant to subdivision (b), a base payment equal to the base payment in the prior fiscal year, increased by the percentage growth or decreased by the percentage reduction, as appropriate, from the prior fiscal year in the total adjusted amount of property tax increment revenue allocated to the redevelopment agency of the community pursuant to Section 33670 with respect to project areas that were in existence, and for which the agency received allocations of tax increment revenue, during the 2011–12 fiscal year.

(A) For the 2012–13 fiscal year, the base payment in the prior fiscal year shall be the remittance amount determined pursuant to subdivision (b) for the 2011–12 fiscal year multiplied by the ratio of four hundred million dollars (\$400,000,000) to one billion seven hundred million dollars (\$1,700,000,000).

(B) The “adjusted amount of property tax increment revenue” described in this paragraph means an amount of property tax increment in any fiscal year for a project area that is calculated by subtracting the amount of any debt service or other payments for new debt issuances or obligations, as provided in paragraph (2), from the total amount of property tax increment revenue allocated in that year to the agency with respect to that project area.

(2) (A) An amount equivalent to 80 percent, or any lesser amount as may be authorized by law for qualifying projects, of the total net school share, as described in subparagraph (B), of debt service or other payments made in that fiscal year for new debt or obligations issued or incurred on or after November 1, 2011, as shown on the agency’s statement of indebtedness, excluding any debts issued or incurred on behalf of the agency’s Low and Moderate Income Housing Fund, established pursuant to Section 33334.3. “New debt” means debt that is displayed on a statement of indebtedness filed after a statement of indebtedness filed on October 1, 2011, that was not displayed on the statement of indebtedness filed on October 1, 2011.

(B) For the purpose of subparagraph (A), the net school share shall be the school share of the property tax increment revenues, less any passthrough payments to school entities, that would have been received in the absence of redevelopment by school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, in the jurisdictional territory of the redevelopment agency, including, but not limited to, the amounts specified in Section 97.68 and 97.70 of the Revenue and Taxation Code.

(C) It is the intent of the Legislature to enact legislation in the 2011–12 session to prescribe a schedule of reductions in the community remittance, described in subparagraph (A), that will authorize payments of less than 80 percent of the school share of property taxes to the Educational Revenue Augmentation Fund. The reductions shall apply for bonds issued for the purpose of funding projects that advance the achievement of statewide goals

with respect to transportation, housing, economic development and job creation, environmental protection and remediation, and climate change, including, but not limited to, projects that are consistent with the Sustainable Communities Strategies developed pursuant to Chapter 4.2 (commencing with Section 21155) of Division 13 of the Public Resources Code.

(3) On or before November 1 of each year, the city or county shall notify the Department of Finance, the Controller, and the county auditor-controller of the remittance amount required by the calculations described in this subdivision. The Director of Finance, the Controller, and the county auditor-controller shall each be authorized to audit and verify the remittance amount that is determined by the city or county. The county auditor-controller, based upon an audit conducted by that office, or upon notification by the Director of Finance or the Controller based on an audit conducted by those offices, that determines that the city or county has miscalculated its remittance payment amount, shall adjust the amount of the next remittance payment that shall be paid by the city or county to reflect the correct amount of payment previously owed by the city or county as identified in that audit, as required by this subdivision.

(d) (1) A city or county shall pay one-half of the total remittance amount, as calculated pursuant to subdivision (b) or (c), on or before January 15 of each year and shall pay the remaining one-half of the remittance amount on or before May 15 of each year.

(2) If a city or county fails to make its remittance payment as required by paragraph (1), the county auditor-controller shall notify the Director of Finance of the failure to make the payment within 30 days. Upon receipt of the notification, the Director of Finance may determine that the redevelopment agency in the city or county shall be subject to the requirements of Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) as described in Section 34195.

34194.1. (a) A city or county making remittances to the county auditor-controller pursuant to Section 34194 or 34194.5 may use any available funds not otherwise obligated for other uses.

(b) In the 2011–12 fiscal year, the total amount paid pursuant to this chapter to school districts, county offices of education, charter schools, and community college districts shall be considered to be property taxes for the purposes of Section 2558, paragraph (1) of subdivision (h) of Section 42238, and Section 84751 of the Education Code. In the 2011–12 fiscal year, notwithstanding any other law, funding provided to local education agencies pursuant to this chapter shall be considered allocated local proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c) In fiscal years on and after the 2012–13 fiscal year, the total amount paid each year pursuant to this chapter to school districts, county offices of education, charter schools, and community college districts shall not be considered to be property taxes for the purposes of Section 2558, paragraph (1) of subdivision (h) of Section 42238, and Section 84751 of the Education Code. In fiscal years on and after the 2012–13 fiscal year, notwithstanding any other law, funding provided to local education agencies pursuant to this

chapter shall not be considered allocated local proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(d) For purposes of computing a school district's property tax revenue, remittances made pursuant to this chapter shall be treated as property tax revenues transferred to school districts, county offices of education, and community college districts pursuant to subdivision (a) of Section 34183 for purposes of Section 41204.3 of the Education Code.

(e) (1) Notwithstanding Sections 97.2 and 97.3 of the Revenue and Taxation Code, the county auditor-controller shall distribute the funds that are remitted to the county Educational Revenue Augmentation Fund by a city or county pursuant to this section only to a K-12 school district or county office of education that is located partially or entirely within any project area of the redevelopment agency in an amount proportional to the average daily attendance of each school district.

(2) The county auditor-controller shall notify each K-12 school district, and the State Department of Education, of the amount of Educational Revenue Augmentation Fund moneys a district receives pursuant to this section. The county auditor-controller shall also notify each K-12 school district receiving funds pursuant to paragraph (1) of the project area boundaries of the redevelopment agency.

(3) (A) The county superintendent of schools shall provide the average daily attendance reported for each school district as of the second principal apportionment for the preceding fiscal year to the county auditor-controller.

(B) The county auditor-controller shall, based on information provided by the county superintendent of schools pursuant to subparagraph (A), allocate the funding pursuant to this subdivision to those districts within the city or county.

(4) School districts and county offices of education shall use the funds received under this section to serve pupils living in the redevelopment areas or in housing supported by redevelopment agency funds. Redevelopment agencies shall provide whatever information school districts and county offices of education need to accomplish this purpose.

34194.2. In choosing to continue redevelopment pursuant to this part, a city or county may enter into an agreement with the redevelopment agency in that jurisdiction, whereby the redevelopment agency will transfer a portion of its tax increment to the city or county, in an amount not to exceed the annual remittance required that year pursuant to this chapter, for the purpose of financing activities within the redevelopment area that are related to accomplishing the redevelopment agency project goals.

34194.3. For the 2011–12 fiscal year only, a redevelopment agency included in a city or county that complies with the provisions of this part shall be exempt from making the full allocation required to be made to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.4, and 33334.6. It is the intent of the Legislature that Low and Moderate Income Housing Fund allocations be maintained to the extent feasible. As a condition of reducing its allocation pursuant to this section, the agency shall make a finding that there are insufficient other moneys to

meet its debt and other obligations, current priority program needs, or its obligations under Section 34194.2.

34194.4. (a) The county auditor-controller in each county in which a redevelopment agency exists shall establish in the county treasury a Special District Allocation Fund. The county auditor-controller shall deposit the following amounts into the fund out of each annual remittance by a city or county that includes a special district under this section paid pursuant Section 34194 as follows:

(1) For the 2011–12 fiscal year, the amount shall be the city’s or county’s remittance amount multiplied by the ratio of four million three hundred thousand dollars (\$4,300,000) to one billion seven hundred million dollars (\$1,700,000,000).

(2) For the 2012–13 fiscal year and each fiscal year thereafter, the amount shall be the city’s or county’s remittance amount multiplied by the ratio of sixty million dollars (\$60,000,000) to four hundred million dollars (\$400,000,000).

(3) Amounts derived from the remittance payments of each city or county shall be maintained in separate accounts in the fund.

(b) On or before May 15 each year, the county auditor-controller shall make payments out of each account in the Special District Allocation Fund to each special district whose boundaries include all or any portion of a redevelopment project area of the city’s or county’s redevelopment agency for special district services that the district determines further redevelopment purposes. Each special district shall receive a proportionate share of the total annual deposit in the account, determined as follows:

(1) For each special district, the auditor-controller shall determine the annual amount of tax increment revenue of the city’s or county’s redevelopment agency that is attributable to the special district. This amount shall be the amount of additional property tax revenue that the special district would have received in that year had property tax collected on incremental assessed value within the redevelopment project areas been allocated to the district under the property tax allocation laws then in effect. From this amount, the auditor-controller shall subtract any passthrough payments received in that year by the special district from the redevelopment agency.

(2) The county auditor-controller shall sum all of the annual amounts for individual special districts determined in paragraph (1).

(3) For each special district, the county auditor-controller shall calculate the ratio of the amount determined for that special district under paragraph (1) to the total amount determined in paragraph (2). This ratio shall be each special district’s proportion of the total payment from the account.

(c) For the purposes of this section, “special district” means a district that provides fire protection services and transit districts. A special district that has both excluded and nonexcluded functions and that serves nonexcluded functions within a redevelopment project area shall receive a prorated share proportionate to the special district’s overall share of countywide property tax that is received for its nonexcluded functions.

(d) The auditor-controller shall report the payments made to special districts pursuant to this section to the Controller by June 30 each year in a form and manner as specified by the Controller.

(e) The county auditor-controller may require special districts to provide, as a condition of receiving payments from the Special District Allocation Fund, any relevant information necessary to the determination of the payments made pursuant to this section.

CHAPTER 3.5. POST DISSOLUTION VOLUNTARY REDEVELOPMENT PROGRAM PARTICIPATION

34194.5. No community may establish a new redevelopment agency if its former redevelopment agency has been dissolved pursuant to Part 1.85 (commencing with Section 34170) until the successor entity has retired all existing enforceable obligations and debts of the former redevelopment agency and then only after the community adopts the ordinance specified in Section 34193, and the ordinance provides for payment of the remittances specified in paragraph (2) of subdivision (c) of Section 34194.

CHAPTER 4. ENFORCEMENT AND SANCTIONS

34195. In the event that a city or county fails to make the remittance required pursuant to the agreement specified in Section 34194 or 34194.5 and the Director of Finance makes the determination described in those sections, the following shall apply:

(a) The city or county shall no longer be authorized to engage in voluntary redevelopment pursuant to this part and the redevelopment agency shall become immediately subject to the provisions of Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with 34170).

(b) The state shall be entitled to an assignment of any rights of a city or county, as applicable, to any payments from the redevelopment agency to which the city or county is entitled, as described in subdivision (b) of Section 34193.2, for purposes of mitigating the fiscal impact to the state related to the failure of the city or county to make the required remittance payment.

CHAPTER 5. AUDITOR-CONTROLLER FEE

34196. The auditor-controller may charge a city or county a fee that does not exceed the reasonable costs of the auditor-controller to implement the provisions of this part.

SEC. 3. If any legal challenge to invalidate a provision of Section 2 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. 4. The provisions of Section 2 of this act are distinct and severable from the provisions of Part 1.8 (commencing with 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code and those provisions shall continue in effect if any of the provisions of this act are held invalid.

SEC. 5. 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.

SEC. 6. The sum of five hundred thousand dollars (\$500,000) is hereby appropriated to the Department of Finance from the General Fund for costs to comply with this act.

SEC. 7. 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. 8. 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.



RESOLUTION NO. 2011 -

Adopted by the Sacramento City Council

On date of

AUTHORIZING THE CITY MANAGER TO EXECUTE A REMITTANCE AGREEMENT WITH THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO PURSUANT TO HEALTH AND SAFETY CODE SECTION 34194.2

BACKGROUND

- A. Assembly Bill No. X1 27 (“AB 27”) was passed by the State Legislature on June 15, 2011 and signed by the Governor on June 29, 2011.
- B. AB 27 is codified as Part 1.9 of the California Health and Safety Code, commencing with Section 34192 (“Part 1.9”).
- C. AB 27 establishes a Voluntary Alternative Redevelopment Program whereby the City may choose to continue redevelopment activities pursuant to Part 1.9 upon the enactment of an ordinance by the City to comply with the provisions of Part 1.9 and make certain remittances described in Chapter 3 of Part 1.9 to the County Auditor-Controller.
- D. The City is concurrently adopting an emergency ordinance to bind the City to comply with Part 1.9, subject to certain reservation of rights (the “Ordinance”).
- E. Pursuant to the Ordinance, the City commits to comply with and make the remittances required under Part 1.9 and authorizes the continuation of the Agency.
- F. Pursuant to Health and Safety Code Section 34194.2, the City may enter into an agreement (the “Remittance Agreement”) with the Agency, whereby the Agency will transfer a portion of its Net Available Tax Increment, or other unencumbered funds from the Agency to the City in an amount not to exceed the annual remittance required that year pursuant to Chapter 3 of Part 1.9, for the purpose of financing schools located within the redevelopment project areas.
- G. The term “Net Available Tax Increment” is defined as any property tax increment funds allocated to the Agency, net of existing debt service payments and existing contractual obligations, not including any funds on deposit in the Agency’s Low and Moderate Income Housing Fund, and also not including any portion of tax increment funds to be allocated to the Low and Moderate Income Housing Fund pursuant to Health and Safety Code Section 33334.2, 33334.4 and 33334.6 except for the 2011-12 fiscal year only, to the extent the Agency makes a finding that there are insufficient other funds to meet its debt and other obligations,

Alternative Voluntary Redevelopment Program

current priority program needs or its obligation to transfer funds to the City under Section 34194.2 as provided in the Remittance Agreement.

- H. The obligations of the Agency under the Remittance Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment plan for each of the Agency's redevelopment project areas.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Manager, or his designee, is hereby authorized to execute, after the effective date of the enactment of the Ordinance to comply with Part 1.9 under AB 27, the Remittance Agreement with the Redevelopment Agency of the City of Sacramento in the form set out as Exhibit A.

Table of Contents:

Exhibit A: Remittance Agreement

**REMITTANCE AGREEMENT
PURSUANT TO
CALIFORNIA HEALTH AND SAFETY CODE SECTION 34194.2**

THIS REMITTANCE AGREEMENT (this "**Agreement**") is entered into this ____ day of _____, 2011, by and between the CITY OF SACRAMENTO, a municipal corporation (the "**City**") and the REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body, corporate and politic (the "**Agency**"), with reference to the following facts:

- A. Assembly Bill No. X1 27 ("**AB 27**") and Assembly Bill No. X1 26 ("**AB 26**") were passed by the State Legislature on June 15, 2011 and signed by the Governor on June 29, 2011.
- B. Upon enactment, AB 27 is to be codified as Part 1.9 of the California Health and Safety Code, commencing with Section 34192 ("**Part 1.9**").
- C. AB 27 establishes a Voluntary Alternative Redevelopment Program whereby the City may choose to continue redevelopment pursuant to Part 1.9, upon the enactment of an ordinance by the City to comply with the provisions of Part 1.9 and make certain remittances described in Health and Safety Code Section 34194 to the County Auditor-Controller.
- D. The City Council of the City of Sacramento (the "**City Council**") has adopted or, concurrently with approval of this Agreement, is adopting, an ordinance to comply with Part 1.9 (the "**Ordinance**").
- E. Pursuant to the Ordinance, the City Council has committed to comply with and make the remittances required by Part 1.9 and authorize the continuation of the Agency after enactment of AB 27.
- F. Pursuant to Section 34194.2, the City may enter into an agreement with the Agency, whereby the Agency will transfer a portion of its net available tax increment or other unencumbered funds to the City, in an amount not to exceed the annual remittance required that year pursuant to Chapter 3 of Part 1.9, for the purpose of making certain payments into a Special District Allocation Fund and Educational Revenue Augmentation Fund administered by the County Auditor-Controller.

G. The purpose of this Agreement is to provide for the transfer of funds by the Agency to the City in an amount sufficient for the City to make the remittances required by Part 1.9., with net available tax increment revenue in this current fiscal year and forthcoming fiscal years.

H. The term "Net Available Tax Increment" is defined as any property tax increment funds allocated to the Agency, net of existing debt service payments and existing contractual obligations, not including any funds on deposit in the Agency's Low and Moderate Income Housing Fund, and also not including any portion of tax increment funds to be allocated to the Low and Moderate Income Housing Fund pursuant to Health and Safety Code Section 33334.2, 33334.4 and 33334.6 except for the 2011-12 fiscal year only, to the extent the Agency makes a finding that there are insufficient other funds to meet its debt and other obligations, current priority program needs or its obligation to transfer funds to the City under Section 34194.2 as provided in this Agreement.

I. The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment plans for each of the Agency's redevelopment project areas within the City of Sacramento or those joint project areas administered by the Agency.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. INTRODUCTORY PROVISIONS

The recitals above are an integral part of this Agreement and set forth the intentions of the parties and the premises on which the parties have decided to enter into this Agreement.

II. OBLIGATIONS OF THE PARTIES

1. The Agency shall transfer to the City at least seven (7) days prior to the due dates for the remittance payments required by Part 1.9 the amount of Net Available Tax Increment or other unencumbered Agency funds sufficient for the City to make the required remittance payments under Part 1.9. The amounts to be transferred to the City shall be sufficient for the City to pay the remittance amount determined by the State Director of Finance pursuant to Part 1.9, subject to the City's right to appeal the amount of remittance to the Director pursuant to Part 1.9.

2. Subject to receipt of sufficient Net Available Tax Increment or other unencumbered funds from the Agency, the City shall timely remit to the County Auditor-Controller the payments required by Part 1.9 pursuant to the authority as provided for in the Ordinance. The City's obligation to make such remittances shall be a special limited obligation of the City payable solely from Net Available Tax Increment received from the Agency. Nothing contained in this Agreement shall be deemed to be a pledge of the City's general fund revenues or any other City assets to make the remittance payments required under Part 1.9, it being understood that the remittance payments shall be funded solely from Agency funds and/or assets. Nothing contained in this Agreement

shall be deemed to be a pledge of funds owed to bondholders or other third parties under agreements between Agency and the City Financing Authority.

3. The obligations of Agency under this Agreement shall be payable out of Net Available Tax Increment allocated to the Agency. In the event that additional funds are required in order to make the Agency payments to the City required by this Agreement, the Agency shall make such payments from income received by the Agency from its projects and programs and/or from the sale of Agency assets and any other additional funds available to it, but excluding City funds transferred to the Agency, including, without limitation, the Sheraton Hotel sale proceeds.

4. Each year by no later than October 1st, the Agency shall submit to City written verification that Agency is able to make the required remittance payment for the subsequent City fiscal year to allow City to take whatever actions that may be necessary in the event the Agency is unable to make the required remittance payment, which would subject the City to sanctions under AB 27 and result in dissolution of the Agency under AB 26.

III. LIABILITY AND INDEMNIFICATION

In contemplation of the provisions of California Government Code section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of Government Code section 895.2.

IV. ENTIRE AGREEMENT; WAIVERS; AND AMENDMENTS

1. This Agreement shall be executed in duplicate originals, each of which is deemed to be an original. This Agreement consists of five (5) pages which constitute the entire understanding and agreement of the parties.

2. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the subject matter of this Agreement.

3. This Agreement is intended solely for the benefit of the City and the Agency. Notwithstanding any reference in this Agreement to persons or entities other than the City and the Agency, there shall be no third party beneficiaries under this Agreement.

4. Any waiver or amendment of the provisions of this Agreement must be in writing and signed by the authorized representatives of the parties.

V. SEVERABILITY

If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

VI. BINDING ON SUCCESSORS

This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law. This Agreement shall survive any full or partial merger of the City and the Agency and shall remain in effect and be fully enforceable according to its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY OF SACRAMENTO

By: _____
William H. Edgar
Interim City Manager

Attest:

By: _____
Shirley Concolino
Clerk

Approved as to form:

By: _____
Eileen Teichert
City Attorney

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
LaShelle Dozier
Executive Director

Attest:

By: _____
Vickie Smith
Agency Clerk

Approved as to form:
Tia Boatmen Patterson
General Counsel

By: _____



RESOLUTION NO. 2011 -

Adopted by the Redevelopment Agency of the City of Sacramento

On date of

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A REMITTANCE AGREEMENT WITH THE CITY OF SACRAMENTO PURSUANT TO HEALTH AND SAFETY CODE SECTION 34194.2

BACKGROUND

- A. Assembly Bill No. 1X 27 ("**AB 27**") was passed by the State Legislature on June 15, 2011 and signed by the Governor on June 29, 2011.
- B. AB 27, codified at Part 1.9 of the California Health and Safety Code, commencing with Section 34192 ("**Part 1.9**"), establishes a voluntary alternative redevelopment program whereby the City may choose to continue redevelopment pursuant to Part 1.9, upon the enactment of an ordinance by the City to comply with the provisions of Part 1.9 and make certain remittances described in Health and Safety Code Section 34194 to the County Auditor-Controller.
- C. The City Council of the City of Sacramento (the "**City Council**") has introduced, concurrently with this resolution, an ordinance for adoption that will comply with Part 1.9 (the "**Ordinance**").
- D. Pursuant to the Ordinance, the City Council will commit to comply with and make the remittances required by Part 1.9 and authorize the continuation of the Agency after enactment of AB 27.
- E. Pursuant to Section 34194.1, in making remittances to the County Auditor-Controller pursuant to Section 34194 or 34194.5, the City may use any available funds not otherwise obligated for other uses.
- F. The purpose of an Agreement is to provide for the transfer of funds by the Agency to the City in an amount sufficient for the City to make the remittances required by Part 1.9., with net available tax increment in this current fiscal year and forthcoming fiscal years.
- G. The term "Net Available Tax Increment" is defined as any tax increment funds allocated to the Agency, net of existing debt service payments and existing third-party contractual obligations, not including any funds on deposit in the Agency's Low and Moderate Income Housing Fund, and also not including any portion of tax increment funds to be allocated to the Low and Moderate Income Housing Fund pursuant to Health and Safety Code Section 33334.2, 33334.4 and

Alternative Voluntary Redevelopment Program

33334.6, except for the 2011-12 fiscal year only, to the extent the Agency makes a finding that there are insufficient other moneys to meet its debt and other obligations, current priority program needs or its obligation to transfer funds to the City under Section 34194.2 as provided in the Agreement.

- H. The obligations of the Agency under the Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment plan for each of the Agency's redevelopment project areas.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE REDEVELOPMENT AGENCY RESOLVES AS FOLLOWS:

- Section 1. The Executive Director, or her designee, is hereby authorized to execute, upon the effective date of an ordinance that complies with Part 1.9 of the California Health and Safety Code, a Remittance Agreement with the City of Sacramento in the form included as Exhibit A to this resolution.
- Section 2. The Executive Director, or her designee, is hereby authorized to amend the Agency 2011 budget as needed to make payment under the terms of the Remittance Agreement.
- Section 3. The Executive Director, or her designee, is directed to appropriate the funds needed to make the remittance payment in the Agency's 2012 budget, to the maximum extent possible, each project area will contribute its fair share of funding for the remittance payment.
- Section 4. The Executive Director, or her designee, is directed to document existing and on-going administrative services and overhead costs associated with administering the city redevelopment project areas and to report such costs annually to the State Controller to comply with the provisions of AB X1 27.
- Section 5. This Resolution shall take effect immediately upon its adoption.

Table of Contents:

Exhibit A: Remittance Agreement



**REMITTANCE AGREEMENT
PURSUANT TO
CALIFORNIA HEALTH AND SAFETY CODE SECTION 34194.2**

THIS REMITTANCE AGREEMENT (this “**Agreement**”) is entered into this ____ day of _____, 2011, by and between the CITY OF SACRAMENTO, a municipal corporation (the “**City**”) and the REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body, corporate and politic (the “**Agency**”), with reference to the following facts:

- A. Assembly Bill No. X1 27 (“**AB 27**”) and Assembly Bill No. X1 26 (“**AB 26**”) were passed by the State Legislature on June 15, 2011 and signed by the Governor on June 29, 2011.
- B. Upon enactment, AB 27 is to be codified as Part 1.9 of the California Health and Safety Code, commencing with Section 34192 (“**Part 1.9**”).
- C. AB 27 establishes a Voluntary Alternative Redevelopment Program whereby the City may choose to continue redevelopment pursuant to Part 1.9, upon the enactment of an ordinance by the City to comply with the provisions of Part 1.9 and make certain remittances described in Health and Safety Code Section 34194 to the County Auditor-Controller.
- D. The City Council of the City of Sacramento (the “**City Council**”) has adopted or, concurrently with approval of this Agreement, is adopting, an ordinance to comply with Part 1.9 (the “**Ordinance**”).
- E. Pursuant to the Ordinance, the City Council has committed to comply with and make the remittances required by Part 1.9 and authorize the continuation of the Agency after enactment of AB 27.
- F. Pursuant to Section 34194.2, the City may enter into an agreement with the Agency, whereby the Agency will transfer a portion of its net available tax increment or other unencumbered funds to the City, in an amount not to exceed the annual remittance required that year pursuant to Chapter 3 of Part 1.9, for the purpose of making certain payments into a Special District Allocation Fund and Educational Revenue Augmentation Fund administered by the County Auditor-Controller.

G. The purpose of this Agreement is to provide for the transfer of funds by the Agency to the City in an amount sufficient for the City to make the remittances required by Part 1.9., with net available tax increment revenue in this current fiscal year and forthcoming fiscal years.

H. The term "Net Available Tax Increment" is defined as any property tax increment funds allocated to the Agency, net of existing debt service payments and existing contractual obligations, not including any funds on deposit in the Agency's Low and Moderate Income Housing Fund, and also not including any portion of tax increment funds to be allocated to the Low and Moderate Income Housing Fund pursuant to Health and Safety Code Section 33334.2, 33334.4 and 33334.6 except for the 2011-12 fiscal year only, to the extent the Agency makes a finding that there are insufficient other funds to meet its debt and other obligations, current priority program needs or its obligation to transfer funds to the City under Section 34194.2 as provided in this Agreement.

I. The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment plans for each of the Agency's redevelopment project areas within the City of Sacramento or those joint project areas administered by the Agency.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. INTRODUCTORY PROVISIONS

The recitals above are an integral part of this Agreement and set forth the intentions of the parties and the premises on which the parties have decided to enter into this Agreement.

II. OBLIGATIONS OF THE PARTIES

1. The Agency shall transfer to the City at least seven (7) days prior to the due dates for the remittance payments required by Part 1.9 the amount of Net Available Tax Increment or other unencumbered Agency funds sufficient for the City to make the required remittance payments under Part 1.9. The amounts to be transferred to the City shall be sufficient for the City to pay the remittance amount determined by the State Director of Finance pursuant to Part 1.9, subject to the City's right to appeal the amount of remittance to the Director pursuant to Part 1.9.

2. Subject to receipt of sufficient Net Available Tax Increment or other unencumbered funds from the Agency, the City shall timely remit to the County Auditor-Controller the payments required by Part 1.9 pursuant to the authority as provided for in the Ordinance. The City's obligation to make such remittances shall be a special limited obligation of the City payable solely from Net Available Tax Increment received from the Agency. Nothing contained in this Agreement shall be deemed to be a pledge of the City's general fund revenues or any other City assets to make the remittance payments required under Part 1.9, it being understood that the remittance payments shall be funded solely from Agency funds and/or assets. Nothing contained in this Agreement

shall be deemed to be a pledge of funds owed to bondholders or other third parties under agreements between Agency and the City Financing Authority.

3. The obligations of Agency under this Agreement shall be payable out of Net Available Tax Increment allocated to the Agency. In the event that additional funds are required in order to make the Agency payments to the City required by this Agreement, the Agency shall make such payments from income received by the Agency from its projects and programs and/or from the sale of Agency assets and any other additional funds available to it, but excluding City funds transferred to the Agency, including, without limitation, the Sheraton Hotel sale proceeds.

4. Each year by no later than October 1st, the Agency shall submit to City written verification that Agency is able to make the required remittance payment for the subsequent City fiscal year to allow City to take whatever actions that may be necessary in the event the Agency is unable to make the required remittance payment, which would subject the City to sanctions under AB 27 and result in dissolution of the Agency under AB 26.

III. LIABILITY AND INDEMNIFICATION

In contemplation of the provisions of California Government Code section 895.2 imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined by Government Code section 895, the parties hereto, as between themselves, pursuant to the authorization contained in Government Code sections 895.4 and 895.6, shall each assume the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement to the same extent that such liability would be imposed in the absence of Government Code section 895.2. To achieve the above-stated purpose, each party indemnifies, defends and holds harmless the other party for any liability, losses, cost or expenses that may be incurred by such other party solely by reason of Government Code section 895.2.

IV. ENTIRE AGREEMENT; WAIVERS; AND AMENDMENTS

1. This Agreement shall be executed in duplicate originals, each of which is deemed to be an original. This Agreement consists of five (5) pages which constitute the entire understanding and agreement of the parties.

2. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to the subject matter of this Agreement.

3. This Agreement is intended solely for the benefit of the City and the Agency. Notwithstanding any reference in this Agreement to persons or entities other than the City and the Agency, there shall be no third party beneficiaries under this Agreement.

4. Any waiver or amendment of the provisions of this Agreement must be in writing and signed by the authorized representatives of the parties.

V. SEVERABILITY

If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

VI. BINDING ON SUCCESSORS

This Agreement shall be binding on and shall inure to the benefit of all successors and assigns of the parties, whether by agreement or operation of law. This Agreement shall survive any full or partial merger of the City and the Agency and shall remain in effect and be fully enforceable according to its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY OF SACRAMENTO

By: _____
William H. Edgar
Interim City Manager

Attest:

By: _____
Shirley Concolino
Clerk

Approved as to form:

By: _____
Eileen Teichert
City Attorney

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
LaShelle Dozier
Executive Director

Attest:

By: _____
Vickie Smith
Agency Clerk

Approved as to form:
Tia Boatmen Patterson
General Counsel

By: _____



RESOLUTION NO. 2011 -

Adopted by the Redevelopment Agency of the City of Sacramento

On date of

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO SUSPENDING ITS ALLOCATION TO THE LOW AND MODERATE INCOME HOUSING FUND FOR THE 2011-12 FISCAL YEAR AND MAKING CERTAIN FINDINGS AND DETERMINATIONS

- A. Sections 33334.2 and 33334.3 of California's Community Redevelopment Law [Health & Safety Code §§33000, et seq.] ("CRL") require the Redevelopment Agency of the City of Sacramento ("Agency") to use 20 percent of taxes allocated to the Agency pursuant to Section 33670 of the CRL ("Tax Increment") for the purpose of increasing, improving, and preserving the community's supply of low and moderate income housing and to hold such funds in a separate Low and Moderate Income Housing Fund until used ("Low and Moderate Income Housing Fund").
- B. Assembly Bill x1 27 ("AB 27") was passed by the State Legislature on June 15, 2011 and signed by the Governor on June 29, 2011.
- C. AB 27 will be codified at Part 1.9 of the California Health and Safety Code, commencing with Section 34192 ("**Part 1.9**").
- D. AB 27 establishes a voluntary alternative redevelopment program whereby the Agency would be authorized to continue to exist upon the enactment of an ordinance by the City of Sacramento ("City") to comply with the provisions of Part 1.9, including payment of an annual remittance to the County Auditor-Controller ("Remittance Ordinance").
- E. AB 27 authorizes the Agency to enter into an agreement with the City whereby the Agency would transfer a portion of its Tax Increment to the City in an amount not to exceed the amount of the City's annual remittance to the County Auditor-Controller ("Remittance Agreement").
- F. AB 27 authorizes the Agency to suspend its allocation of Tax Increment to the Low and Moderate Income Housing Fund for the 2011-2012 Fiscal Year if the City complies with the provisions of Part 1.9 and the Agency finds that there are insufficient other moneys to meet its debt and other obligations, current priority program needs or its obligations under the Remittance Agreement.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:

- Section 1. The Agency hereby finds and determines that the foregoing recitals are true and correct.
- Section 2. The Agency has reviewed and duly considered the documents and other written evidence presented at the meeting and believes that it will be in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements to suspend its allocation of Tax Increment to the Low and Moderate Income Housing Fund for the 2011-2012 Fiscal Year.
- Section 3. The Agency finds, based upon a review of financial data and projected future revenues, that there are insufficient other moneys to meet its debt and other obligations, current priority program needs, and its obligations under the Remittance Agreement.
- Section 4. The Agency finds and determines that it is necessary to suspend the Low and Moderate Income Housing Fund Allocation for the 2011-2012 Fiscal Year.
- Section 5. The Executive Director, or designee, is hereby authorized to take such actions as are necessary and appropriate to carry out and implement the Low and Moderate Income Housing Fund suspension for the 2011-2012 Fiscal Year upon the City's enactment of the Remittance Ordinance.
- Section 6. This Resolution shall take effect immediately upon its adoption.



ORDINANCE NO.

Adopted by the Sacramento City Council

**AUTHORIZING THE CITY OF SACRAMENTO TO PARTICIPATE IN THE
VOLUNTARY ALTERNATIVE REDEVELOPMENT PROGRAM UNDER
AB X1 27 AND DECLARING THE ORDINANCE TO BE AN
EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY**

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

SECTION 1. Findings.

The City Council of the City of Sacramento finds and declares as follows:

A. Since adoption of the Redevelopment Plans, the Redevelopment Agency of the City of Sacramento (“Agency”) has undertaken redevelopment projects in the Redevelopment Project Areas within the City to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into agreements with private industries to create jobs and expand the local economy. In 2010, the Agency invested over \$25 Million in 76 redevelopment projects. Of those projects, 18 were completed in 2010 resulting in 530 temporary and permanent jobs; and

B. As part of the 2011-12 State budget bill, the California Legislature enacted and the Governor signed into law AB X1 26 (“AB 26”) and AB X1 27 (“AB 27”) as companion bills requiring that each redevelopment agency be dissolved unless the community that created it enacts an ordinance committing it to make certain payments into a Special District Allocation Fund and an Educational Revenue Augmentation Fund established for each county and administered by the county auditor-controller; and

C. Specifically, AB 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011; and

D. Once a redevelopment agency is dissolved, AB 26 makes its existing assets and future property tax revenues available for use by third parties for their own benefit; and

E. AB 27, codified as Part 1.9 of the California Health and Safety Code (“Part 1.9”), establishes the Voluntary Alternative Redevelopment Program (VARP) under which the Agency would be authorized to continue to exist upon the enactment of an ordinance by the City to comply with the provisions of Part 1.9; and

F. AB 27 requires the City to notify the County Auditor-Controller ("County"), the State Controller, and the State Department of Finance on or before November 1, 2011, that the City will comply with Part 1.9; and

G. AB 27 requires the City to make specified remittances to the County Auditor-Controller in order to continue the existence of the Agency, as prescribed in Part 1.9; and

H. AB 27 authorizes the County to charge a fee that does not exceed the reasonable costs of the County to implement the provisions of Part 1.9; and

I. On July 18, 2011, the League of California Cities ("LOCC") and the California Redevelopment Association ("CRA") filed a petition on behalf of cities, counties and redevelopment agencies asking the California Supreme Court to stay enforcement of AB 26 and AB 27 and to declare these bills unconstitutional or otherwise violative of state law ("Laws"); and

J. The City Council does not intend to waive any constitutional and/or legal rights by enactment of this Ordinance and, reserves all of its rights under the law to challenge the validity of any or all provisions of AB 26 and AB 27 in any administrative or judicial proceeding and/or repeal this ordinance, without prejudice to the City's right to recover any amounts remitted under Part 1.9; and

K. While the City currently intends to make the remittances required under Part 1.9 in order to prevent the total loss of benefits provided by the Agency to the taxpayers, property owners and residents of the City, the City will make the remittances under protest and without prejudice to the City's and/or Agency's right to recover such amounts and interest thereon, to the extent there is a final determination that AB 26 and AB 27 are unconstitutional or otherwise illegal or repealed; and

L. The City Council does not intend, by enactment of this Ordinance, to pledge any of its general fund revenues or other City assets, to make the remittance payments contemplated by Part 1.9, it being understood by the City Council that any remittance payments required under AB 27 will be funded solely from Agency funds and/or assets transferred to the City in accordance with Part 1.9; and

M. Upon adoption and immediate effectiveness of this Ordinance, City will enter into a Remittance Agreement with the Agency as authorized pursuant to Health and Safety Code Section 34194.2 and Part 1.9, under which Agency will transfer tax increment to City in the amount of the annual remittance payments to enable the City, directly or indirectly, to make the annual remittance payments; and

N. The City Council does not intend by enactment of this Ordinance to waive any rights of appeal regarding the amount of any remittance established by the Department of Finance, as provided in Part 1.9; and

O. It is necessary to adopt this Ordinance as an emergency measure to take effect immediately pursuant to City Charter Section 32 (g)(2) in order to implement AB 27 for the immediate preservation of the public peace, health, safety and welfare of the citizens of the City of Sacramento because unless and until this VARP ordinance is enacted, the Agency's redevelopment activities are suspended and it cannot take any actions to continue to fulfill its mission as set forth in the adopted Redevelopment Plans and Implementation Plans as they pertain to Project Areas within the City of Sacramento to eliminate blight, and the Agency would otherwise be dissolved as of October 1, 2011 under AB 26; and

P. Over the next few years, the Agency has plans to implement a variety of redevelopment projects and programs to continue to eliminate and prevent blight, to stimulate and expand the Project Area's economic growth, to create and develop local job opportunities and alleviate deficiencies in public infrastructure.

SECTION 2. Authorization to Continue Agency.

Subject to Sections 3 and 4 of this Ordinance, the City commits to comply with and make the remittances required by Part 1.9, and authorize the continuation of the Agency pursuant to AB 27. Any remittance payments required to be paid by the City by Part 1.9 shall be paid solely from Agency funds and/or assets transferred by the Agency to the City in accordance with Part 1.9 and the Remittance Agreement between the City and Agency.

SECTION 3. Application.

If any of the provisions of this Ordinance or the application thereof is held to be invalid for any reason, the remainder of this Ordinance and the application of provisions thereof shall not be affected thereby.

SECTION 4. Reservation of Rights.

Based upon the legal challenges raised by the LOCC and CRA, it is the position of the City that certain or all provisions of AB 26 and AB 27 violate the Laws, as referenced in Section 1 above, and are invalid and unenforceable. Neither the adoption of this Ordinance, nor the acknowledgment of or references to any provisions of AB 26 and AB 27, nor the City's payment of any remittances contemplated by AB 27 shall be deemed to be, nor are they intended as, an acknowledgment of the validity of AB 26 and AB 27, and the City reserves all rights in its sole discretion to challenge the validity of any or all provisions of AB 26 and AB 27 in any administrative or judicial proceeding and/or repeal this ordinance, without prejudice to the City's right to recover any amounts remitted under Part 1.9.

SECTION 5. Payment under Protest.

Except as set forth in Section 6 below, the City hereby determines that the City shall make the remittances as required in Chapter 3 of Part 1.9.

SECTION 6. Effect of Stay or Determination of Invalidity.

The City shall not make any remittance under this Ordinance pursuant to Chapter 3 of Part 1.9 in the event a court of competent jurisdiction issues an order (1) staying the enforcement of AB 26 and AB 27 and during the pendency of that order; or (2) ruling that AB 26 and AB 27 are unconstitutional or otherwise unlawful and therefore invalid and all appeals therefrom are exhausted or unsuccessful, or time for filing an appeal therefrom has lapsed (“final judicial order”); or in the event the legislature repeals AB 26 and AB 27. Any remittance made shall be made under protest and without prejudice to the City’s right to recover such amount and interest thereon in the event that there is a final judicial order. If there is a final judicial order, this Ordinance shall be deemed to be null and void and of no further force or effect.

SECTION 7. Authorization of Implementing Actions.

The City Manager is hereby authorized to take any actions necessary to implement this Ordinance and comply with Part 1.9, including without limitation, providing required notices to the County Auditor-Controller, the State Controller, and the Department of Finance; and making any remittance payments.

SECTION 8. Declaration of Emergency.

The City Council declares that it is necessary to adopt this ordinance as an emergency measure pursuant to City Charter Section 32 (g)(2) for the immediate preservation of the public peace, health, safety and welfare of the citizens of the City of Sacramento because unless and until this VARP ordinance is enacted the Agency’s redevelopment activities are suspended and it cannot take any actions to eliminate blight within the redevelopment project areas in the City as set forth in the Redevelopment Plans. Specifically, without adoption of this Ordinance, the following projects will be immediately impacted:

- A. 65th Street Bus Transfer Relocation, 14th Avenue Extension, Rio Linda Superblock, Grand Theater Renovation, Township 9 Affordable Housing Component, 800 K Block and 731 K Street, and Martin Luther King, Jr. Boulevard Street Enhancements.
- B. La Valentina Mixed-Use Development, Del Paso Nuevo, Broadway Triangle, and the San Juan Motel Redevelopment Project; all requiring further Agency assistance and oversight of existing agreements.

SECTION 9. Effective Date.

This Ordinance shall be effective immediately upon its adoption.

Adopted by the Council of the City of Sacramento on the 9th day of August, 2011 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Mayor Kevin Johnson

Attest:

Shirley Concolino, City Clerk

Effective: June 9, 2011