



# City of Sacramento City Council

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**Meeting Date:** 1/24/2012

**Report Type:** Staff/Discussion

**Title:** Implementation of ABX1 26, Dissolution of Redevelopment Agency

**Report ID:** 2012-00107

**Location:** Citywide

**Recommendation:** Receive and provide direction.

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**Presenter:** Leslie Fritzsche, Downtown Redevelopment Manager, (916) 808-5450, Economic Development Department; Sheryl Patterson, Senior Deputy City Attorney, (916) 808-7292, City Attorney's Office

**Department:** Finance

**Division:** Office of the City Manager

**Dept ID:** 06001411

**Attachments:**

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- 1-Description/Analysis
  - 2-Background
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**City Attorney Review**

Approved as to Form  
Eileen M. Teichert  
1/23/2012 1:24:17 PM

**Approvals/Acknowledgements**

Department Director or Designee: Leyne Milstein - 1/23/2012 11:54:24 AM

## Description/Analysis

**Issue:** On February 1, 2012, the Redevelopment Agency of the City of Sacramento (Agency) will cease to exist. The demise of the Agency is the consequence of the December 29, 2011, opinion by the California Supreme Court in the case of *California Redevelopment Assn v. Matosantos* (# S194861). The Court upheld the validity of ABX1 26 (AB 26) based on the Legislature's power to dissolve redevelopment agencies, which were created by cities and counties pursuant to statutory authority. The Court also held that ABX1 27 (AB 27) was unconstitutional in violation of Proposition 22, even though the payments to the state were categorized as "voluntary."

The Court ordered that all deadlines in AB 26 occurring prior to May 1, 2012, be extended by four months, the same period that the bill's enforcement was stayed. As a result, the date of the Agency's dissolution was extended to February 1, 2012. A key element in determining the course of the dissolution is the Council's election to serve as the successor agency to the Agency, effective February 1, 2012, and whether to assume the Agency's housing assets and functions of the Agency under AB 26.

Additional detail on the requirements of AB 26 and 27 are included in the Background section of this report. Also included is an outline of the "next steps" in the dissolution process.

**Policy Considerations:** Staff will bring a joint staff report on January 31, 2012, recommending that the City Council reaffirm its election to serve as the successor agency to the Redevelopment Agency for non-housing functions and to reject the City's assumption of the Agency's housing assets and functions, which would then be assumed by the Housing Authority of the City of Sacramento and continued to be managed by the Sacramento Housing and Redevelopment Agency (SHRA). Staff believes that the expertise of SHRA staff is better positioned to administer the ongoing housing activities and assets.

Further, staff is recommending the ongoing administration of redevelopment activities be assumed within the City's management structure in order to ensure that the responsibility and accountability for successor activities is structured within the requirements of the City Charter. As such, the report on January 31<sup>st</sup> will also include a recommendation for the transition of the ongoing administration of non-housing redevelopment activities to the City as of June 30, 2012.

Because funding for these activities is limited by AB 26, staffing levels for these activities will be impacted. SHRA and the City are currently evaluating the scope of functions that will remain with the dissolution of redevelopment and will be developing an associated staffing plan that will fit the limited resources provided for in AB 26. Impacts to SHRA and City staff will be identified as soon as this information is available.

**Environmental Considerations:** No action is recommended in this report and receipt of this report's information does not constitute a "project" and is therefore exempt from the California Environmental Quality Act (CEQA) according to Section 15378(b)(2), (4) and (5) of the CEQA Guidelines.

**Sustainability:** Dissolution of the Agency and the loss of future tax increment revenues for redevelopment projects will make it more difficult to meet the City's sustainability goals, including development of affordable housing.

**Commission/Committee Action:** Not applicable.

**Rationale for Recommendation:** Not applicable. This is an information only report.

**Financial Considerations:** As the successor agency to Agency non-housing assets, the City will be responsible for the management and administration of current construction projects, financial and legal matters relative to the requirements and obligations of the legislation. City's ability to recapture its additional administrative costs of discharging successor agency duties is limited by caps set out in AB 26. For FY2011/12 the administrative costs will need to be allocated in part to SHRA for SHRA's staffing services associated with an orderly transition.

Staff is continuing to evaluate the impact of this legislation on the City's General Fund after the allocation of resources to the approved project and debt service obligations and administrative costs of the successor agency. Remaining funds will be allocated by the Auditor-Controller to the taxing entities within the jurisdiction consistent with current tax rate allocations, meaning that these resources will go to the County of Sacramento, schools, the community college district and other taxing entities, not just the City. It is still too early to know exactly how much the City will receive; however, this will have to be considered in the development of the dissolution work-plan as resources provided by AB 26 appear to be less than the associated costs.

**Emerging Small Business Development (ESBD):** Not applicable.

## Background

### Redevelopment Agency Dissolution

AB 26 and AB 27 were signed by the Governor and took effect June 29, 2011. AB 26 provided that, as of the effective date of the bill, the Redevelopment Agency of the City of Sacramento (“Agency”) no longer had any authority to enter into any agreements, transfer assets, make loans, approve plans, or perform any other similar redevelopment activities. Under AB 26, the Agency was to cease existing as of October 1, 2011.

AB 27 would have allowed redevelopment activities to continue if the sponsoring governing board agreed to “voluntarily” make payment of the Agency’s share of the \$1.7 billion in redevelopment funds that the state was redirecting to school districts in FY2011/12, and to make payment of a smaller amount annually thereafter. On August 9, 2011, the City Council adopted Ordinance No. 2011-035 to participate in the Voluntary Alternative Redevelopment Program, and to make the “voluntary” payment thereby allowing the Agency to continue functioning in a limited capacity. The ordinance included a condition that it would be null and void if there was a court order invalidating AB 27.

On July 18, 2011, the League of California Cities and the California Redevelopment Association filed a petition with the California Supreme Court requesting a stay in the enforcement of AB 26 and AB 27, and to declare these two bills as unconstitutional, primarily with regard to the provisions of Proposition 22 which prohibits the state from recapturing local agency revenues. The court granted the request to stay the enforcement of these bills pending a decision in the case.

On December 29, 2011, the California Supreme Court in the case of *California Redevelopment Assn v. Matosantos* (# S194861) held that AB 26 was valid because the Legislature had the power to dissolve redevelopment agencies, which were created by cities and counties pursuant to statutory authority. The Court also held that AB 27 was unconstitutional in violation of Proposition 22, even though the payments to the state were categorized as “voluntary.” This outcome, that AB 26 would be upheld but AB 27 would be invalidated, has been characterized by redevelopment advocates as the worst possible outcome, as it results in cessation of all redevelopment agencies. The Court ordered that all deadlines in AB 26 occurring prior to May 1, 2012, would be extended by four months, the same period that the bill’s enforcement was stayed. As a result, the date of the Agency’s dissolution was extended to February 1, 2012.

Attempts are being made in the Legislature to extend the date of agency dissolutions to April 15, 2012 (SB 679-Padilla). This bill would need to be passed by the Legislature and signed by the Governor prior to January 31, 2012, to alter the pending dissolution date. This report assumes the Agency ceases to exist February 1, 2012.

### Successor Agency for Redevelopment Functions

AB 26 recognized that although redevelopment agencies cease to exist, the assets and liabilities of the Agency continue to exist and provides for a “successor agency” to manage those assets and liabilities until they are transferred or obligations discharged consistent with AB 26. By operation of law, on January 13, 2012, the City became the successor agency to the Agency’s non-housing assets and liabilities, by not opting out of serving in that role.

### Successor Agency for Housing Functions

Likewise for the housing assets and obligations of the Agency, the City’s Housing Authority becomes the successor agency for the Agency’s housing assets and obligations on February 1, unless the City elects to directly assume that role.

City staff will return next week with a recommendation that the City Council affirmatively elect not to assume the Agency’s housing assets and functions and will set out further details to assist the Council in evaluating such recommendation.

### City Obligations as Successor Agency

As of February 1, 2012, all of the Agency’s “assets, properties, contracts, leases, books and records, building and equipment” and “all cash and cash equivalents and amounts owed to the redevelopment agency” are automatically transferred to the City as the successor agency. The City is to create a Redevelopment Obligation Retirement Fund within its treasury to deposit the cash, income from contracts and leases, and proceeds from the sale of Agency assets. The funds in this account are to be used to make payments of the Agency’s “Enforceable Obligations,” which are generally the existing Agency agreements with third parties, bond payment obligations, and pass-through payments to other taxing entities either by agreement or as required by statute. The Agency Board adopted its Enforceable Obligations Payment Schedule (EOPS) on August 30, 2011. Next week the Agency Board will be asked to adopt its amended EOPs for the period of February 1, 2012, through June, 2012.

The County Auditor-Controller is to establish a Redevelopment Property Tax Trust Fund to hold the future property tax increment funding. The Auditor-Controller would transfer to the City the amount required to make payments of the enforceable obligations in accordance with a payment schedule approved by the “Oversight Board,” which is described below. This payment schedule is to be updated every six months. There is some concern that there may be a gap when payments are due versus when additional funding can be transferred during the transition period, and issuance of short-term revenue anticipation notes may be needed.

In addition to the accounting and treasury functions to make payments when due under existing enforceable obligations, the primary duties of the successor agency are to:

1. Oversee the transfer and development of properties under existing Agency agreements until the work has been completed;
2. Dispose of Agency properties expeditiously and in a manner that will maximize value of such assets for the local taxing entities that will receive a portion of such proceeds;
3. Enforce all Agency rights to collect loans, rents, and other revenues for the benefit of the taxing entities;
4. Negotiate the terms of amendments or termination of existing Agency agreements with third parties; and
5. Assume the representation and defense of the Agency in all pending litigation matters, and to file appeals of any judgments or arbitration decisions.

### Oversight Board Membership

The City's actions as the successor agency are subject to the approval of the Oversight Board. This is to be a seven member board, and the City has two appointments. The members serve at the pleasure of each appointing entity, there are no set terms, and there is no compensation for serving as a board member. The successor agency must pay the costs of the meetings of the Oversight Board and perform work as directed by the Oversight Board. The membership is as follows:

1. One member appointed by the City.
2. One member appointed by the County to represent the Board of Supervisors.
3. One member appointed by the County Board of Supervisors to represent the public.
4. One member appointed by the County Superintendent of Education to represent the schools (within the former redevelopment area).
5. One member appointed by the Chancellor to represent the Los Rios Community College District.
6. One member appointed by the City representing the employees of the former agency "from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency" at the time of appointment.
7. One member appointed by "the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency."

It is currently staff's intention to have members of the Oversight Board appointed by March 1, 2012. Staff will return in several weeks with a staff report for the City Council to make the necessary appointments to the Oversight Board. Auditor-Controller's staff has indicated that the final member of the Oversight Board for the City of Sacramento is to be appointed by the Pacific-Fruitridge Fire Protection District.

The State Department of Finance (DOF) has the authority to review all actions of the Oversight Board. The Oversight Board's actions are to be sent to DOF if requested, and DOF has 10 days from the date of its request to review an action of the Oversight Board. DOF may send the action back to the Oversight Board for reconsideration and the modified action of the Oversight Board is subject to the DOF's approval.

#### Administration Costs

The successor agency is entitled to receive an "administrative cost allowance" of 5% in FY2011/12 and 3% thereafter, based upon the amount of property tax allocated to the successor agency annually to pay for the Agency's enforceable obligations, but not less than \$250,000. The administrative cost allowance for FY2011/12 is estimated to be \$968,000. In FY2012/13 the administrative cost allowance is currently estimated at \$1.2 million. These estimates are subject to change as property tax in the former redevelopment project areas has not yet stabilized and appeals of property tax value continue to accumulate.

Under AB 26, the City is to prepare an Administrative Budget to submit to the Oversight Board to cover a six month fiscal period (now Feb to June) and each six months thereafter to include estimated costs, sources of payment, and proposals for administrative and operations services. The City as successor agency has no authority to spend funds transferred from the Agency for its administrative costs until the Oversight Board approves its Administrative Budget, although at least \$250,000 is guaranteed. While no date is specified for the Oversight Board to approve the Administrative Budget, the sooner the Oversight Board is formed, the sooner the City can be guaranteed reimbursement of its successor agency administrative expenses.

The Oversight Board must approve the Administrative Budget, so the City as the successor agency must justify its costs to obtain the full amount allocated. Also, administrative costs are paid after payment of the Auditor-Controller's costs to undertake audits of the prior Agency's assets and liabilities and assets transferred in 2011, and after funding all of the enforceable obligations and statutory pass-through payments. If there are insufficient funds to pay the administrative costs of the successor agency, then the funds to be allocated to taxing entities would be reduced.

In 1982, the City, the Agency, the City's Housing Authority, the County, the County's Agency, and the County's Housing Authority entered into a joint exercise of powers agreement forming the Sacramento Housing and Redevelopment Agency (SHRA). As a joint powers authority, SHRA operates as a staffing entity for the redevelopment agencies and housing authorities, as well as the federal HUD and CDBG programs, on behalf of both the City of Sacramento and the County of Sacramento.

While the Agency's assets, properties, equipment (if any), contracts, leases, books and records (Agency Assets and Obligations) will transfer by operation of the law to the City as successor agency on February 1, transitioning staff responsibility to the City for discharging duties associated with certain of these Agency assets will take additional time. A plan for transitioning these staffing responsibilities to the City, that may include contracting with SHRA for continued staffing services and apportioning some of the City's Administrative Budget to SHRA for these services, will be brought back for subsequent Council approval.

### Next Steps

The Agency will need to adopt a revised EOPS for the period from January through June before February 1, 2012. Next week, staff will return to the City Council with recommendations regarding: 1) City's affirmation of its election to serve as the successor agency for non-housing assets; 2) City's election to not serve as successor agency for housing assets, and 3) staffing for and costs associated with successor agency duties.

As the successor agency to Agency non-housing assets, over the course of the next six months the City will need, at a minimum, to undertake the following actions:

1. Accept transfer of the Agency's cash assets into the Redevelopment Obligation Retirement Fund.
2. Accept transfer of all contracts, project files, books and records, and any Agency owned furniture and equipment.
3. Prepare an inventory of the Agency's properties.
4. Determine whether any Agency properties used for government purposes can be transferred to the City without compensation, and whether any Agency properties should be retained and acquired by the City.
5. Prepare the draft Recognized Obligations Payment Schedule (ROPS) for Council approval by March 1, 2012.
6. Submit the ROPS to the County Auditor-Controller and DOF by April 15, 2012.
7. Make payments when due in accordance with the EOPS until May 1, 2012. Thereafter payments are made pursuant to the adopted ROPS through June 30, 2012.
8. Make appointments to the City Oversight Board no later than May 1, 2012.

9. Prepare an Administrative Budget for remainder of FY2011/12 and for the first part of FY2012/13, along with a transition services agreement with SHRA and any other consultant agreements that may be required.
10. Arrange for meeting space, prepare agendas and staff reports, and issue and post notices in compliance with the Brown Act for the Oversight Board meetings.
11. Submit ROPS, Administrative Budget, and proposed procedures for disposition of Agency properties to the Oversight Board for approval.
12. Remit unencumbered funds in the Redevelopment Obligation Retirement Fund to the County Auditor-Controller for distribution to the taxing entities.
13. Evaluate all Agency agreements to determine what obligations, other than making payments when due, are to be performed by the City.
14. Assume representation of the Agency in any pending litigation and arbitration matters.
15. Work with the County Auditor-Controller who is charged to undertake an audit of all of the Agency's assets and liabilities, as well as all Agency fund and asset transfers during 2011, to be completed by July 1, 2012.
16. Dissolve the Project Area Committees (PACs) and Redevelopment Advisory Committees (RACs).