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In the Supreme Court of the State of California

CALIFORNIA REDEVELOPMENT ASSOCIATION, LEAGUE OF CALIFORNIA CITIES, CITY OF UNION CITY, CITY OF SAN JOSE, and JOHN F. SHIREY,

Petitioners,

v.

ANA MATOSANTOS, in her official capacity as Director of Finance, JOHN CHIANG, in his official capacity as the Controller of the State of California, PATRICK O'CONNELL, in his official capacity as the Auditor-Controller of the County of Alameda and as a representative of the class of county auditor-controllers,

Respondents.

Case No. S194861

INFORMAL OPPOSITION TO PETITION FOR WRIT OF MANDATE; REQUEST FOR ISSUANCE OF ALTERNATIVE WRIT AND FOR ORDER EXPEDITING BRIEFING

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INTRODUCTION

In 1945, the California Legislature passed legislation authorizing the creation of Redevelopment Agencies ("RDAs"). Over time, hundreds of RDAs were created, and they grew to control many billions of public dollars each year. As the percentage of public funds controlled by RDAs grew, the portion available to fund crucial local services like schools, transportation, and fire protection dropped.

During most of the past decade, even as RDA funds grew, California struggled with massive budget deficits. These deficits were extended and exacerbated by budgeting practices that relied too heavily on borrowing, accounting gimmicks, illusory spending cuts, and improbable revenue projections. Making matters much worse, the Great Recession reduced the state's revenue base by 30 percent.

When Governor Brown took office, California's immediate and long-term fiscal problems were immense. A $25.4 billion budget deficit existed for 2011-12 and an annual structural deficit of up to $21.5 billion was projected into the future. Time had come for the Legislature and the Governor to confront difficult policy and spending choices and enact an honest and fiscally responsible budget. For the first time in many years, they did so when they passed the 2011-12 budget. This budget not only closed the fiscal year's $25.4 billion imbalance, but it also reduced the structural deficit by more than $15 billion.

As part of this budget, the Legislature passed legislation which eliminated RDAs and called for their operations to be systematically wound down. Simultaneously, the Legislature created an alternative, voluntary scheme for cities and counties to use should they wish to continue pursuing redevelopment. Through this petition, RDA supporters seek to have the Legislature's actions declared unconstitutional.

The petition alleges that state constitutional provisions which limit the Legislature's ability to tamper with the stream of income flowing into and out of RDAs also preclude the Legislature from terminating the RDA program through AB1X 26. This contention is meritless. RDAs are creatures of statute—not the state constitution—and the Legislature may dissolve them. Proposition 22 does not change this analysis and did nothing to limit the Legislature's power to dissolve RDAs.

The petition also claims that AB1X 27, which created a new and voluntary redevelopment program, violates Proposition 22. This contention is also without merit. Proposition 22 blocks forced shifts and transfers from RDAs. AB1X 27 is voluntary and does not force RDAs or cities and counties to do anything. Although respondent[1] does not agree that the statutes are infirm, she does agree that the issues presented are of sufficient importance to warrant resolution by this Court in the first instance, preferably on an expedited basis.

Finally, the Court should not issue a stay of these critically important pieces of the state's current budget framework. AB1X 26 and AB1X 27 are essential parts of the budget solution crafted by the Legislature and the Governor, and a stay would harm the public interest.[2] Further, petitioners cannot make an adequate showing that they will be harmed without a stay.

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[1] All positions and argument on the merits of the petition advanced herein are made only on behalf of respondent Ana Matosantos, sued in her official capacity as Director of the California Department of Finance. Respondent John Chiang, sued in his official capacity as California State Controller, does not take a position on the merits of this litigation.

[2] For the Court's convenience, copies of both acts are included in an appendix to this brief. AB1X 26 is attached as Exhibit 1 and AB1X 27 is attached as Exhibit 2.

Respondent submits that an order expediting briefing will protect petitioners and ensure a prompt and final resolution of this case.

STATEMENT

In 1945, the Legislature passed the "Community Redevelopment Act" authorizing the creation of RDAs. (Stats. 1945, c. 1326, p. 2478, § 1.) The Act's purpose was to "provide a means whereby the blighted areas within this State may be redeveloped or rehabilitated" and "to create postwar employment." (Stats. 1945, c. 1326, p. 2478, § 2.) Between 1945 and the present, there has been explosive growth in the number of RDAs, and in the portion of the state's tax revenues they control. RDAs' total share of statewide property taxes has grown from 2 percent to "12 percent of total statewide property taxes." (Leg. Analyst, Policy Brief, Should California End Redevelopment Agencies?, February 9, 2011, p. 1.)

When passed in 1978, Proposition 13 reduced local property tax revenues by 57 percent. Following the passage of Proposition 13, the state shifted costs to itself and later provided new revenues to local government to partially replace this revenue loss. Currently, about 37 percent of property tax revenues fund K-14 school obligations under Proposition 98, while cities receive 18 percent of property tax revenues, counties almost 25 percent, special districts 8 percent, and RDAs 12 percent. Having such a large portion of state tax proceeds in the control of RDAs has resulted in less money being available to fund schools, local government, and local services.

In January of 2011, California faced a projected budget deficit of more than $25 billion, the largest budget shortfall in history. Part of the Governor's plan to balance the budget was a proposal to dismantle RDAs and establish an alternative method for pursuing redevelopment goals at the local level. The scope of the budget crisis combined with the "significant policy shortcomings of California's redevelopment program" led the

Legislative Analyst's Office to "agree with the Governor's proposal to end" RDAs. (Leg. Analyst, Policy Brief, supra, Should California End Redevelopment Agencies?, p. 12.) Ultimately, the Legislature passed, and the Governor signed, two new laws that abolish RDAs while providing a system for local governments to continue redevelopment efforts if they choose to. Those two statutes are AB1X 26 and AB1X 27.

AB1X 26 eliminated RDAs, and established a process for winding down their affairs. As a budget trailer bill, AB1X 26 took effect immediately and barred RDAs from selling bonds or incurring other debt. (Cal. Health & Safety Code, § 34162.)[3] On October 1, 2011, RDAs will be dissolved, and "successor agencies" will take over their role. (§ 34172.) The successor agencies will wind down the business of the RDAs, including making payments on existing bonds and other obligations. County Auditor-Controllers will then take the property tax proceeds that would have been available to the RDA and place them into a Redevelopment Property Tax Fund, which after paying the RDA's obligations, are distributed to local agencies and schools. (§§ 34182(c)(1), 34183(a)(4).)

AB1X 27, entitled "Voluntary Alternative Redevelopment Program," creates a method whereby cities and counties may continue to pursue redevelopment. To establish an alternative RDA, the community must agree to set aside a proportional share of the $1.7 billion in savings anticipated by the elimination of RDAs. (§ 34194.) The majority of these funds are placed in an Educational Revenue Augmentation Fund to be used for education; a smaller fraction is used to support special districts, such as those offering fire protection and transit districts. (*Ibid.*) The alternative

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[3] All statutory references are to the Health & Safety Code, unless otherwise noted.

RDA may, but is not required to, reimburse the community for the payments made into these special funds. (§ 34134.1(a).) The payments from the Educational Revenue Augmentation Fund offset the payments required by Proposition 98. (AB1X 27 Assembly Floor Analysis at 4.) In future fiscal years, the total required payments by alternative RDAs will be approximately $400 million for education and $60 million for special districts. (§§ 34194(c)(1)(A); 34194.4(a)(2).)

AB1X 26 specified that it would take effect contingent on the enactment of AB1X 27. (AB1X 27, § 14.) But while the *enactment* of AB1X 26 was made contingent on the passage of AB1X 27, the *continuing validity* of AB1X 26 was not. AB1X 27 provides that should its provisions be held invalid, AB1X 26 "shall continue in effect." (AB1X 27, § 4.)

LEGAL STANDARD

When considering acts of the Legislature, courts must presume that a statute is valid "unless its unconstitutionality clearly, positively, and unmistakably appears." (*People v. Falsetta* (1999) 21 Cal.4th 903, 913.) This deference and the presumption of validity afforded all legislative acts arises because the California Legislature "may exercise any and all legislative powers which are not expressly . . . denied to it by the [California] Constitution." (*Methodist Hosp. of Sacramento v. Saylor* (1971) 5 Cal.3d 685, 691.) "In other words, [courts] do not look to the Constitution to determine whether the legislature is authorized to do an act, but only to see if it is prohibited." (*Ibid.*) Any "restrictions and limitations [imposed by the Constitution] are to be construed strictly, and are not to be extended to include matters not covered by the language used." (*Ibid.*) Thus, "[i]f there is any doubt as to the Legislature's power to act in any given case, the doubt should be resolved in favor of the Legislature's action." (*Ibid.*)

JURISDICTION

Historically, when the issues presented in a case have been of great public importance and required prompt resolution, this Court has exercised its original jurisdiction to decide them. (See, e.g., *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 219 [assertion of original jurisdiction in constitutional challenge to Proposition 13]; *Brosnahan v. Brown* (1982) 32 Cal.3d 236, 241 [assertion of original jurisdiction in constitutional challenge to Proposition 8].) Petitioners assert that the stakes involved in this action warrant an exercise of the Court's original jurisdiction under article VI, section 10 of the Constitution. Although the statutes at issue were properly enacted, and petitioners have little likelihood of success on the merits, the fact remains that the statutes are a significant component of the Legislature's plan to close the more than $25 billion budget gap and to solve ongoing revenue challenges. Because of the size, scope, and importance of the legislative action challenged here, respondent agrees that this Court should exercise its original jurisdiction to consider and dispose of this controversy on the merits. (*Sacramento v. Hickman* (1967) 66 Cal.2d 841, 845 [this Court exercised original jurisdiction in writ proceedings regarding tax assessments because it presented issues of "great public importance, and the administrative tasks of equalizing, levying, and collecting taxes would be greatly hampered by a delay in deciding the issue"].) A stay is not needed, and granting a stay would wreak havoc on the operation of the state for this fiscal year (see discussion below). Instead, respondent asks that the Court issue an order establishing expedited briefing for this case so that a swift and final decision on the merits of the dispute can be rendered.

ARGUMENT

I. THE LEGISLATURE HAD THE POWER TO TERMINATE ITS RDA PROGRAM.

Petitioners' argument focuses almost exclusively on AB1X 27, but fails to squarely address the passage of AB1X 26—a distinct and independently operative act with the discrete purpose of dissolving and winding down RDAs. By petitioners' account, the Legislature demanded that cities and counties "either make the payments required in AB1X 27 or have their RDAs dissolved by AB1X 26." (Pet., p. 5.) Petitioners mischaracterize the Legislature's actions. AB1X 26 did not threaten to dissolve all RDAs, it *actually terminated the RDA program*. And the payments contemplated by AB1X 27 are not designed to return RDAs to a non-dissolved status; they are part of an optional new Voluntary Alternative Redevelopment Program ("VARP"), under which cities and counties may pursue redevelopment efforts going forward. Properly understood, the measures are unremarkable and surely constitutional.

As noted above, courts must presume that a statute is valid "unless its unconstitutionality clearly, positively, and unmistakably appears." (*People v. Falsetta*, *supra*, 21 Cal.4th at p. 913.) And the Legislature "may exercise any and all legislative powers which are not expressly . . . denied to it by the [California] Constitution." (*Methodist Hosp. of Sacramento v. Saylor supra*, 5 Cal.3d at p. 691.) Applying these principles here, AB1X 26 and AB1X 27 do not violate the Constitution.

A. RDAs were created by the Legislature.

Petitioners concede, as they must, that RDAs are "organized and existing under the California Community Redevelopment Law (Health & Safety Code, §§ 33000 *et seq.*) . . . ." (Declaration of John. F. Shirey in Support of Petition for Writ of Mandate ("Shirey Decl."), ¶ 4.) Moreover,

the Constitution expressly recognizes the Legislature's authority to amend the law creating RDAs. (See Cal. Const., art. XVI, §16 [establishing taxation rules for property "in a redevelopment project established under the Community Redevelopment Law as now existing *or hereafter amended*..."] (emphasis supplied).) Unlike political entities of constitutional origin, RDAs are entirely creatures of statute. (Cf. Cal. Const., art. XI, §1, subd. (a) [county boundaries may not be changed by Legislature without election in county].)

B. Barring a constitutional provision to the contrary, all legislative acts may be undone by the Legislature.

A corollary to the rule that the Legislature may exercise any and all legislative powers that are not expressly or by necessary implication denied to it by the constitution (*Valdes v. Cory* (1983) 139 Cal.App.3d 773, 780) is the rule that when a power, right, or entity is created by legislative action, it can subsequently be repealed by the Legislature. (*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 518 [where a "power is statutory, the Legislature may eliminate it"].) In its findings in AB1X 26, the Legislature noted: "Redevelopment agencies were created by statute and can therefore be dissolved by statute." (Section 1, ¶ (h).) This is a correct statement of law. "Only the state is sovereign and, in a broad sense, *all local governments, districts, and the like are subdivisions of the state.*" (*City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 279 (citations omitted) (emphasis added).) For example, in California, cities "are mere creatures of the state and exist only at the state's sufferance." (*Board of Supervisors of Sacramento County v. Local Agency Formation Comm'n* (1992) 3 Cal.4th 903, 914; see also *Hunter v. Pittsburgh* (1907) 207 U.S. 161, 179 [states are free under federal constitution to control or eliminate local political subdivisions]; *Broadmoor Police Protection Dist. v. San Mateo Local Agency Formation Comm'n*

(1994) 26 Cal.App.4th 304, 311 [state can alter or abolish municipal corporations].)

Viewed in context, the Legislature's dissolution of its RDA program is unremarkable. Over time, the Legislature has acted again and again to remove or eliminate boards, agencies, and even cities that it created. One example is the Vocational Rehabilitation Unit and Program, which was a statewide program created by the Legislature in 1965 to help restore injured workers to suitable gainful employment for maximum self-support. (See former Labor Code, § 139.5, added by Stats.1965, ch. 1513.) In 2003, the Legislature eliminated the program. (See *Medrano v. Workers' Comp. Appeals Bd.* (2008) 167 Cal.App.4th 56, 65 [noting termination of program by Legislature].) Another illustration of the use of the Legislature's power to terminate via statute is the elimination of the City of Hornitos, which was established by statute in 1869, and disincorporated by the Legislature in 1972. (Stats.1972, ch. 650, p. 1209.)[4]

Petitioners mistakenly argue that the Legislature lacks the power to eliminate RDAs because Proposition 22 implicitly enshrined them in the California Constitution. While petitioners correctly note that Proposition 22 added article XIII, section 25.5, subdivision (a)(7)(A) to the Constitution (hereafter "section 25.5(a)"), this provision merely prohibits the state from requiring an RDA "to pay, remit, loan, or otherwise transfer, directly or indirectly" income allocated to the RDA to or for the benefit of the state.[5]

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[4] All told, seventeen cities have disincorporated in California's history. (Knox & Hutchinson, Municipal Disincorporation in California (2009) 32 Cal. Bar Assn. J. of Pub. L. 1, 3.)

[5] The full text of the relevant portion of section 25.5 is:

> (a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following . . . (7) "Require a

(continued...)

They further note that section 25.5(a)(7)(B) prohibits the state from assigning RDA tax increment income for the benefit of the state. In petitioners' view, both of these provisions "*a fortiori*" "presume the continued existence of the RDAs" and that the cited section of the Constitution "prevents the Legislature from abolishing these agencies." (Pet., pp. 6, 32.)

However, the plain language of section 25.5(a)(7) in no way restricts, or annuls, the Legislature's ability to eliminate the statutes that created RDAs. Had the voters intended such a sweeping limitation on the Legislature's power, they certainly could have so indicated in a clearer or more direct fashion. Indeed, the section petitioners rely upon itself enumerates a list of items that "the Legislature shall not enact a statute to do" and dissolution of RDAs is not among the prohibitions. (See section 25.5(a).) Manifestly, it is not for this Court to supply matters omitted by the drafters of the proposition. (*California Fed. Savings & Loan Assn. v. City of Los Angeles* (1995) 11 Cal.4th 342, 349 [in construing a statute a court's role is "simply to ascertain and declare what is in terms or in

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(...continued)

> community redevelopment agency (A) to pay, remit, loan, or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction; or (B) to use, restrict, or assign a particular purpose for such taxes for the benefit of the State, any agency of the State, or any jurisdiction, other than (i) for making payments to affected taxing agencies pursuant to Sections 33607.5 and 33607.7 of the Health and Safety Code or similar statutes requiring such payments, as those statutes read on January 1, 2008, or (ii) for the purpose of increasing, improving, and preserving the supply of low and moderate income housing available at affordable housing cost.

substance contained therein, not to insert what has been omitted or omit what has been inserted"].)

Petitioners point out that RDAs are mentioned in the Constitution in provisions which limit tampering with their revenue stream. From this, they argue that they are immunized from legislative dissolution. But the provisions where RDAs are mentioned do not specifically disable all legislative power over them. At bottom, petitioners' argument is that the mere mention of an entity in the Constitution immunizes it from legislative dissolution. This argument proves too much. The words "city or "cities" appear more than 50 times in the Constitution,[6] but it is beyond dispute that the Legislature can dissolve a city. Clearly something more than the mere mention of a public entity or political subdivision in the Constitution is needed to restrain legislative action against it.

II. THE LEGISLATURE WAS WITHIN ITS AUTHORITY TO CREATE A VOLUNTARY REDEVELOPMENT PROGRAM AND TO SET THE TERMS AND CONDITIONS FOR PARTICIPATION.

Just as the Legislature was free to use its plenary legislative authority to eliminate the RDA program it once created, the Legislature had authority to establish a new type of redevelopment program, as it did in AB1X 27. None of petitioners' arguments appear to dispute that core principle. Instead, petitioners' challenge to AB1X 27 and the VARP is premised upon a misinterpretation of the Legislature's actions.

Petitioners maintain that the Legislature made a "threat" to dissolve the RDAs in AB1X 26, and then "compelled" payments of RDA funds in

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[6] (See Art. I, §§ 19, 31; Art. II, §§ 6, 11, 19; Art. IV, §§ 17, 19; Art. VII, §§9, 10; Art. IX, §§ 6, 16; Art. X, §§ 3, 6; Art. XI, §§ 2, 3, 5, 6, 7, 7.5, 8, 9, 10, 12, 13, 15; Art. XIII, §§ 8.5, 14, 19, 25.5, 26, 28, 29; Art. XIIIA, §§ 2, 4; Art. XIIIB, §§ 6, 8; Art. XIII C, § 1; Art. XIV, § 8; Art. XVI, §§ 3, 5, 6, 16, 18, 19; Art. XIX, §§ 4, 6, 7; Art. XIXB, § 2; Art. XX, §§ 1, 3, 22; Art. XXI, § 2; Art. XXXIV, § 1.)

violation of Proposition 22 to permit the RDAs to continue to exist in AB1X 27. (Pet., pp. 21, 24-26.) This is incorrect. There was no "threat." The Legislature terminated the existence of the RDAs as a "stand alone" act, without regard to actions that cities or counties might choose subsequently to avail themselves of under AB1X 27:

> 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.*

(AB1X 26, ch. 2, § 34172, subd. (a)(1) (emphasis added).)

Having eliminated RDAs and having set up a protocol for winding up their affairs, the Legislature then offered cities and counties that wanted to continue to pursue redevelopment goals an alternative and voluntary mechanism.[7] The VARP provides an opportunity for local government entities that were willing to share some of their revenues with local schools, fire, and transportation districts to revive their redevelopment programs in a manner more consistent with state fiscal needs. Local entities that choose not to participate in the VARP are not penalized; their RDAs will be wound down through specified means. Those that elect to participate must pass an ordinance declaring their desire to do so no later than October 1, 2011, after

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[7] Petitioners' portrayal of AB1X 26 and 27 as a unitary scheme by the Legislature to evade the dictates of Proposition 22 is belied by the terms of AB1X 27. The Legislature clearly states that the VARP created in AB1X 27 is "distinct and severable" from the provisions of AB1X 26 which freeze and dissolve RDAs and that "those provisions shall continue in effect if any of the provisions of [AB1X 27] are held invalid." (AB1X 27, § 4.) The Legislature's clear resolve to dissolve RDAs must be analyzed separately from its decision to offer an alternative, optional, redevelopment program going forward.

which they will receive an invoice from the Department of Finance reflecting the payment they will be required to make to the local districts.

Petitioners contend that *Sonoma County Organization of Public Employees v. County of Sonoma* (1979) 23 Cal.3d 296, 319 ("*SCOPE*") controls the outcome here. Respondent respectfully disagrees. In *SCOPE*, the Legislature released certain funds to counties on the condition that the counties limit pay raises for their employees in Fiscal Year 1978-79. (*Id.* at p. 304.) In doing so, the Legislature "declared *null and void* any provision of 'a contract, agreement, or memorandum of understanding between a local public agency and an employee organization or an individual employee which provides for a cost of living wage or salary increase' in excess of the increase provided for state employees." (*Id.* at p. 305 (original emphasis).) The Court found that because "constitutional power cannot be used by way of condition to attain an unconstitutional result," the Legislature "could not *require* as a condition of granting those funds that the local agencies impair valid contracts to pay wage increases." (*Id.* at p. 319 (emphasis supplied) (citation omitted).) Relying upon this language, petitioners contend that this is "precisely what the Legislature did when it attempted to use its supposed power over the continued existence of RDAs to compel them to make payments that would have been prohibited by section 25.5(a)(7)(A) had they been commanded directly by the Legislature." (Pet., p. 24.)

The circumstances here are plainly distinguishable. The legislation in *SCOPE* violated the contract rights of thousands of people, while the statutes here do not infringe any contract or constitutional rights. Indeed, the statutes go to great lengths to ensure that all bondholders and others who have enforceable rights against the RDAs are protected and receive their payments. Petitioners' argument rests on a characterization of AB1X 27 payments as "required." But again, no payments are required by AB1X

26 or by AB1X 27. Payments under AB1X 27 are voluntary, and if a city or county decides not to make them, all enforceable obligations of the RDA will nevertheless be honored during its wind down.

Reduced to its essence, petitioners' claim is that cities and counties have been compelled to share funds in violation of Proposition 22 because it would be economically advantageous for them to be able to continue operating their RDAs, and that they therefore have no choice but to tender the funds called for by AB1X 27.[8] But the choice is genuine and the offer being made does not violate the Constitution. As explained above, there is little doubt that the Legislature was empowered to dismantle a community redevelopment scheme of its own creation. The Legislature could have stopped after dissolving RDAs. Taking the additional step of offering a new, voluntary redevelopment program does not make the abolition of RDAs any less effective. The voluntary redevelopment program merely provides an opportunity for those cities and counties that want to pursue redevelopment to do so, albeit on a different financial footing reflecting current fiscal realities.

Petitioners confuse hard policy choices with legal compulsion. It may be a difficult choice for the cities and counties who had RDAs to decide

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[8] Virtually all of petitioners' contentions suffer from the same defect of contending that the voluntary payments called for in AB1X 27 were "compelled" or "required" in violation of the Constitution. (See, e.g., Pet., p. 22 ["payments must be made"]; Pet., p. 24 ["compel them to make payments"]; Pet., p. 27 ["payments compelled by AB1X 27"]; Pet., p. 36 ["Legislature cannot compel use of property tax proceeds"].) A second fundamental mistake made by petitioners is confusing the difference between property tax and the property tax increment received by RDAs. An RDA's "tax increment may not be deemed to be the proceeds of taxes within the meaning of article XIII B." (*City of El Monte v. Commission on State Mandates* (2000) 83 Cal.App.4th 266, 281.) This distinction disposes of petitioners' claims related to article XIII, section 24, subd. (b) and article XIIIB, section 6, subd. (b)(3). (Pet., pp. 36-39.)

whether to participate in the VARP or to allow their RDAs to be wound down pursuant to AB1X 26 without provision for future redevelopment efforts. But it is unmistakably a choice. And hard choices are the order of the day in California in 2011. Solving a budget gap exceeding $25 billion left the Governor and the Legislature with many tough choices. The statutes at issue are but two examples of the difficult choices they made to balance the budget.

III. THE COURT SHOULD NOT STAY IMPLEMENTATION OF AB1X 26 AND 27.

Although couched as a request for a "stay," petitioners' application is akin to a preliminary injunction seeking to suspend multiple statutory provisions pending consideration of the merits of the petition in the first instance by this Court. (Cf., Code Civ. Proc. § 923; Cal. Rules of Court, rule 8.112.) For this reason, this Court must (1) carefully balance the hardships between the parties and the public interest and (2) consider if there is a reasonable probability that petitioners will succeed on the merits. (See *Butt v. State of California* (1992) 4 Cal.4th 668, 677-678; *Common Cause of California v. Board of Supervisors of Los Angeles County* (1989) 49 Cal.3d 432, 441-42.) Neither of these prongs is satisfied, and the request for a stay should be denied.

The general rule is that statutes and ordinances will not be enjoined, and where plaintiffs seek such an injunction, public policy considerations come into play. "Where, as here, the plaintiff seeks to enjoin public officers and agencies in the performance of their duties the public interest must be considered." (*Tahoe Keys Property Owners' Assn. v. State Water Resources Control Bd.* (1994) 23 Cal.App.4th 1459, 1472-1473 [citing *Loma Portal Civic Club v. American Airlines, Inc.* (1964) 61 Cal.2d 582, 588].) "There is a general rule against enjoining public officers or agencies from performing their duties." (*Ibid.*) Although this rule would not

preclude a court from enjoining unconstitutional or void acts, to support a request for such relief, the plaintiff must make "a significant showing of irreparable injury." (*Id.* at p. 1471.)

A. Petitioners are not likely to prevail on the merits.

Petitioners' legal argument is weak. It requires a conclusion that the Legislature is not free to dissolve entities that it has created, which is contrary to law. Moreover, the conclusion that voluntary participation in the VARP is "compelled" or "required" in violation of Proposition 22 is based on petitioners' failure to acknowledge that the RDA program has already been terminated by AB1X 26. Cities and counties are free to simply wind down their RDAs, and are not required to participate in the new redevelopment program. Petitioners therefore are not likely to prevail on the merits.

B. Petitioners have not established that a stay is needed to prevent irreparable injury.

Much of the showing made by petitioners is related to the ultimate impact of AB1X 26 and 27 going forward, not to the claimed injury which forms the basis for the stay. Significantly, two of petitioners' declarants do not even request a stay, and expressly acknowledge that their concerns can be met with an expedited briefing schedule. Both the Executive Director of the Brentwood RDA and the Mayor of Oakland merely request a "rul[ing] on the merits of this petition by December 20, 2011 in order to minimize the impact of these bills." (Declaration of Donna Landeros in Support of Petition for Writ of Mandate, ¶ 8; Declaration of Jean Quan in Support of Petition for Writ of Mandate, ¶ 5.) Since a ruling on the merits could be forthcoming by December 20 with an expedited briefing order, this request does not justify granting a stay.

The bulk of the showing made by petitioners regarding claimed injury justifying a stay relate to asserted administrative burdens. Without a stay, the City of Guadalupe claims that it "would be forced to incur significant staff time and resources" to prepare for the dissolution of RDA and "[i]f no stay is issued the City would need to add this additional workload to its already overworked employees." (Declaration of Regan M. Candelario in Support of Petition for Writ of Mandate, ¶ 6.) Likewise, San Jose opines that a stay is needed "in order to avoid having to prepare for the dissolution required by AB1X 26" which would require preparing a list of the RDA's "existing enforceable obligations" and "prepar[ing] for the necessary Board meetings." (Declaration of Peter J. Furman in Support of Petition for Writ of Mandate, ¶ 8.) In a similar vein, Modesto claims to need a stay to avoid preparing "a list" of the RDA's "existing enforceable obligations." (Declaration of Jim Ridenour in Support of Petition for Writ of Mandate, ¶ 8.) West Sacramento urges a stay to "avoid having to take any steps toward dissolution" as that will require "the City's staff time." (Declaration of Toby Ross in Support of Petition for Writ of Mandate, ¶ 5.)

The Executive Director of the League of California Cities urges a stay to "give cities an opportunity to make a reasoned decision" on whether to become successor agencies to their RDAs "prior to the September 1, 2011 deadline." (Declaration of Chris McKenzie in Support of Petition for Writ of Mandate, ¶ 17.) The same contention is made by the Executive Director of the California Redevelopment Association: the stay is needed to "give cities and counties an opportunity to make a reasoned decision prior to the September 1, 2011 deadline." (Shirey Decl, ¶ 33.)

To the extent that the declarations offer more than claimed administrative burdens as a basis for a stay, they are diluted by qualifiers which limit their evidentiary value. (See, e.g., Evanoff Decl., ¶ 16 ["Agency might not be able to recover this land"; "it may be impossible" to

rehire laid-off staff]; McKenzie Decl., ¶ 14 [cities "may have agency assets distributed]; Ridenour Decl., ¶ 6 [it will be "difficult" to revive projects canceled by RDA dissolution]; Ross Decl., ¶ 9 ["Agency may not be able to re-assemble the Agency's assets].)

Petitioners have offered nothing approaching irreparable injury justifying a stay. The need to make lists, prepare agendas, and hold meetings about deciding whether to participate in the VARP does not "meet the definition of 'irreparable injury,' being at most an irreparable inconvenience." (*Ordway v. Superior Court* (1988) 198 Cal.App.3d 98, 101, fn. 1.) Mere speculation about what might happen to RDA assets and staff likewise is insufficient to demonstrate irreparable injury.

This minimal showing must be weighed against the state's interest in maintaining a balanced budget in historically difficult times. AB1X 26 and 27 are two statutes which are integral to the budget package for the current fiscal year. Attending to the fiscal health of the state and ensuring the budget is implemented as passed "is a matter of significant public concern and provisional injunctive relief which would deter or delay defendants in the performance of their duties would necessarily entail a significant risk of harm to the public interest." (*Tahoe Keys Property Owners' Assn. v. State Water Resources Control Bd., supra*, 23 Cal.App.4th at p. 1473.)

C. Issuing the stay requested by petitioners will alter the status quo.

The purpose of a stay is to preserve the status quo. (See, e.g., *American Mut. Liab. Ins. Co. v. Superior Court* (1974) 38 Cal.App.3d 579, 597 ["we issued our stay order to preserve the status quo"].) Petitioners imply that the stay they request will preserve the status quo. (Pet., p. 42.) Yet, at present, AB1X 26 has been in effect for approximately one month, and many of its provisions took effect immediately upon passage, including restrictions on the ability of RDAs to "incur new or expand existing

monetary or legal obligations." (§ 34161.) The list of prohibited transactions is extensive. RDAs may no longer issue most new bonds, sign mortgages, encumber properties, restructure debt, loan money to other organizations, amend or modify leases, change boundaries, forgive debt or enter into most contracts. (§§ 34161-34166.) In so restricting RDAs, the Legislature expressed a clear desire to protect the corpus of their funds pending dissolution. (§ 34167, subd. (a) [expressing legislative intent that RDAs "take no actions that would further deplete the corpus of the agencies' funds."].) All of these restrictions have been in place since AB1X 26 was signed on June 28, 2011, and, accordingly, are the status quo. To "stay" the operation of AB1X 26 would not preserve the status quo. Instead, it would drastically alter the parties' relative positions by permitting RDAs to engage in all of the banned transactions and potentially dissipate the significant public resources they hold.

CONCLUSION

Petitioners have not demonstrated that the challenged statutes violate the California Constitution, nor have they presented evidence sufficient to justify a stay of AB1X 26 and 27. However, given the critical need to obtain a definitive answer to the challenge raised herein, respondent respectfully requests that this Court exercise its original jurisdiction, issue an alternative writ or order to show cause, and set this matter for expedited briefing. Thereafter, respondent requests that the petition be denied on the merits.

Dated: July 27, 2011

Respectfully submitted,

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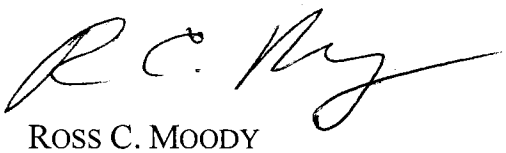

ROSS C. MOODY
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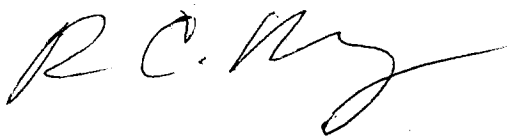
CERTIFICATE OF COMPLIANCE

I certify that the attached INFORMAL OPPOSITION TO PETITION FOR WRIT OF MANDATE; REQUEST FOR ISSUANCE OF ALTERNATIVE WRIT AND FOR ORDER EXPEDITING BRIEFING uses a 13 point Times New Roman font and contains 5,854 words.

Dated: July 27, 2011

KAMALA D. HARRIS
Attorney General of California



ROSS C. MOODY
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EXHIBIT 1

Assembly Bill No. 26

CHAPTER 5

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

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

LEGISLATIVE COUNSEL'S DIGEST

AB 26, Blumenfield. Community redevelopment.

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

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

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

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

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

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

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

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

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

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

Appropriation: yes.

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

SECTION 1. The Legislature finds and declares all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33500. (a) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within 90 days after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred prior to January 1, 2011.

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

(c) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a

redevelopment plan at any time within two years after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred after January 1, 2011.

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

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

33501. (a) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including without limiting the generality of the foregoing, the legality and validity of all proceedings theretofore taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds, and for the payment of the principal thereof and interest thereon.

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

(c) Any action that is commenced on or after January 1, 2011, which is brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity or legality of any issue, document, or action described in subdivision (a), may be brought within two years after any triggering event that occurred after January 1, 2011.

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

(e) For purposes of contesting the inclusion in a project area of lands that are enforceably restricted, as that term is defined in Sections 422 and 422.5 of the Revenue and Taxation Code, or lands that are in agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, the Department of Conservation, the county agricultural commissioner, the

county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice, are interested persons pursuant to Section 863 of the Code of Civil Procedure, in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

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

33607.5. (a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan which contains the provisions required by Section 33670, is either: (A) adopted on or after January 1, 1994, including later amendments to these redevelopment plans; or (B) adopted prior to January 1, 1994, but amended, after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 has been deducted from the total amount of tax increment funds received by the agency in the applicable fiscal year.

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

facilities in any one year, the agency shall reduce its payment in more than one year.

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

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

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

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

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

(4) (A) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to school districts, 43.3 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 56.7 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(B) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(C) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of Section 2558 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(D) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section for special education, 19 percent shall be considered to be property taxes for the purposes of Section 56712 of the

Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for education facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

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

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

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

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

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

against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

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

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

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the agency will not be able to pay the debt payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

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

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

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

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

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

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

33607.7. (a) This section shall apply to a redevelopment plan amendment for any redevelopment plans adopted prior to January 1, 1994, that increases the limitation on the number of dollars to be allocated to the redevelopment agency or that increases, or eliminates pursuant to paragraph (1) of subdivision (e) of Section 33333.6, the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1)

and (2) of subdivision (a) of Section 33333.6, as those paragraphs read on December 31, 2001, or that lengthens the period during which the redevelopment plan is effective if the redevelopment plan being amended contains the provisions required by subdivision (b) of Section 33670. However, this section shall not apply to those redevelopment plans that add new territory.

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

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

(2) If an agreement does not exist, the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5, until termination of the redevelopment plan, calculated against the amount of assessed value by which the current year assessed value exceeds an adjusted base year assessed value. The amounts shall be allocated between property taxes and educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance, according to the appropriate formula in paragraph (3) of subdivision (a) of Section 33607.5. In determining the applicable amount under Section 33607.5, the first fiscal year shall be the first fiscal year following the fiscal year in which the adjusted base year value is determined.

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

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

PART 1.8. RESTRICTIONS ON REDEVELOPMENT AGENCY OPERATIONS

CHAPTER 1. SUSPENSION OF AGENCY ACTIVITIES AND PROHIBITION ON CREATION OF NEW DEBTS

34161. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, no agency shall incur new or expand existing monetary or legal obligations except as provided in this

part. All of the provisions of this part shall take effect and be operative on the effective date of the act adding this part.

34162. (a) Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this act, an agency shall be unauthorized and shall not take any action to incur indebtedness, including, but not limited to, any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34163. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34164. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, engage in any of the following redevelopment activities:

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

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

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

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

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

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

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

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

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

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

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

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

(m) Provide or commit to provide financial assistance.

34165. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, do any of the following:

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

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

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

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

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

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

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

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

34166. No legislative body or local governmental entity shall have any statutory authority to create or otherwise establish a new redevelopment

agency or community development commission. No chartered city or chartered county shall exercise the powers granted in Part 1 (commencing with Section 33000) to create or otherwise establish a redevelopment agency.

34167. (a) This part is intended to preserve, to the maximum extent possible, the revenues and assets of redevelopment agencies so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools. It is the intent of the Legislature that redevelopment agencies take no actions that would further deplete the corpus of the agencies' funds regardless of their original source. All provisions of this part shall be construed as broadly as possible to support this intent and to restrict the expenditure of funds to the fullest extent possible.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34167.5. Commencing on the effective date of the act adding this part, the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency. If such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the

extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). Upon receiving such an order from the Controller, an affected local agency shall, as soon as practicable, reverse the transfer and return the applicable assets to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in the furtherance of the Community Redevelopment Law and is thereby unauthorized.

34168. (a) Notwithstanding any other law, any action contesting the validity of this part or Part 1.85 (commencing with Section 34170) or challenging acts taken pursuant to these parts shall be brought in the Superior Court of the County of Sacramento.

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

CHAPTER 2. REDEVELOPMENT AGENCY RESPONSIBILITIES

34169. Until successor agencies are authorized pursuant to Part 1.85 (commencing with Section 34170), redevelopment agencies shall do all of the following:

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

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

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

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

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

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

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

(A) The project name associated with the obligation.

(B) The payee.

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

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

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

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

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

respect to the preliminary draft of the initial recognized obligation payment schedule.

CHAPTER 3. APPLICATION OF PART TO FORMER PARTICIPANTS OF THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

34169.5. (a) It is the intent of the Legislature that a redevelopment agency, that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), but that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

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

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

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

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

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

PART 1.85. DISSOLUTION OF REDEVELOPMENT AGENCIES AND DESIGNATION OF SUCCESSOR AGENCIES

CHAPTER 1. EFFECTIVE DATE, CREATION OF FUNDS, AND DEFINITION OF TERMS

34170. (a) Unless otherwise specified, all provisions of this part shall become operative on October 1, 2011.

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

34170.5. (a) The successor agency shall create within its treasury a Redevelopment Obligation Retirement Fund to be administered by the successor agency.

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

34171. The following terms shall have the following meanings:

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

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

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

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

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

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

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

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

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

any necessary and required compensation or remediation for such termination.

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 2. EFFECT OF REDEVELOPMENT AGENCY DISSOLUTION

34172. (a) (1) All redevelopment agencies and redevelopment agency components of community development agencies created under Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) that were in existence on the effective date of this part are hereby dissolved and shall no longer exist as a public body, corporate or politic. Nothing in this part dissolves or otherwise affects the authority of a community redevelopment commission, other than in its authority to act as a redevelopment agency, in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates. For those other nonredevelopment purposes, the community development commission derives its authority solely from federal or local laws, or from state laws other than the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(2) A community in which an agency has been dissolved under this section may not create a new agency pursuant to Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100). However, a community in which the agency has been dissolved and the successor entity has paid off all of the former agency's enforceable obligations may create a new agency pursuant to Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100), subject to the tax increment provisions contained in Chapter 3.5 (commencing with Section 34194.5) of Part 1.9 (commencing with Section 34192).

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

(c) Solely for purposes of Section 16 of Article XVI of the California Constitution, the Redevelopment Property Tax Trust Fund shall be deemed to be a special fund of the dissolved redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness,

whether funded, refunded, assumed, or otherwise incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment projects of each redevelopment agency dissolved pursuant to this part.

(d) Revenues equivalent to those that would have been allocated pursuant to subdivision (b) of Section 16 of Article XVI of the California Constitution shall be allocated to the Redevelopment Property Tax Trust Fund of each successor agency for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies. Amounts in excess of those necessary to pay obligations of the former redevelopment agency shall be deemed to be property tax revenues within the meaning of subdivision (a) of Section 1 of Article XIII A of the California Constitution.

34173. (a) Successor agencies, as defined in this part, are hereby designated as successor entities to the former redevelopment agencies.

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

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

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

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

(2) The determination of the first local agency that elects to become the successor agency shall be made by the county auditor-controller based on

the earliest receipt by the county auditor-controller of a copy of a duly adopted resolution of the local agency's governing board authorizing such an election. As used in this section, "local agency" means any city, county, city and county, or special district in the county of the former redevelopment agency.

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

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

34174. (a) Solely for the purposes of Section 16 of Article XVI of the California Constitution, commencing on the effective date of this part, all agency loans, advances, or indebtedness, and interest thereon, shall be deemed extinguished and paid; provided, however, that nothing herein is intended to absolve the successor agency of payment or other obligations due or imposed pursuant to the enforceable obligations; and provided further, that nothing in the act adding this part is intended to be construed as an action or circumstance that may give rise to an event of default under any of the documents governing the enforceable obligations.

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

34175. (a) It is the intent of this part that pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. It is intended that the cessation of any redevelopment agency shall not affect either the pledge, the legal existence of that pledge, or the stream of revenues available to meet the requirements of the pledge.

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

34176. (a) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city,

county, or city and county elects to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the city, county, or city and county.

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

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

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

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

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

CHAPTER 3. SUCCESSOR AGENCIES

34177. Successor agencies are required to do all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Low and Moderate Income Housing Fund.

(B) Bond proceeds.

(C) Reserve balances.

(D) Administrative cost allowance.

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

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

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

(A) A draft Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency by November 1, 2011. From October 1, 2011, to July 1, 2012, the initial draft of that schedule shall project the dates and amounts of scheduled

payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had such a redevelopment agency not been dissolved, and shall be reviewed and certified, as to its accuracy, by an external auditor designated pursuant to Section 34182.

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

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

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

34178. (a) Commencing on the operative date of this part, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency; provided, however, that a successor entity wishing to enter or reenter into agreements with the city, county, or city and county that formed the redevelopment agency that it is succeeding may do so upon obtaining the approval of its oversight board.

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

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

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

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

34178.7. For purposes of this chapter with regard to a redevelopment agency that becomes subject to this part pursuant to Section 34195, only references to "October 1, 2011," and to the "operative date of this part"

shall be modified in the manner described in Section 34191. All other dates shall be modified only as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

Chapter 4. Oversight Boards

34179. (a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before January 1, 2012. Members shall be selected as follows:

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

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

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

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

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

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

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

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

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

(10) Where a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, where such appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by

property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city where such an appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

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

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

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

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

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

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

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

oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department.

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

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

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

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

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

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

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

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

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

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

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

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

34180. All of the following successor agency actions shall first be approved by the oversight board:

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

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

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

(d) Merging of project areas.

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

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

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

(g) Establishment of the Recognized Obligation Payment Schedule.

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

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

34181. The oversight board shall direct the successor agency to do all of the following:

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

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

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

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

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

CHAPTER 5. DUTIES OF THE AUDITOR-CONTROLLER

34182. (a) (1) The county auditor-controller shall conduct or cause to be conducted an agreed-upon procedures audit of each redevelopment agency in the county that is subject to this part, to be completed by March 1, 2012.

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

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

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

(c) (1) The county auditor-controller shall determine the amount of property taxes that would have been allocated to each redevelopment agency in the county had the redevelopment agency not been dissolved pursuant to the operation of the act adding this part. These amounts are deemed property tax revenues within the meaning of subdivision (a) of Section 1 of Article XIII A of the California Constitution and are available for allocation and distribution in accordance with the provisions of the act adding this part.

The county auditor-controller shall calculate the property tax revenues using current assessed values on the last equalized roll on August 20, pursuant to Section 2052 of the Revenue and Taxation Code, and pursuant to statutory formulas or contractual agreements with other taxing agencies, as of the effective date of this section, and shall deposit that amount in the Redevelopment Property Tax Trust Fund.

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

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

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

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

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

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

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

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

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

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

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

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

county auditor-controller's action or return it to the county auditor-controller for reconsideration and such county auditor-controller action shall not be effective until approved by the Controller. In the event that the Controller returns the county auditor-controller's action to the county auditor-controller for reconsideration, the county auditor-controller must resubmit the modified action for Controller approval and such modified county auditor-controller action shall not become effective until approved by the Controller.

34183. (a) Notwithstanding any other law, from October 1, 2011, to July 1, 2012, and for each fiscal year thereafter, the county auditor-controller shall, after deducting administrative costs allowed under Section 34182 and Section 95.3 of the Revenue and Taxation Code, allocate moneys in each Redevelopment Property Tax Trust Fund as follows:

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

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

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

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

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

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

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

(b) If the successor agency reports, no later than December 1, 2011, and May 1, 2012, and each December 1 and May 1 thereafter, to the county auditor-controller that the total amount available to the successor agency from the Redevelopment Property Tax Trust Fund allocation to that successor agency's Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, are insufficient to fund the payments required by paragraphs (1) to (3), inclusive, of subdivision (a) in the next six-month fiscal period, the county auditor-controller shall notify the Controller and the Department of Finance no later than 10 days from the date of that notification. The county auditor-controller shall verify whether the successor agency will have sufficient funds from which to service debts according to the Recognized Obligation Payment Schedule and shall report the findings to the Controller. If the Controller concurs that there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the amount remaining to be distributed to taxing entities pursuant to paragraph (4), and if that amount is exhausted, from amounts available for distribution for administrative costs in paragraph (3). If an agency, pursuant to the provisions of Section 33492.15, 33492.72, 33607.5, 33671.5, 33681.15, or 33688, made passthrough payment obligations subordinate to debt service payments required for enforceable obligations, funds for servicing bond debt may be deducted from the amounts for passthrough payments under paragraph (1), as provided in those sections, but only to the extent that the amounts remaining to be distributed to taxing entities pursuant to paragraph (4) and the amounts available for distribution for administrative costs in paragraph (3) have all been exhausted.

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

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

Controller may be augmented to reflect the reimbursement, pursuant to Section 28.00 of the Budget Act.

34185. Commencing on January 16, 2012, and on each January 16 and June 1 thereafter, the county auditor-controller shall transfer, from the Redevelopment Property Tax Trust Fund of each successor agency into the Redevelopment Obligation Retirement Fund of that agency, an amount of property tax revenues equal to that specified in the Recognized Obligation Payment Schedule for that successor agency as payable from the Redevelopment Property Tax Trust Fund subject to the limitations of Sections 34173 and 34183.

34186. Differences between actual payments and past estimated obligations on recognized obligation payment schedules must be reported in subsequent recognized obligation payment schedules and shall adjust the amount to be transferred to the Redevelopment Obligation Retirement Fund pursuant to this part. These estimates and accounts shall be subject to audit by county auditor-controllers and the Controller.

34187. Commencing January 1, 2012, whenever a recognized obligation that had been identified in the Recognized Payment Obligation Schedule is paid off or retired, either through early payment or payment at maturity, the county auditor-controller shall distribute to the taxing entities, in accordance with the provisions of the Revenue and Taxation Code, all property tax revenues that were associated with the payment of the recognized obligation.

34188. For all distributions of property tax revenues and other moneys pursuant to this part, the distribution to each taxing entity shall be in an amount proportionate to its share of property tax revenues in the tax rate area in that fiscal year, as follows:

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

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

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

(c) The total school share, including passthroughs, shall be the share of the property taxes that would have been received by school entities, as

defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, in the jurisdictional territory of the former redevelopment agency, including, but not limited to, the amounts specified in Sections 97.68 and 97.70 of the Revenue and Taxation Code.

34188.8. For purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, a date certain identified in this chapter shall not be subject to Section 34191, except for dates certain in Section 34182 and references to "October 1, 2011," or to the "operative date of this part,". However, for purposes of those redevelopment agencies, a date certain identified in this chapter shall be appropriately modified, as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

CHAPTER 6. EFFECT OF THE ACT ADDING THIS PART ON THE COMMUNITY REDEVELOPMENT LAW

34189. (a) Commencing on the effective date of this part, all provisions of the Community Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies, including, but not limited to, Sections 33445, 33640, 33641, 33645, and subdivision (b) of Section 33670, shall be inoperative, except as those sections apply to a redevelopment agency operating pursuant to Part 1.9 (commencing with Section 34192).

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

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

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

CHAPTER 7. STABILIZATION OF LABOR AND EMPLOYMENT RELATIONS

34190. (a) It is the intent of the Legislature to stabilize the labor and employment relations of redevelopment agencies and successor agencies in furtherance of and connection with their responsibilities under the act adding this part.

(b) Nothing in the act adding this part is intended to relieve any redevelopment agency of its obligations under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Subject to the limitations set forth in Section 34165, prior to its dissolution, a

redevelopment agency shall retain the authority to meet and confer over matters within the scope of representation.

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

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

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

(f) The Legislature finds and declares that the duties and responsibilities of local agency employer representatives under this chapter are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs. Furthermore, the Legislature also finds and declares that to the extent the act adding this part provides the funding with which to accomplish the obligations provided herein, the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs.

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

(h) Individuals formerly employed by redevelopment agencies that are subsequently employed by successor agencies shall, for a minimum of two years, transfer their status and classification in the civil service system of the redevelopment agency to the successor agency and shall not be required

to requalify to perform the duties that they previously performed or duties substantially similar in nature and in required qualification to those that they previously performed. Any such individuals shall have the right to compete for employment under the civil service system of the successor agency.

CHAPTER 8. APPLICATION OF PART TO FORMER PARTICIPANTS OF THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

34191. (a) It is the intent of the Legislature that a redevelopment agency that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

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

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

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

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

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

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

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

98.2. For the 2011–12 fiscal year, and each fiscal year thereafter, the computations provided for in Sections 98 and 98.1 shall be performed in a manner which recognizes that passthrough payments formerly required under the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code) are continuing to be made under the authority of Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code and those payments shall be recognized in the TEA calculations as though they were made under the Community Redevelopment Law. Additionally, the computations provided for in Sections 98 and 98.1 shall be performed in a manner that recognizes payments to a Redevelopment Property Tax Trust Fund, established pursuant to Section 34170.5 of the Health and Safety Code as if they were payments to a redevelopment agency as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

SEC. 10. If a legal challenge to invalidate any provision of this act is successful, a redevelopment agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

SEC. 11. The sum of five hundred thousand dollars ($500,000) is hereby appropriated to the Department of Finance from the General Fund for allocation to the Treasurer, Controller, and Department of Finance for administrative costs associated with this act. The department shall notify the Joint Legislative Budget Committee and the fiscal committees in each house of any allocations under this section no later than 10 days following that allocation.

SEC. 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end, the provisions of this act are severable. The Legislature expressly intends that the provisions of Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code are severable from the provisions of Part 1.8 (commencing with Section 34161) of Division 24 of the Health and Safety Code, and if Part 1.85 is held invalid, then Part 1.8 shall continue in effect.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 14. This act shall take effect contingent on the enactment of Assembly Bill 27 of the 2011–12 First Extraordinary Session or Senate Bill 15 of in the 2011–12 First Extraordinary Session and only if the enacted bill adds Part 1.9 (commencing with Section 34192) to Division 24 of the Health and Safety Code.

SEC. 15. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 16. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

O

EXHIBIT 2

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.

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **California Redevelopment Association, et al. v. Matosantos, et al.**

No.: **S194861**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On July 27, 2011, I served the attached **INFORMAL OPPOSITION TO PETITION FOR WRIT OF MANDATE; REQUEST FOR ISSUANCE OF ALTERNATIVE WRIT AND ORDER EXPEDITING BRIEFING** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Steven L. Mayer Howard, Rice, Nemerovski, Canady, Falk & Rabkin Three Embarcadero Center, 7th Floor San Francisco, CA 94111-4024 Telephone: (415) 434-1600 Also served via facsimile transmission at (415) 677-6262) and a transmittal report is attached to this declaration (Attorneys for Petitioners)	Jennifer Rockwell Chief Counsel Department of Finance 915 "L" Street Sacramento, CA 95814 Telephone: (916) 324-4856
Claude Kolm Deputy County Counsel Alameda County Counsel's Office 1221 Oak Street, Room 450 Oakland, CA 94612-4296 Telephone: (510) 272-6710	Brian E. Washington Alameda County Counsel's Office 1221 Oak Street, Room 450 Oakland, CA 94612-4296 Telephone: (510) 272-6700

Richard J. Chivaro Chief Counsel State Controller's Office P.O. Box 942850 Sacramento, CA 94250 Telephone: (916) 445-6854	

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 27, 2011, at San Francisco, California.

Janet Wong	J Wong
Declarant	Signature

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KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE

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NAME: **Steven L. Mayer,**
OFFICE: **Howard, Rice, Nemerovski, Canady, Falk & Rabkin**
LOCATION: **San Francisco**
FAX NO.: **(415) 677-6262** PHONE NO.: **(415) 434-1600**

FROM:

NAME: **Janet Wong, Legal Secretary**
OFFICE:
LOCATION: **San Francisco**
FAX NO.: **(415) 703-1234** PHONE NO.: **(415) 703-5997**

MESSAGE/INSTRUCTIONS

Re: California Redevelopment Association, et al. v. Matosantos, et al. (No. 194861)

Informal Opposition to Petition for Writ of Mandate; Request for Issuance of Alternative Writ and for Order Expediting Briefing

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