

AMENDED IN SENATE JUNE 29, 2009

CALIFORNIA LEGISLATURE—2009–10 THIRD EXTRAORDINARY SESSION

SENATE BILL

No. 29

Introduced by Senator Ducheny

April 13, 2009

An act relating to the Budget Act of 2009 to amend Sections 33685, 33686, and 33687 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 29, as amended, Ducheny. ~~Budget Act of 2009.~~ *Community redevelopment: education.*

(1) Existing property tax law requires the county auditor, for each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing law requires a redevelopment agency to make a remittance, as determined by the Director of Finance prior to May 10, to the county Educational Revenue Augmentation Fund (ERAF) for the 2008–09 fiscal year and authorizes a legislative body to remit, in lieu of making that payment prior to May 10, 2009, a designated amount to the county auditor for deposit in the county ERAF.

This bill would additionally require a redevelopment agency to make the remittance for the 2009–10 and 2010–11 fiscal years and would require the agency to remit that payment on or before June 30 of that fiscal year. The bill would make conforming changes to provisions of

existing law relating to revenue payments deposited by redevelopment agencies in the county ERAF for allocation to school entities.

The bill would require the county auditor-controller to distribute funds that are remitted to the county ERAF by a city-operated or county-operated redevelopment agency only to a K-12 school district, as defined, that is located partially or entirely within the project area of the redevelopment agency in an amount proportional to the average daily attendance of each school district. The bill would require the county superintendent of schools to provide the average daily attendance reported for each school district as of the Second Proportional Apportionment for the 2008–09, 2009–10, and 2010–11 fiscal years to the county auditor-controller. The bill would require the county auditor-controller to notify, on or before October 1 of that fiscal year, the Department of Finance of the amount of funding apportioned to each school district pursuant to this act.

The bill would also require, for the 2008–09, 2009–10, and 2010–11 fiscal years the amount apportioned by the Superintendent of Public Instruction to each school district pursuant to a specified provision of existing law and, for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, specified General Fund revenues appropriated for school districts, to be reduced by the total amount of ERAF moneys a school district receives, regardless of the actual date the funds are received from each redevelopment agency.

By imposing new duties upon local tax officials and school districts with regard to the annual allocation of these revenues, this bill would impose a state-mandated local program.

(2) This bill would incorporate changes in Section 33685 of the Health and Safety Code as proposed by either AB 198 or SB 80 of the 2009–10 Regular Session that would only become operative if either AB 198 or SB 80 is enacted and becomes effective immediately, either bill amends Section 33685 of the Health and Safety Code, and this bill is enacted after either bill.

(3) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) *The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.*

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.~~

~~The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.~~

~~This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. (a) *The Legislature finds and declares all of the*
2 *following:*
3 (1) *The effectuation of the primary purposes of the Community*
4 *Redevelopment Law, including job creation, attracting new private*
5 *commercial investments, the physical and social improvement of*
6 *residential neighborhoods, and the provision and maintenance of*
7 *low- and moderate-income housing, is dependent upon the*
8 *existence of an adequate and financially solvent school system*
9 *that is capable of providing for the safety and education of students*
10 *who live within both redevelopment project areas and housing*
11 *assisted by redevelopment agencies. The attraction of new*
12 *businesses to redevelopment project areas depends upon the*
13 *existence of an adequately trained workforce, which can only be*
14 *accomplished if education at the primary and secondary schools*
15 *is adequate. The ability of communities to build residential*
16 *development and attract residents in redevelopment project areas*
17 *depends upon the existence of adequately maintained and operating*

1 schools serving the redevelopment project area. The development
 2 and maintenance of low- and moderate-income housing that are
 3 both within redevelopment project areas and throughout the
 4 community can only be successful if adequate schools exist to serve
 5 the residents of this housing.

6 (2) Redevelopment agencies have financially assisted schools
 7 that benefit and serve the project area by paying part or all of the
 8 land and the construction of school facilities and other
 9 improvements. Redevelopment agencies have financially assisted
 10 schools to alleviate the financial burden or detriment caused by
 11 the establishment of redevelopment project areas.

12 (3) Because of the reduced funds available to the state to assist
 13 schools that benefit and serve redevelopment project areas during
 14 the 2008–09, 2009–10, and 2010–11 fiscal years, it is necessary
 15 for redevelopment agencies to make additional payments to assist
 16 the programs and operations of these schools to ensure that the
 17 objectives stated in this act can be met.

18 (4) The payments to schools pursuant to this act are of benefit
 19 to redevelopment project areas.

20 (b) It is the intent of the Legislature in enacting this act to create
 21 a procedure to ensure that the funds contributed by a
 22 redevelopment agency pursuant to this act are allocated to school
 23 districts serving pupils living within or in the vicinity of any project
 24 area of that redevelopment agency.

25 SEC. 2. Section 33685 of the Health and Safety Code, as
 26 proposed to be amended by AB 198 or SB 80 of the 2009–10
 27 Regular Session, is amended to read:

28 33685. (a) (1) For the ~~2008–09 fiscal year~~, 2009–10, and
 29 2010–11 fiscal years, a redevelopment agency shall remit, as
 30 determined by the Director of Finance, on or before June 30 of
 31 that fiscal year, an amount equal to the amount determined for
 32 that agency pursuant to subparagraph (K) of paragraph (2) to the
 33 county auditor for deposit in the county Educational Revenue
 34 Augmentation Fund, created pursuant to Article 3 (commencing
 35 with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the
 36 Revenue and Taxation Code. Notwithstanding any other law, in
 37 the ~~2008–09 fiscal year~~, 2009–10, and 2010–11 fiscal years,
 38 respectively, no funds deposited in the county Educational Revenue
 39 Augmentation Fund pursuant to this section shall be distributed
 40 to a community college district.

1 (2) On or before November 15, 2008, *November 15, 2009, and*
2 *November 15, 2010, respectively*, the Director of Finance shall do
3 all of the following:

4 (A) (i) Determine the value of 5 percent of the statewide total
5 property tax revenue apportioned to agencies pursuant to Section
6 33670.

7 (ii) If the value determined pursuant to clause (i) exceeds
8 ~~three-hundred~~ *three hundred* fifty million dollars (\$350,000,000),
9 the value determined in clause (i) shall be allocated to each agency
10 as provided in paragraphs (B) to (J), inclusive.

11 (iii) If the value determined pursuant to clause (i) does not
12 exceed ~~three-hundred~~ *three hundred* fifty million dollars
13 (\$350,000,000), ~~three-hundred~~ *three hundred* fifty million dollars
14 (\$350,000,000) shall be allocated to each agency as provided in
15 subparagraphs (B) to (J), inclusive.

16 (B) Determine the net tax increment apportioned to each agency
17 pursuant to Section 33670, excluding any amounts apportioned to
18 affected taxing entities pursuant to Section 33401, 33607.5, or
19 33676.

20 (C) Determine the net tax increment apportioned to all agencies
21 pursuant to Section 33670, excluding any amounts allocated to
22 affected taxing entities pursuant to Section 33401, 33607.5, or
23 33676.

24 (D) Determine a percentage factor by dividing the amount
25 determined pursuant to subparagraph (A) by two and then by the
26 amount determined pursuant to subparagraph (C).

27 (E) Determine an amount for each agency by multiplying the
28 amount determined pursuant to subparagraph (B) by the percentage
29 factor determined pursuant to subparagraph (D).

30 (F) Determine the total amount of property tax revenue
31 apportioned to each agency pursuant to Section 33670, including
32 any amounts allocated to affected taxing entities pursuant to
33 Section 33401, 33607.5, or 33676.

34 (G) Determine the total amount of property tax revenue
35 apportioned to all agencies pursuant to Section 33670, including
36 any amounts allocated to affected taxing entities pursuant to
37 Section 33401, 33607.5, or 33676.

38 (H) Determine a percentage factor by dividing the amount
39 determined pursuant to subparagraph (A) by two and then by the
40 amount determined pursuant to subparagraph (G).

1 (I) Determine an amount for each agency by multiplying the
2 amount determined pursuant to subparagraph (F) by the percentage
3 factor determined pursuant to subparagraph (H).

4 (J) Add the amount determined pursuant to subparagraph (E)
5 to the amount determined pursuant to subparagraph (I).

6 (K) Notify each agency, each legislative body, and each county
7 auditor of each agency's amount. The county auditor shall deposit
8 these amounts in the county Educational Revenue Augmentation
9 Fund pursuant to paragraph (1).

10 (3) The obligation of any agency to make the payments required
11 pursuant to this subdivision shall be subordinate to the lien of any
12 pledge of collateral securing, directly or indirectly, the payment
13 of the principal, or interest on any bonds of the agency including,
14 without limitation, bonds secured by a pledge of taxes allocated
15 to the agency pursuant to Section 33670. Agencies shall factor in
16 the fiscal obligations created by this subdivision when issuing
17 bonded indebtedness.

18 (b) (1) Notwithstanding any other law, to make the full
19 allocation required by this section, an agency may borrow up to
20 50 percent of the amount required to be allocated to the Low and
21 Moderate Income Housing Fund, pursuant to Sections 33334.2,
22 33334.3, and 33334.6, unless, in a given fiscal year, executed
23 contracts exist that would be impaired if the agency reduced the
24 amount allocated to the Low and Moderate Income Housing Fund
25 pursuant to the authority of this subdivision.

26 (2) As a condition of borrowing pursuant to this subdivision,
27 an agency shall make a finding that there are insufficient other
28 moneys to meet the requirements of subdivision (a). Funds
29 borrowed pursuant to this subdivision shall be repaid in full within
30 10 years following the date on which moneys are remitted to the
31 county auditor for deposit in the county Educational Revenue
32 Augmentation Fund pursuant to subdivision (a).

33 (c) To make the allocation required by this section, an agency
34 may use any funds that are legally available and not legally
35 obligated for other uses, including, but not limited to, reserve funds,
36 proceeds of land sales, proceeds of bonds or other indebtedness,
37 lease revenues, interest, and other earned income. No moneys held
38 in a low- and moderate-income fund as of July 1 of the applicable
39 fiscal year may be used for this purpose.

1 (d) The legislative body shall, on or before June 30, 2009, *June*
2 *30, 2010, and June 30, 2011*, report to the county auditor as to
3 how the agency intends to fund the allocation required by this
4 section, or that the legislative body intends to remit the amount in
5 lieu of the agency pursuant to Section 33687.

6 (e) The allocation obligations imposed by this section, including
7 amounts owed, if any, created under this section, are hereby
8 declared to be an indebtedness of the redevelopment project to
9 which they relate, payable from taxes allocated to the agency
10 pursuant to Section 33670, and shall constitute an indebtedness of
11 the agency with respect to the redevelopment project until paid in
12 full.

13 (f) It is the intent of the Legislature, in enacting this section,
14 that these allocations directly or indirectly assist in the financing
15 or refinancing, in whole or in part, of the community's
16 redevelopment project pursuant to Section 16 of Article XVI of
17 the California Constitution.

18 (g) In making the annual determinations required by subdivision
19 (a), the Director of Finance shall use those amounts reported in
20 "Table 7, Assessed Valuation, Tax Increment Distribution and
21 Statement of Indebtedness" for all agencies and for each agency
22 in the most recent published edition of the Controller's Community
23 Redevelopment Agencies Annual Report made pursuant to Section
24 12463.3 of the Government Code.

25 (h) If revised reports have been accepted by the Controller on
26 or before September 1 of the applicable fiscal year, the Director
27 of Finance shall use appropriate data that has been certified by the
28 Controller for the purpose of making the determinations required
29 by subdivision (a).

30 (i) Nothing in this section shall be construed as extending the
31 time limits on the ability of agencies to do any of the following:

- 32 (1) Establish loans, advances, or indebtedness.
- 33 (2) Receive tax increment revenues.
- 34 (3) Exercise eminent domain powers.

35 (j) (1) Notwithstanding Sections 97.2 and 97.3 of Revenue and
36 Taxation Code, the county auditor-controller shall distribute the
37 funds that are remitted to the county Educational Revenue
38 Augmentation Fund by a city-operated or county-operated
39 redevelopment agency pursuant to this section only to a K-12
40 school district that is located partially or entirely within any project

1 area of that redevelopment agency in an amount proportional to
2 the average daily attendance of each school district.

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

11 (3) (A) The county superintendent of schools shall provide the
12 average daily attendance reported for each school district as of the
13 Second Principal Apportionment for the ~~2008–09 fiscal year~~,
14 *2009–10, and 2010–11 fiscal years, respectively*, to the county
15 auditor-controller.

16 (B) The county auditor-controller shall, based on information
17 provided by the county superintendent of schools pursuant to
18 subparagraph (A), allocate the funding pursuant to this subdivision
19 to those school districts within the county that are not excess tax
20 school entities, as defined in subdivision (n) of Section 95 of the
21 Revenue and Taxation Code.

22 (4) The county auditor-controller shall notify, on or before
23 October 1, 2009, *October 1, 2010, and October 1, 2011*, the
24 Department of Finance of the amount of funding apportioned to
25 each school district pursuant to this subdivision.

26 (k) (1) For the ~~2008–09 fiscal year~~, *2009–10, and 2010–11*
27 *fiscal years, respectively*, the amount apportioned by the
28 Superintendent of Public Instruction to each school district pursuant
29 to Section 42238 of the Education Code shall be reduced by the
30 total amount of Educational Revenue Augmentation Fund moneys
31 a school district receives, regardless of the actual date the funds
32 are received, pursuant to this section from each redevelopment
33 agency.

34 (2) (A) For a fiscal year in which the amount required to be
35 applied by the state pursuant to Section 8 of Article XVI of the
36 California Constitution is determined pursuant to paragraph (2) or
37 (3) of subdivision (b) of that section and for the purposes of making
38 the computations required by Section 8 of Article XVI of the
39 California Constitution, “General Fund revenues appropriated for
40 school districts,” as defined in subdivision (c) of Section 41202

1 of the Education Code, for the 2008–09 ~~fiscal year~~, 2009–10, and
2 2010–11 fiscal years, respectively, and included within the “total
3 allocations to school districts and community college districts from
4 General Fund proceeds of taxes appropriated pursuant to Article
5 XIII B,” as defined in subdivision (e) of Section 41202 of the
6 Education Code, for the 2008–09 ~~fiscal year~~, 2009–10, and
7 2010–11 fiscal years, respectively, shall be reduced by the total
8 amount of Educational Revenue Augmentation Fund moneys a
9 school district receives, regardless of the actual date the funds are
10 received, pursuant to this section from each redevelopment agency.

11 (B) For a fiscal year in which the amount required to be applied
12 by the state pursuant to Section 8 of Article XVI of the California
13 Constitution is determined pursuant to paragraph (1) of subdivision
14 (b) of that section, this section shall be deemed to be “qualifying
15 provisions” for purposes of Section 41204.1 of the Education Code
16 and the Director of Finance shall recalculate the percentage
17 determined pursuant to paragraph (1) of subdivision (b) of Section
18 8 of Article XVI of the California Constitution in a manner
19 consistent with Section 41204.1 of the Education Code.

20 (3) For the purposes of making the computations required by
21 Section 8 of Article XVI of the California Constitution, the total
22 amount of Educational Revenue Augmentation Fund moneys a
23 school district receives, regardless of the actual date the funds are
24 received, pursuant to this section from each redevelopment agency
25 shall be deemed to be “allocated local proceeds of taxes,” as
26 defined in subdivision (g) of Section 41202 of the Education Code,
27 for the 2008–09 ~~fiscal year~~, 2009–10, and 2010–11 fiscal years,
28 respectively.

29 (l) For purposes of this section, the following definitions shall
30 apply:

31 (1) “City-operated redevelopment district” means a
32 redevelopment agency created by the legislative body of a city.

33 (2) “County-operated redevelopment district” means a
34 redevelopment agency created by the legislative body of a county
35 or city and county.

36 (3) “K-12 school district” has the same meaning as any school
37 district, as defined in Section 80 of the Education Code.

38 (m) This section shall not be construed to increase any
39 allocations of excess, additional, or remaining funds that would
40 otherwise have been allocated to cities, counties, cities and

1 counties, or special districts pursuant to clause (i) of subparagraph
 2 (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause
 3 (i) of subparagraph (B) of paragraph (4) of subdivision (d) of
 4 Section 97.3 of, or Article 4 (commencing with Section 98) of
 5 Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation
 6 Code had this section not been enacted.

7 (n) The Legislature finds and declares that subdivision (j) is
 8 added to this section in furtherance of the legislative findings and
 9 declarations contained in subdivisions (a) and (d) of Section 33680.

10 *SEC. 3. Section 33685 of the Health and Safety Code is*
 11 *amended to read:*

12 33685. (a) (1) For the 2008–09 ~~fiscal year~~, 2009–10, and
 13 2010–11 fiscal years, respectively, a redevelopment agency shall
 14 remit, as determined by the Director of Finance, ~~prior to May 10~~
 15 *on or before June 30 of that fiscal year*, an amount equal to the
 16 amount determined for that agency pursuant to subparagraph (K)
 17 of paragraph (2) to the county auditor for deposit in the county
 18 Educational Revenue Augmentation Fund, created pursuant to
 19 Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5
 20 of Division 1 of the Revenue and Taxation Code. Notwithstanding
 21 any other law, in the 2008–09 ~~fiscal year~~, 2009–10, and 2010–11
 22 *fiscal years, respectively*, no funds deposited in the county
 23 Educational Revenue Augmentation Fund pursuant to this section
 24 shall be distributed to a community college district.

25 (2) On or before November 15, 2008, *November 15, 2009, and*
 26 *November 15, 2010, respectively*, the Director of Finance shall do
 27 all of the following:

28 (A) (i) Determine the value of ~~five~~ 5 percent of the statewide
 29 total property tax revenue apportioned to agencies pursuant to
 30 Section 33670.

31 (ii) If the value determined pursuant to clause (i) exceeds
 32 ~~three-hundred~~ *three hundred* fifty million dollars (\$350,000,000),
 33 the value determined in clause (i) shall be allocated to each agency
 34 as provided in paragraphs (B) to (J), inclusive.

35 (iii) If the value determined pursuant to clause (i) does not
 36 exceed ~~three-hundred~~ *three hundred* fifty million dollars
 37 (\$350,000,000), ~~three-hundred~~ *three hundred* fifty million dollars
 38 (\$350,000,000) shall be allocated to each agency as provided in
 39 subparagraphs (B) to (J), inclusive.

1 (B) Determine the net tax increment apportioned to each agency
2 pursuant to Section 33670, excluding any amounts apportioned to
3 affected taxing entities pursuant to Section 33401, 33607.5, or
4 33676.

5 (C) Determine the net tax increment apportioned to all agencies
6 pursuant to Section 33670, excluding any amounts allocated to
7 affected taxing entities pursuant to Section 33401, 33607.5, or
8 33676.

9 (D) Determine a percentage factor by dividing the amount
10 determined pursuant to subparagraph (A) by two and then by the
11 amount determined pursuant to subparagraph (C).

12 (E) Determine an amount for each agency by multiplying the
13 amount determined pursuant to subparagraph (B) by the percentage
14 factor determined pursuant to subparagraph (D).

15 (F) Determine the total amount of property tax revenue
16 apportioned to each agency pursuant to Section 33670, including
17 any amounts allocated to affected taxing entities pursuant to
18 Section 33401, 33607.5, or 33676.

19 (G) Determine the total amount of property tax revenue
20 apportioned to all agencies pursuant to Section 33670, including
21 any amounts allocated to affected taxing entities pursuant to
22 Section 33401, 33607.5, or 33676.

23 (H) Determine a percentage factor by dividing the amount
24 determined pursuant to subparagraph (A) by two and then by the
25 amount determined pursuant to subparagraph (G).

26 (I) Determine an amount for each agency by multiplying the
27 amount determined pursuant to subparagraph (F) by the percentage
28 factor determined pursuant to subparagraph (H).

29 (J) Add the amount determined pursuant to subparagraph (E)
30 to the amount determined pursuant to subparagraph (I).

31 (K) Notify each agency, each legislative body, and each county
32 auditor of each agency's amount. The county auditor shall deposit
33 these amounts in the county Educational Revenue Augmentation
34 Fund pursuant to paragraph (1).

35 (3) The obligation of any agency to make the payments required
36 pursuant to this subdivision shall be subordinate to the lien of any
37 pledge of collateral securing, directly or indirectly, the payment
38 of the principal, or interest on any bonds of the agency including,
39 without limitation, bonds secured by a pledge of taxes allocated
40 to the agency pursuant to Section 33670. Agencies shall factor in

1 the fiscal obligations created by this subdivision when issuing
2 bonded indebtedness.

3 (b) (1) Notwithstanding any other law, to make the full
4 allocation required by this section, an agency may borrow up to
5 50 percent of the amount required to be allocated to the Low and
6 Moderate Income Housing Fund, pursuant to Sections 33334.2,
7 33334.3, and 33334.6, unless, in a given fiscal year, executed
8 contracts exist that would be impaired if the agency reduced the
9 amount allocated to the Low and Moderate Income Housing Fund
10 pursuant to the authority of this subdivision.

11 (2) As a condition of borrowing pursuant to this subdivision,
12 an agency shall make a finding that there are insufficient other
13 moneys to meet the requirements of subdivision (a). Funds
14 borrowed pursuant to this subdivision shall be repaid in full within
15 10 years following the date on which moneys are remitted to the
16 county auditor for deposit in the county Educational Revenue
17 Augmentation Fund pursuant to subdivision (a).

18 (c) To make the allocation required by this section, an agency
19 may use any funds that are legally available and not legally
20 obligated for other uses, including, but not limited to, reserve funds,
21 proceeds of land sales, proceeds of bonds or other indebtedness,
22 lease revenues, interest, and other earned income. No moneys held
23 in a low- and moderate-income fund as of July 1 of the applicable
24 fiscal year may be used for this purpose.

25 (d) The legislative body shall ~~by March 1 of each year, on or~~
26 ~~before June 30, 2010, and June 30, 2011,~~ report to the county
27 auditor as to how the agency intends to fund the allocation required
28 by this section, or that the legislative body intends to remit the
29 amount in lieu of the agency pursuant to Section 33687.

30 (e) The allocation obligations imposed by this section, including
31 amounts owed, if any, created under this section, are hereby
32 declared to be an indebtedness of the redevelopment project to
33 which they relate, payable from taxes allocated to the agency
34 pursuant to Section 33670, and shall constitute an indebtedness of
35 the agency with respect to the redevelopment project until paid in
36 full.

37 (f) It is the intent of the Legislature, in enacting this section,
38 that these allocations directly or indirectly assist in the financing
39 or refinancing, in whole or in part, of the community's

1 redevelopment project pursuant to Section 16 of Article XVI of
2 the California Constitution.

3 (g) In making the annual determinations required by subdivision
4 (a), the Director of Finance shall use those amounts reported in
5 “Table 7, Assessed Valuation, Tax Increment Distribution and
6 Statement of Indebtedness” for all agencies and for each agency
7 in the most recent published edition of the Controller’s Community
8 Redevelopment Agencies Annual Report made pursuant to Section
9 12463.3 of the Government Code.

10 (h) If revised reports have been accepted by the Controller on
11 or before September 1 of the applicable fiscal year, the Director
12 of Finance shall use appropriate data that has been certified by the
13 Controller for the purpose of making the determinations required
14 by subdivision (a).

15 (i) Nothing in this section shall be construed as extending the
16 time limits on the ability of agencies to do any of the following:

- 17 (1) Establish loans, advances, or indebtedness.
- 18 (2) Receive tax increment revenues.
- 19 (3) Exercise eminent domain powers.

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

28 (2) *The county auditor-controller shall notify each K-12 school*
29 *district, and the State Department of Education, of the amount of*
30 *Educational Revenue Augmentation Fund moneys a school district*
31 *receives pursuant to this section from each redevelopment agency.*
32 *The county auditor-controller shall also notify each K-12 school*
33 *district receiving funds pursuant to paragraph (1) of the project*
34 *area boundaries of each redevelopment agency from which the*
35 *K-12 school district received funds.*

36 (3) (A) *The county superintendent of schools shall provide the*
37 *average daily attendance reported for each school district as of*
38 *the Second Principal Apportionment for the 2008–09, 2009–10,*
39 *and 2010–11 fiscal years, respectively, to the county*
40 *auditor-controller.*

1 (B) The county auditor-controller shall, based on information
2 provided by the county superintendent of schools pursuant to
3 subparagraph (A), allocate the funding pursuant to this subdivision
4 to those school districts within the county that are not excess tax
5 school entities, as defined in subdivision (n) of Section 95 of the
6 Revenue and Taxation Code.

7 (4) The county auditor-controller shall notify, on or before
8 October 1, 2009, October 1, 2010, and October 1, 2011,
9 respectively, the Department of Finance of the amount of funding
10 apportioned to each school district pursuant to this subdivision.

11 (k) (1) For the 2008–09, 2009–10, and 2010–11 fiscal years,
12 respectively, the amount apportioned by the Superintendent of
13 Public Instruction to each school district pursuant to Section 42238
14 of the Education Code shall be reduced by the total amount of
15 Educational Revenue Augmentation Fund moneys a school district
16 receives, regardless of the actual date the funds are received,
17 pursuant to this section from each redevelopment agency.

18 (2) (A) For a fiscal year in which the amount required to be
19 applied by the state pursuant to Section 8 of Article XVI of the
20 California Constitution is determined pursuant to paragraph (2)
21 or (3) of subdivision (b) of that section and for the purposes of
22 making the computations required by Section 8 of Article XVI of
23 the California Constitution, “General Fund revenues appropriated
24 for school districts,” as defined in subdivision (c) of Section 41202
25 of the Education Code, for the 2008–09, 2009–10, and 2010–11
26 fiscal years, respectively, and included within the “total allocations
27 to school districts and community college districts from General
28 Fund proceeds of taxes appropriated pursuant to Article XIII B,”
29 as defined in subdivision (e) of Section 41202 of the Education
30 Code, for the 2008–09, 2009–10, and 2010–11 fiscal years,
31 respectively, shall be reduced by the total amount of Educational
32 Revenue Augmentation Fund moneys a school district receives,
33 regardless of the actual date the funds are received, pursuant to
34 this section from each redevelopment agency.

35 (B) For a fiscal year in which the amount required to be applied
36 by the state pursuant to Section 8 of Article XVI of the California
37 Constitution is determined pursuant to paragraph (1) of subdivision
38 (b) of that section, this section shall be deemed to be “qualifying
39 provisions” for purposes of Section 41204.1 of the Education Code
40 and the Director of Finance shall recalculate the percentage

1 *determined pursuant to paragraph (1) of subdivision (b) of Section*
2 *8 of Article XVI of the California Constitution in a manner*
3 *consistent with Section 41204.1 of the Education Code.*

4 *(3) For the purposes of making the computations required by*
5 *Section 8 of Article XVI of the California Constitution, the total*
6 *amount of Educational Revenue Augmentation Fund moneys a*
7 *school district receives, regardless of the actual date the funds are*
8 *received, pursuant to this section from each redevelopment agency*
9 *shall be deemed to be “allocated local proceeds of taxes,” as*
10 *defined in subdivision (g) of Section 41202 of the Education Code,*
11 *for the 2008–09, 2009–10, and 2010–11 fiscal years, respectively.*

12 *(l) For purposes of this section, the following definitions shall*
13 *apply:*

14 *(1) “City-operated redevelopment district” means a*
15 *redemption agency created by the legislative body of a city.*

16 *(2) “County-operated redevelopment district” means a*
17 *redemption agency created by the legislative body of a county*
18 *or city and county.*

19 *(3) “K-12 school district” has the same meaning as any school*
20 *district, as defined in Section 80 of the Education Code.*

21 *(m) This section shall not be construed to increase any*
22 *allocations of excess, additional, or remaining funds that would*
23 *otherwise have been allocated to cities, counties, cities and*
24 *counties, or special districts pursuant to clause (i) of subparagraph*
25 *(B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause*
26 *(i) of subparagraph (B) of paragraph (4) of subdivision (d) of*
27 *Section 97.3 of, or Article 4 (commencing with Section 98) of*
28 *Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation*
29 *Code had this section not been enacted.*

30 *(n) The Legislature finds and declares that subdivision (j) is*
31 *added to this section in furtherance of the legislative findings and*
32 *declarations contained in subdivisions (a) and (d) of Section 33680.*

33 *SEC. 4. Section 33686 of the Health and Safety Code is*
34 *amended to read:*

35 *33686. (a) (1) For purposes of this section, “existing*
36 *indebtedness” means one or more of the following obligations*
37 *incurred by a redevelopment agency prior to the effective date of*
38 *this section, the payment of which is to be made in whole or in*
39 *part, directly or indirectly, out of taxes allocated to the agency*
40 *pursuant to Section 33670, and that is required by law or provision*

1 of the existing indebtedness to be made during the fiscal year of
 2 the relevant allocation required by Section 33685:

3 (A) Bonds, notes, interim certificates, debentures, or other
 4 obligations issued by the agency whether funded, refunded,
 5 assumed, or otherwise pursuant to Article 5 (commencing with
 6 Section 33640).

7 (B) Loans or moneys advanced to the agency, including, but
 8 not limited to, loans from federal, state, or local agencies, or a
 9 private entity.

10 (C) A contractual obligation that, if breached, could subject the
 11 agency to damages or other liabilities or remedies.

12 (D) An obligation incurred pursuant to Section 33445.

13 (E) Indebtedness incurred pursuant to Section 33334.2.

14 (F) An amount, to be expended for the operation and
 15 administration of the agency, that may not exceed 90 percent of
 16 the amount spent for those purposes in the 2005–06 fiscal year.

17 (G) Obligations imposed by law with respect to activities that
 18 occurred prior to the effective date of the act that adds this section.

19 (2) Existing indebtedness incurred prior to the effective date of
 20 this section may be refinanced, refunded, or restructured after that
 21 date, and shall remain existing indebtedness for the purposes of
 22 this section if the annual debt service during that fiscal year does
 23 not increase over the prior fiscal year and the refinancing does not
 24 reduce the ability of the agency to make the payment required by
 25 subdivision (a) of Section 33685.

26 (3) For purposes of this section, indebtedness shall be deemed
 27 to be incurred prior to the effective date of this section if the agency
 28 has entered into a binding contract subject to normal marketing
 29 conditions or to deliver the indebtedness, or if the redevelopment
 30 agency has received bids for the sale of the indebtedness prior to
 31 that date and the indebtedness is issued for value and evidence
 32 thereof is delivered to the initial purchaser no later than 30 days
 33 after the date of the contract or sale.

34 (b) For the 2008–09, 2009–10, and 2010–11 fiscal-year years,
 35 *respectively*, an agency that has adopted a resolution pursuant to
 36 subdivision (c) may allocate, pursuant to subdivision (a) of Section
 37 33685, to the auditor less than the amount required by subdivision
 38 (a) of Section 33685 if the agency finds that any of the following
 39 has occurred:

1 (1) That the difference between the amount allocated to the
2 agency and the amount required by subdivision (a) of Section
3 33685 is necessary to make payments on existing indebtedness
4 that are due or required to be committed, set aside, or reserved by
5 the agency during the ~~2008–09 fiscal year~~, *2009–10, and 2010–11*
6 *fiscal years, respectively*, and that are used by the agency for that
7 purpose, and the agency has no other funds that can be used to pay
8 this existing indebtedness and no other feasible method to reduce
9 or avoid this indebtedness.

10 (2) The agency has no other funds to make the allocation
11 required by subdivision (a) of Section 33685.

12 (c) (1) Any agency that intends to allocate, pursuant to
13 subdivision (b), to the auditor less than the amount required by
14 subdivision (a) of Section 33685 shall adopt, prior to December
15 ~~31, 2008~~ *of that fiscal year*, after a noticed public hearing, a
16 resolution that lists all of the following:

17 (A) Each existing indebtedness incurred prior to the effective
18 date of this section.

19 (B) Each indebtedness on which a payment is required to be
20 made during the applicable fiscal year.

21 (C) The amount of each payment, the time when it is required
22 to be paid, and the total of the payments required to be made during
23 the applicable fiscal year. For indebtedness that bears interest at
24 a variable rate, or for short-term indebtedness that is maturing
25 during the fiscal year and that is expected to be refinanced, the
26 amount of payments during the fiscal year shall be estimated by
27 the agency.

28 (2) The information contained in the resolution required by this
29 subdivision shall be reviewed for accuracy by the chief fiscal
30 officer of the agency.

31 (3) The legislative body shall additionally adopt the resolution
32 required by this section.

33 (d) (1) Any agency that determines, pursuant to subdivision
34 (b), that it will be unable in the ~~2008–09, 2009–10, or 2010–11~~
35 *fiscal year* to allocate the full amount required by subdivision (a)
36 of Section 33685 may enter into, subject to paragraph (3), an
37 agreement with the legislative body by ~~February 15, 2009~~, *of that*
38 *fiscal year* to fund the payment of the difference between the full
39 amount required to be paid pursuant to subdivision (a) of Section
40 33685 and the amount available for allocation by the agency.

1 (2) The obligations imposed by paragraph (1) are hereby
2 declared to be indebtedness incurred by the agency to finance a
3 portion of a redevelopment project within the meaning of Section
4 16 of Article XVI of the California Constitution. This indebtedness
5 shall be payable from tax revenues apportioned to the agency
6 pursuant to Section 33670, and any other funds received by the
7 agency. The obligations imposed by paragraph (1) shall remain
8 an indebtedness of the agency to the legislative body until paid in
9 full, or until the agency and the legislative body otherwise agree.

10 (3) The agreement described in paragraph (1) shall be subject
11 to those terms and conditions specified in a written agreement
12 between the legislative body and the agency.

13 (e) If the agency fails to provide to the county auditor the full
14 payment required under Section 33685, or fails to arrange for full
15 payment to be provided on the agency's behalf pursuant to
16 subdivision (d) or by Section 33687 or 33688, all of the following
17 shall apply:

18 (1) The agency shall be prohibited from adding new project
19 areas or expanding existing project areas. For purposes of this
20 paragraph, "project area" has the same meaning as in Sections
21 33320.1 to 33320.3, inclusive, and Section 33492.3.

22 (2) The agency shall be prohibited from issuing new bonds,
23 notes, interim certificates, debentures, or other obligations, whether
24 funded, refunded, assumed, or otherwise, pursuant to Article 5
25 (commencing with Section 33640) of this chapter.

26 (3) The agency shall be prohibited from encumbering any funds
27 or expending any moneys derived from any source, except that
28 the agency may encumber funds and expend funds to pay, if any,
29 all of the following:

30 (A) Bonds, notes, interim certificates, debentures, or other
31 obligations issued by an agency before the imposition of the
32 prohibition in paragraph (2), whether funded, refunded, assumed,
33 or otherwise, pursuant to Article 5 (commencing with Section
34 33460) of this chapter.

35 (B) Loans or moneys advanced to the agency, including, but
36 not limited to, loans from federal, state, local agencies, or a private
37 entity.

38 (C) Contractual obligations that, if breached, could subject the
39 agency to damages or other liabilities or remedies.

40 (D) Obligations incurred pursuant to Section 33445.

1 (E) Indebtedness incurred pursuant to Section 33334.2 or
2 33334.6.

3 (F) Obligations incurred pursuant to Section 33401.

4 (G) An amount, to be expended for the monthly operation and
5 administration of the agency, that may not exceed 75 percent of
6 the average monthly amount spent for those purposes in the fiscal
7 year preceding the fiscal year in which the agency failed to make
8 the payment required by subdivision (a) of Section 33685.

9 (f) The prohibitions identified in subdivision (e) shall be lifted
10 once the county auditor certifies to the Director of Finance that
11 the payment required by Section 33685 has been made by the
12 agency, or that payment has been made on the agency's behalf
13 pursuant to this section or to Section 33687 or 33688.

14 *SEC. 5. Section 33687 of the Health and Safety Code is*
15 *amended to read:*

16 33687. (a) In lieu of the remittance required by Section 33685,
17 for the 2008–09 ~~fiscal year~~, 2009–10, and 2010–11 fiscal years,
18 *respectively*, a legislative body may remit, ~~prior to May 10, 2009,~~
19 *on or before June 30 of that fiscal year*, an amount equal to the
20 amount determined for the agency pursuant to subparagraph (J)
21 of paragraph (2) of subdivision (a) of Section 33685 to the county
22 auditor for deposit in the county Educational Revenue
23 Augmentation Fund, created pursuant to Article 3 (commencing
24 with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the
25 Revenue and Taxation Code. Notwithstanding any other provision
26 of law, in the 2008–09 ~~fiscal year~~, 2009–10, and 2010–11 fiscal
27 *years, respectively*, no funds deposited in the county Educational
28 Revenue Augmentation Fund pursuant to this section shall be
29 distributed to a community college district.

30 (b) The legislative body may make the remittance authorized
31 by this section from any funds that are legally available for this
32 purpose. No moneys held in an agency's Low and Moderate
33 Income Housing Fund, pursuant to Sections 33334.2, 33334.3,
34 and 33334.6, shall be used for this purpose.

35 (c) If the legislative body, pursuant to subdivision (d) of Section
36 33685, reported to the county auditor that it intended to remit the
37 amount in lieu of the agency and the legislative body fails to
38 transmit the full amount as authorized by this section ~~by May 10,~~
39 *2009, on or before June 30 of that fiscal year*, the county auditor,
40 no later than ~~May 15, 2009,~~ *June 30 of that fiscal year*, shall

1 transfer an amount necessary to meet the obligation from the
 2 legislative body's allocations pursuant to Chapter 6 (commencing
 3 with Section 95) of Part 0.5 of Division 1 of the Revenue and
 4 Taxation Code. If the amount of the legislative body's allocations
 5 are not sufficient to meet this obligation, the county auditor shall
 6 transfer an additional amount necessary to meet this obligation
 7 from the property tax increment revenue apportioned to the agency
 8 pursuant to Section 33670, provided that no moneys allocated to
 9 the agency's Low and Moderate Income Housing Fund shall be
 10 used for this purpose.

11 *SEC. 6. (a) Section 2 of this bill incorporates amendments to*
 12 *Section 33685 of the Health and Safety Code as proposed by either*
 13 *AB 198 or SB 80 of the 2009–10 Regular Session. It shall only*
 14 *become operative if (1) either bill is enacted and becomes effective*
 15 *immediately, (2) either bill amends Section 33685 of the Health*
 16 *and Safety Code, and (3) this bill is enacted after either bill, in*
 17 *which case Section 3 of this bill shall not become operative.*

18 *(b) Section 3 of this bill shall only become operative if either*
 19 *AB 198 or SB 80 of the 2009–10 Regular Session are not enacted*
 20 *and do not become effective immediately.*

21 *SEC. 7. If the Commission on State Mandates determines that*
 22 *this act contains costs mandated by the state, reimbursement to*
 23 *local agencies and school districts for those costs shall be made*
 24 *pursuant to Part 7 (commencing with Section 17500) of Division*
 25 *4 of Title 2 of the Government Code.*

26 *SEC. 8. This act addresses the fiscal emergency declared by*
 27 *the Governor by proclamation on December 19, 2008, pursuant*
 28 *to subdivision (f) of Section 10 of Article IV of the California*
 29 *Constitution.*

30 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
 31 ~~changes relating to the Budget Act of 2009.~~

32 ~~SEC. 2. This act addresses the fiscal emergency declared by~~
 33 ~~the Governor by proclamation on December 19, 2008, pursuant~~
 34 ~~to subdivision (f) of Section 10 of Article IV of the California~~
 35 ~~Constitution.~~

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