

Introduced by Senator DuttonFebruary 27, 2009

An act to amend Sections 33607.5, 33607.7, and 33684 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 530, as introduced, Dutton. Redevelopment: payments to taxing entities.

Existing law requires a redevelopment agency to make specified payments of property tax increment funds in specified fiscal years to taxing entities, and requires that these payments be allocated among these entities in proportion to the percentage share of property tax revenues received by these entities in these fiscal years.

This bill would revise the calculation, as specified, by which specified payments of property tax increment funds in specified fiscal years to taxing entities are allocated among those entities. The bill would include under these provisions a redevelopment plan that was adopted prior to January 1, 1994, but amended after January 1, 1994, to increase the limitation on the number of dollars to be allocated to the redevelopment agency or that increased, or eliminated, the time limit on the establishing of loans, advances, and indebtedness, or that lengthened the period during which the redevelopment plan is effective, as specified. The bill also would declare that the changes to these provisions do not constitute a change in, but are declaratory of, existing law.

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

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

1 SECTION 1. Section 33607.5 of the Health and Safety Code
2 is amended to read:

3 33607.5. (a) (1) This section shall apply to each
4 redevelopment project area that, pursuant to a redevelopment plan
5 ~~which~~ *that* contains the provisions required by Section 33670, is
6 either: (A) adopted on or after January 1, 1994, including later
7 amendments to these redevelopment plans; or (B) adopted prior
8 to January 1, 1994, but amended, after January 1, 1994, to include
9 new territory. For plans amended after January 1, 1994, only the
10 tax increments from territory added by the amendment shall be
11 subject to this section. All the amounts calculated pursuant to this
12 section shall be calculated after the amount required to be deposited
13 in the Low and Moderate Income Housing Fund pursuant to
14 Sections 33334.2, 33334.3, and 33334.6 has been deducted from
15 the total amount of tax increment funds received by the agency in
16 the applicable fiscal year.

17 (2) The payments made pursuant to this section shall be in
18 addition to any amounts the affected taxing entities receive
19 pursuant to subdivision (a) of Section 33670. The payments made
20 pursuant to this section to the affected taxing entities, including
21 the community, shall be allocated among the affected taxing
22 entities, including the community if the community elects to receive
23 payments, in proportion to the percentage share of property taxes
24 each affected taxing entity, including the community, receives
25 during the fiscal year the funds are allocated, which percentage
26 share shall be determined without regard to any amounts allocated
27 to a city, a city and county, or a county pursuant to Sections 97.68
28 and 97.70 of the Revenue and Taxation Code, and without regard
29 to any allocation reductions to a city, a city and county, a county,
30 a special district, or a redevelopment agency pursuant to Sections
31 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and
32 Section 33681.12 *and without regard to any revenues that would*
33 *have been allocated to 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. If a community elects not to receive*
37 *payments or is not entitled to receive payments pursuant to this*
38 *section, the portion that would otherwise have been calculated for*

1 *and paid to the community based on the community's proportionate*
2 *share of property tax revenues shall remain with the agency. The*
3 *agency shall reduce its payments pursuant to this section to an*
4 *affected taxing entity by any amount the agency has paid, directly*
5 *or indirectly, pursuant to Section 33445, 33445.5, 33445.6, 33446,*
6 *or any other provision of law other than this section for, or in*
7 *connection with, a public facility owned or leased by that affected*
8 *taxing agency, except: (A) any amounts the agency has paid*
9 *directly or indirectly pursuant to an agreement with a taxing entity*
10 *adopted prior to January 1, 1994; or (B) any amounts that are*
11 *unrelated to the specific project area or amendment governed by*
12 *this section. The reduction in a payment by an agency to a school*
13 *district, community college district, or county office of education,*
14 *or for special education, shall be subtracted only from the amount*
15 *that otherwise would be available for use by those entities for*
16 *educational facilities pursuant to paragraph (4). If the amount of*
17 *the reduction exceeds the amount that otherwise would have been*
18 *available for use for educational facilities in any one year, the*
19 *agency shall reduce its payment in more than one year. For*
20 *purposes of calculating the allocation of payments made to affected*
21 *taxing entities pursuant to this section, any county Educational*
22 *Revenue Augmentation Fund created pursuant to Article 3*
23 *(commencing with Section 97) of Chapter 6 of Part 0.5 of Division*
24 *1 of the Revenue and Taxation Code or otherwise established is*
25 *not an affected taxing entity, and revenues received by local*
26 *educational agencies from the county Educational Revenue*
27 *Augmentation Fund shall not be considered property taxes received*
28 *by the local educational agencies.*

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

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

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

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

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

7 (4) (A) Except as specified in subparagraph (E), of the total
8 amount paid each year pursuant to this section to school districts,
9 43.3 percent shall be considered to be property taxes for the
10 purposes of paragraph (1) of subdivision (h) of Section 42238 of
11 the Education Code, and 56.7 percent shall not be considered to
12 be property taxes for the purposes of that section and shall be
13 available to be used for educational facilities.

14 (B) Except as specified in subparagraph (E), of the total amount
15 paid each year pursuant to this section to community college
16 districts, 47.5 percent shall be considered to be property taxes for
17 the purposes of Section 84751 of the Education Code, and 52.5
18 percent shall not be considered to be property taxes for the purposes
19 of that section and shall be available to be used for educational
20 facilities.

21 (C) Except as specified in subparagraph (E), of the total amount
22 paid each year pursuant to this section to county offices of
23 education, 19 percent shall be considered to be property taxes for
24 the purposes of Section 2558 of the Education Code, and 81 percent
25 shall not be considered to be property taxes for the purposes of
26 that section and shall be available to be used for educational
27 facilities.

28 (D) Except as specified in subparagraph (E), of the total amount
29 paid each year pursuant to this section for special education, 19
30 percent shall be considered to be property taxes for the purposes
31 of Section 56712 of the Education Code, and 81 percent shall not
32 be considered to be property taxes for the purposes of that section
33 and shall be available to be used for education facilities.

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

39 (5) Local education agencies that use funds received pursuant
40 to this section for school facilities shall spend these funds at schools

1 that are: (A) within the project area, (B) attended by students from
2 the project area, (C) attended by students generated by projects
3 that are assisted directly by the redevelopment agency, or (D)
4 determined by the governing board of a local education agency to
5 be of benefit to the project area.

6 (b) Commencing with the first fiscal year in which the agency
7 receives tax increments and continuing through the last fiscal year
8 in which the agency receives tax increments, a redevelopment
9 agency shall pay to the affected taxing entities, including the
10 community if the community elects to receive a payment, an
11 amount equal to 25 percent of the tax increments received by the
12 agency after the amount required to be deposited in the Low and
13 Moderate Income Housing Fund has been deducted. In any fiscal
14 year in which the agency receives tax increments, the community
15 that has adopted the redevelopment project area may elect to
16 receive the amount authorized by this ~~paragraph~~ *subdivision*. *If*
17 *the community elects not to receive the amount authorized by this*
18 *subdivision, the portion of the payment made pursuant to this*
19 *subdivision that would have otherwise been calculated for and*
20 *paid to the community based on the community's proportionate*
21 *share of property tax revenues shall remain with the agency.*

22 (c) Commencing with the 11th fiscal year in which the agency
23 receives tax increments and continuing through the last fiscal year
24 in which the agency receives tax increments, a redevelopment
25 agency shall pay to the affected taxing entities, other than the
26 community ~~which~~ *that* has adopted the project, in addition to the
27 amounts paid pursuant to subdivision (b) and after deducting the
28 amount allocated to the Low and Moderate Income Housing Fund,
29 an amount equal to 21 percent of ~~the portion of tax increments~~
30 ~~received by the agency~~ *an amount*, which shall be calculated by
31 applying the tax rate against the amount of ~~assessed value by which~~
32 ~~the current year assessed value by which the assessed value of~~
33 *taxable property in the redevelopment project, as shown upon the*
34 *local assessment roll for the current year, as prepared by the*
35 *county assessor and delivered to the auditor pursuant to Section*
36 *617 of the Revenue and Taxation Code, exceeds the first adjusted*
37 *base year assessed value of taxable property in the redevelopment*
38 *project as established pursuant to this subdivision*. The first
39 adjusted base year assessed value is the assessed value of *taxable*
40 *property in the project area in the 10th fiscal year in which the*

1 agency receives tax increment revenues *as shown on the local*
2 *assessment roll as prepared by the county assessor and delivered*
3 *to the county auditor pursuant to Section 617 of the Revenue and*
4 *Taxation Code. For purposes of calculating the payments made*
5 *pursuant to this subdivision, the assessed value of taxable property*
6 *for the current year and the first adjusted base year shall not*
7 *include the value of property included on the roll of state-assessed*
8 *property prepared by the State Board of Equalization pursuant to*
9 *Chapter 4 (commencing with Section 721) of Part 2 of Division 1*
10 *of the Revenue and Taxation Code, and shall not include the value*
11 *of property included on the supplemental roll prepared pursuant*
12 *to Chapter 3.5 (commencing with Section 75) of Part 0.5 of*
13 *Division 1 of the Revenue and Taxation Code. The portion of the*
14 *payment made pursuant to this subdivision that would have*
15 *otherwise been calculated for and paid to the community based*
16 *on the community's proportionate share of property tax revenues*
17 *shall be allocated among the other affected taxing entities in*
18 *accordance with paragraph (2) of subdivision (a).*

19 (d) Commencing with the 31st fiscal year in which the agency
20 receives tax increments and continuing through the last fiscal year
21 in which the agency receives tax increments, a redevelopment
22 agency shall pay to the affected taxing entities, other than the
23 community ~~which~~ *that* has adopted the project, in addition to the
24 amounts paid pursuant to subdivisions (b) and (c) and after
25 deducting the amount allocated to the Low and Moderate Income
26 Housing Fund, an amount equal to 14 percent of ~~the portion of tax~~
27 ~~increments received by the agency, which~~ *an amount that* shall be
28 calculated by applying the tax rate against the amount of ~~assessed~~
29 ~~value by which the current year assessed value by which the~~
30 *assessed value of taxable property in the redevelopment project,*
31 *as shown on the local assessment roll for the current year, as*
32 *prepared by the county assessor and delivered to the county auditor*
33 *pursuant to Section 617 of the Revenue and Taxation Code, exceeds*
34 *the second adjusted base year assessed value of taxable property*
35 *in the redevelopment project as established pursuant to this*
36 *subdivision. The second adjusted base year assessed value is the*
37 *assessed value of taxable property in the project area in the 30th*
38 *fiscal year in which the agency receives tax increments as shown*
39 *on the local assessment roll as prepared by the county assessor*
40 *and delivered to the county auditor pursuant to Section 617 of the*

1 *Revenue and Taxation Code. For purposes of calculating the*
2 *payments made pursuant to this subdivision, the assessed value of*
3 *taxable property for the current year and the first adjusted base*
4 *year shall not include the value of property included on the roll*
5 *of state-assessed property prepared by the State Board of*
6 *Equalization pursuant to Chapter 4 (commencing with Section*
7 *721) of Part 2 of Division 1 of the Revenue and Taxation Code,*
8 *and shall not include the value of property included on the*
9 *supplemental roll prepared pursuant to Chapter 3.5 (commencing*
10 *with Section 75) of Part 0.5 of Division 1 of the Revenue and*
11 *Taxation Code. The portion of the payment made pursuant to this*
12 *subdivision that would have otherwise been calculated for and*
13 *paid to the community based on the community's proportionate*
14 *share of property tax revenues shall be allocated among the other*
15 *affected taxing entities in accordance with paragraph (2) of*
16 *subdivision (a).*

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

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

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

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

38 (A) The payments made pursuant to this section are necessary
39 in order to alleviate the financial burden and detriment that affected
40 taxing entities may incur as a result of the adoption of a

1 redevelopment plan, and payments made pursuant to this section
2 will benefit redevelopment project areas.

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

6 (2) Notwithstanding any other provision of law, a redevelopment
7 agency shall not be required, either directly or indirectly, as a
8 measure to mitigate a significant environmental effect or as part
9 of any settlement agreement or judgment brought in any action to
10 contest the validity of a redevelopment plan pursuant to Section
11 33501, to make any other payments to affected taxing entities, or
12 to pay for public facilities that will be owned or leased to an
13 affected taxing entity.

14 (g) As used in this section, a “local education agency” is a school
15 district, a community college district, or a county office of
16 education.

17 SEC. 2. Section 33607.7 of the Health and Safety Code is
18 amended to read:

19 33607.7. (a) This section shall apply to a redevelopment plan
20 amendment for any redevelopment plans adopted prior to January
21 1, 1994, that increases the limitation on the number of dollars to
22 be allocated to the redevelopment agency or that increases, or
23 eliminates pursuant to paragraph (1) of subdivision (e) of Section
24 33333.6, the time limit on the establishing of loans, advances, and
25 indebtedness established pursuant to paragraphs (1) and (2) of
26 subdivision (a) of Section 33333.6, as those paragraphs read on
27 December 31, 2001, or that lengthens the period during which the
28 redevelopment plan is effective if the redevelopment plan being
29 amended contains the provisions required by subdivision (b) of
30 Section 33670. However, this section shall not apply to those
31 redevelopment plans that add new territory.

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

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

39 (2) If an agreement does not exist, ~~the amounts required pursuant~~
40 ~~to subdivisions (b), (c), (d), and (e) of Section 33607.5, until~~

1 ~~termination of the redevelopment plan, calculated against the~~
2 ~~amount of assessed value by which the current year assessed value~~
3 ~~exceeds an adjusted base year assessed value. The following:~~

4 (A) *Commencing with the first fiscal year following the later of*
5 *the fiscal year in which the amendment that is governed by the*
6 *provisions of this section is adopted or the first adjusted base year*
7 *established for purposes of this section and continuing through*
8 *the last fiscal year in which the agency receives tax increments, a*
9 *redevelopment agency shall pay to the affected taxing entities,*
10 *other than the community that has adopted the project, after*
11 *deducting the amount allocated to the Low and Moderate Income*
12 *Housing Fund, an amount equal to 25 percent of an amount that*
13 *shall be calculated by applying the tax rate against the amount by*
14 *which the assessed value of taxable property in the redevelopment*
15 *project, as shown upon the local assessment roll for the current*
16 *year, as prepared by the county assessor and delivered to the*
17 *county auditor pursuant to Section 617 of the Revenue and*
18 *Taxation Code, exceeds the first adjusted base year assessed value*
19 *of taxable property in the redevelopment project as established*
20 *pursuant to this section. The portion of the payment made pursuant*
21 *to this subparagraph that would have otherwise been calculated*
22 *for and paid to the community based on the community's*
23 *proportionate share of property tax revenues shall be paid instead*
24 *to the agency.*

25 (B) *Commencing with the 11th fiscal year in which the agency*
26 *makes payments to any of the affected taxing entities pursuant to*
27 *this paragraph, and continuing through the last fiscal year in*
28 *which the agency receives tax increments, a redevelopment agency*
29 *shall pay to the affected taxing entities, other than the community*
30 *that has adopted the project, in addition to the amounts paid*
31 *pursuant to subparagraph (A) and after deducting the amount*
32 *allocated to the Low and Moderate Income Housing Fund, an*
33 *amount equal to 21 percent of an amount that shall be calculated*
34 *by applying the tax rate against the amount by which the assessed*
35 *value of taxable property in the redevelopment project, as shown*
36 *upon the local assessment roll for the current year, as prepared*
37 *by the county assessor and delivered to the county auditor pursuant*
38 *to Section 617 of the Revenue and Taxation Code, exceeds the*
39 *second adjusted base year assessed value of taxable property in*
40 *the redevelopment project as established pursuant to this*

1 *subparagraph. The portion of the payment made pursuant to this*
2 *subparagraph that would have otherwise been calculated for and*
3 *paid to the community based on the community's proportionate*
4 *share of property tax revenues shall be paid instead to the agency.*

5 (C) *Commencing with the 31st fiscal year in which the agency*
6 *makes payments to any of the affected taxing entities pursuant to*
7 *this paragraph, and continuing through the last fiscal year in*
8 *which the agency receives tax increments, a redevelopment agency*
9 *shall pay to the affected taxing entities, other than the community*
10 *that has adopted the project, in addition to the amounts paid*
11 *pursuant to subparagraphs (A) and (B) and after deducting the*
12 *amount allocated to the Low and Moderate Income Housing Fund,*
13 *an amount equal to 14 percent of an amount that shall be*
14 *calculated by applying the tax rate against the amount by which*
15 *the assessed value of taxable property in the redevelopment project,*
16 *as shown upon the local assessment roll for the current year, as*
17 *prepared by the county assessor and delivered to the county auditor*
18 *pursuant to Section 617 of the Revenue and Taxation Code, exceeds*
19 *the third adjusted base year assessed value of taxable property in*
20 *the redevelopment project as established pursuant to this*
21 *subparagraph. The portion of the payment made pursuant to this*
22 *subparagraph that would have otherwise been calculated for and*
23 *paid to the community based on the community's proportionate*
24 *share of property tax revenues shall be paid instead to the agency.*

25 (D) *The amounts shall be allocated between property taxes and*
26 *educational facilities according to the appropriate formula in*
27 *paragraph (3) of subdivision (a) of Section 33607.5. In determining*
28 *the applicable amount under Section 33607.5, the first fiscal year*
29 *shall be the first fiscal year following the fiscal year in which the*
30 *adjusted base year value is determined.*

31 (c) (1) *The first adjusted base year assessed value shall be the*
32 *assessed value of the taxable property in the redevelopment project*
33 *area in the year in which the limitation being amended would have*
34 *taken effect without the amendment or, if more than one limitation*
35 *is being amended, the first year in which one or more of the*
36 *limitations would have taken effect without the amendment. The*
37 *as shown on the local assessment roll as prepared by the county*
38 *assessor and delivered to the auditor pursuant to Section 617 of*
39 *the Revenue and Taxation Code.*

1 (2) *The second adjusted base year assessed value shall be the*
2 *assessed value of the project area in the 10th fiscal year following*
3 *the fiscal year in which the first adjusted base year value is*
4 *determined, as shown on the local assessment roll as prepared by*
5 *the county assessor and delivered to the county auditor pursuant*
6 *to Section 617 of the Revenue and Taxation Code.*

7 (3) *The third adjusted base year assessed value shall be the*
8 *assessed value of the project area in the 30th fiscal year following*
9 *the fiscal year in which the second adjusted base year value is*
10 *determined as shown on the local assessment roll as prepared by*
11 *the county assessor and delivered to the county auditor pursuant*
12 *to Section 617 of the Revenue and Taxation Code.*

13 (d) *For purposes of calculating the payments made pursuant to*
14 *this section, the assessed value of taxable property for the current*
15 *year and the first, second, and third adjusted base years shall not*
16 *include the value of property included on the roll of state-assessed*
17 *property prepared by the State Board of Equalization pursuant to*
18 *Chapter 4 (commencing with Section 721) of Part 2 of Division 1*
19 *of the Revenue and Taxation Code, and shall not include the value*
20 *of property included on the supplemental roll prepared pursuant*
21 *to Chapter 3.5 (commencing with Section 75) of Part 0.5 of*
22 *Division 1 of the Revenue and Taxation Code.*

23 (e) *The agency shall commence making—these payments*
24 *pursuant to this section and pursuant to the terms of the agreement,*
25 *if applicable, or, if an agreement does not exist, in the later of the*
26 *first fiscal year following the fiscal year in which the first adjusted*
27 *base year value is determined or the first fiscal year following the*
28 *fiscal year in which the agency adopts an amendment that is*
29 *governed by the provisions of this section.*

30 SEC. 3. Section 33684 of the Health and Safety Code is
31 amended to read:

32 33684. (a) (1) This section shall apply to each redevelopment
33 project area that, pursuant to a redevelopment plan that contains
34 the provisions required by Section 33670, meets any of the
35 following:

36 (A) Was adopted on or after January 1, 1994, including later
37 amendments to these redevelopment plans.

38 (B) Was adopted prior to January 1, 1994, but amended after
39 January 1, 1994, to include new territory. For plans amended after

1 January 1, 1994, only the tax increments from territory added by
2 the amendment shall be subject to this section.

3 *(C) Was adopted prior to January 1, 1994, but amended after*
4 *January 1, 1994, to increase the limitation on the number of dollars*
5 *to be allocated to the agency or that increased, or eliminated,*
6 *pursuant to paragraph (1) of subdivision (e) of Section 33333.6,*
7 *the time limit on the establishing of loans, advances, and*
8 *indebtedness established pursuant to paragraphs (1) and (2) of*
9 *subdivision (a) of Section 33333.6, as those paragraphs read on*
10 *December 31, 2001, or that lengthened the period during which*
11 *the redevelopment plan is effective if the redevelopment plan being*
12 *amended contains the provisions required by subdivision (b) of*
13 *Section 33670.*

14 (2) This section shall apply to passthrough payments, as required
15 by Sections 33607.5 and 33607.7, for the 2003–04 to 2008–09,
16 inclusive, fiscal years. For purposes of this section, a passthrough
17 payment shall be considered the responsibility of an agency in the
18 fiscal year the agency receives the tax increment revenue for which
19 the passthrough payment is required.

20 (3) For purposes of this section, “local educational agency” is
21 a school district, a community college district, or a county office
22 of education.

23 (b) On or before October 1, 2008, each agency shall submit a
24 report to the county auditor and to each affected taxing entity that
25 describes each project area, including its location, purpose, date
26 established, date or dates amended, and statutory and contractual
27 passthrough requirements. The report shall specify, by year, for
28 each project area all of the following:

29 (1) Gross tax increment received between July 1, 2003, and
30 June 30, 2008, that is subject to a passthrough payment pursuant
31 to Sections 33607.5 and 33607.7, and accumulated gross tax
32 increments through June 30, 2003.

33 (2) Total passthrough payments to each taxing entity that the
34 agency deferred pursuant to a subordination agreement approved
35 by the taxing agency under subdivision (e) of Section 33607.5 and
36 the dates these deferred payments will be made.

37 (3) Total passthrough payments to each taxing entity that the
38 agency was responsible to make between July 1, 2003, and June
39 30, 2008, pursuant to Sections 33607.5 and 33607.7, excluding
40 payments identified in paragraph (2).

1 (4) Total passthrough payments that the agency disbursed to
2 each taxing entity between July 1, 2003, and June 30, 2008,
3 pursuant to Sections 33607.5 and 33607.7.

4 (5) Total sums reported in paragraph (4) for each local
5 educational agency that are considered to be property taxes under
6 the provisions of paragraph (4) of subdivision (a) of Sections
7 33607.5 and 33607.7.

8 (6) Total outstanding payment obligations to each taxing entity
9 as of June 30, 2008. This amount shall be calculated by subtracting
10 the amounts reported in paragraph (4) from paragraph (3) and
11 reporting any positive sum.

12 (7) Total outstanding overpayments to each taxing entity as of
13 June 30, 2008. This amount shall be calculated by subtracting the
14 amounts reported in paragraph (3) from paragraph (4) and reporting
15 any positive sum.

16 (8) The dates on which the agency made payments identified
17 in paragraph (6) or intends to make the payments identified in
18 paragraph (6).

19 ~~(2)~~

20 (9) A revised estimate of the agency's total outstanding
21 passthrough payment obligation to each taxing agency pursuant
22 to paragraph (6) of subdivision (b) and paragraph (6) of subdivision
23 (c) and the dates on which the agency intends to make these
24 payments.

25 (c) On or before October 1, 2009, each agency shall submit a
26 report to the county auditor and to each affected taxing entity that
27 describes each project area, including its location, purpose, date
28 established, date or dates amended, and statutory and contractual
29 passthrough requirements. The report shall specify, by year, for
30 each project area all of the following:

31 (1) Gross tax increment received between July 1, 2008, and
32 June 30, 2009, that is subject to a passthrough payment pursuant
33 to Sections 33607.5 and 33607.7.

34 (2) Total passthrough payments to each taxing entity that the
35 agency deferred pursuant to a subordination agreement approved
36 by the taxing entity under subdivision (e) of Section 33607.5 and
37 the dates these deferred payments will be made.

38 (3) Total passthrough payments to each taxing entity that the
39 agency was responsible to make between July 1, 2008, and June

1 30, 2009, pursuant to Sections 33607.5 and 33607.7, excluding
2 payments identified in paragraph (2).

3 (4) Total passthrough payments that the agency disbursed to
4 each taxing entity between July 1, 2008, and June 30, 2009,
5 pursuant to Sections 33607.5 and 33607.7.

6 (5) Total sums reported in paragraph (4) for each local
7 educational agency that are considered to be property taxes under
8 the provisions of paragraph (4) of subdivision (a) of Sections
9 33607.5 and 33607.7.

10 (6) Total outstanding payment obligations to each taxing entity
11 as of June 30, 2009. This amount shall be calculated by subtracting
12 the amounts reported in paragraph (4) from paragraph (3) and
13 reporting any positive sum.

14 (7) Total outstanding overpayments to each taxing entity as of
15 June 30, 2009. This amount shall be calculated by subtracting the
16 amounts reported in paragraph (3) from paragraph (4) and reporting
17 any positive sum.

18 (8) The dates on which the agency made payments identified
19 in paragraph (6) or intends to make the payments identified in
20 paragraph (6).

21 (d) If an agency reports pursuant to paragraph (6) of subdivision
22 (b) or paragraph (6) of subdivision (c) that it has an outstanding
23 passthrough payment obligation to any taxing entity, the agency
24 shall submit annual updates to the county auditor on October 1 of
25 each year until such time as the county auditor notifies the agency
26 in writing that the agency's outstanding payment obligations have
27 been fully satisfied. The report shall contain both of the following:

28 (1) A list of payments to each taxing agency and to the
29 Educational Revenue Augmentation Fund pursuant to subdivision
30 (j) that the agency disbursed after the agency's last update filed
31 pursuant to this subdivision or, if no update has been filed, after
32 the agency's submission of the reports required pursuant to
33 subdivisions (b) and (c). The list of payments shall include only
34 those payments that address obligations identified pursuant to
35 paragraph (6) of subdivision (b) and paragraph (6) of subdivision
36 (c). The update shall specify the date on which each payment was
37 disbursed.

38 (2) A revised estimate of the agency's total outstanding
39 passthrough payment obligation to each taxing agency pursuant
40 to paragraph (6) of subdivision (b) and paragraph (6) of subdivision

1 (c) and the dates on which the agency intends to make these
2 payments.

3 (e) The county auditor shall review each agency's reports
4 submitted pursuant to subdivisions (b) and (c) and any other
5 relevant information to determine whether the county auditor
6 concurs with the information included in the reports.

7 (1) If the county auditor concurs with the information included
8 in a report, the county auditor shall issue a finding of concurrence
9 within 45 days.

10 (2) If the county auditor does not concur with the information
11 included in a report or considers the report to be incomplete, the
12 county auditor shall return the report to the agency within 45 days
13 with information identifying the elements of the report with which
14 the county auditor does not concur or considers to be incomplete.
15 The county auditor shall provide the agency at least 15 days to
16 respond to concerns raised by the county auditor regarding the
17 information contained in the report. An agency may revise a report
18 that has not received a finding of concurrence and resubmit it to
19 the county auditor.

20 (3) If an agency and county auditor do not agree regarding the
21 passthrough requirements of Sections 33607.5 and 33607.7, an
22 agency may submit a report pursuant to subdivisions (b) and (c)
23 and a statement of dispute identifying the issue needing resolution.

24 (4) An agency may amend a report for which the county auditor
25 has issued a finding of concurrence and resubmit the report
26 pursuant to paragraphs (1), (2), and (3) if any of the following
27 apply:

28 (A) The county auditor and agency agree that an issue identified
29 in the agency's statement of dispute has been resolved and the
30 agency proposes to modify the sections of the report to conform
31 with the resolution of the statement of dispute.

32 (B) The county auditor and agency agree that the amount of
33 gross tax increment or the amount of a passthrough payment to a
34 taxing entity included in the report is not accurate.

35 (5) The Controller may revoke a finding of concurrence and
36 direct the agency to resubmit a report to the county auditor pursuant
37 to paragraphs (1), (2), and (3) if the Controller finds significant
38 errors in a report.

1 (f) On or before December 15, 2008, and annually thereafter
2 through 2014, the county auditor shall submit a report to the
3 Controller that includes all of the following:

4 (1) The name of each redevelopment project area in the county
5 for which an agency must submit a report pursuant to subdivision
6 (b) or (c) and information as to whether the county auditor has
7 issued a finding of concurrence regarding the report.

8 (2) A list of the agencies for which the county auditor has issued
9 a finding of concurrence for all project areas identified in paragraph
10 (1).

11 (3) A list of agencies for which the county auditor has not issued
12 a finding of concurrence for all project areas identified in paragraph
13 (1).

14 (4) Using information applicable to agencies listed in paragraph
15 (2), the county auditor shall report all of the following:

16 (A) The total sums reported by each redevelopment agency
17 related to each taxing entity pursuant to paragraphs (1) to (7),
18 inclusive, of subdivision (b) and, on or after December 15, 2009,
19 pursuant to paragraphs (1) to (7), inclusive, of subdivision (c).

20 (B) The names of agencies that have outstanding passthrough
21 payment obligations to a local educational agency that exceed the
22 amount of outstanding passthrough payments to the local
23 educational agency.

24 (C) Summary information regarding agencies' stated plans to
25 pay the outstanding amounts identified in paragraph (6) of
26 subdivision (b) and paragraph (6) of subdivision (c) and the actual
27 amounts that have been deposited into the county Educational
28 Revenue Augmentation Fund pursuant to subdivision (j).

29 (D) All unresolved statements of dispute filed by agencies
30 pursuant to paragraph (3) of subdivision (e) and the county
31 auditor's analyses supporting the county auditor's conclusions
32 regarding the issues under dispute.

33 (g) (1) On or before February 1, 2009, and annually thereafter
34 through 2015, the Controller shall submit a report to the Legislative
35 Analyst's Office and the Department of Finance and provide a
36 copy to the Board of Governors of the California Community
37 Colleges. The report shall provide information as follows:

38 (A) Identify agencies for which the county auditor has issued
39 a finding of concurrence for all reports required under subdivisions
40 (b) and (c).

1 (B) Identify agencies for which the county auditor has not issued
2 a finding of concurrence for all reports required pursuant to
3 subdivision (b) and all reports required pursuant to subdivision (c)
4 or for which a finding of concurrence has been withdrawn by the
5 Controller.

6 (C) Summarize the information reported in paragraph (4) of
7 subdivision (f). This summary shall identify, by local educational
8 agency and by year, the total amount of passthrough payments that
9 each local educational agency received, was entitled to receive,
10 subordinated, or that has not yet been paid, and the portion of these
11 amounts that are considered to be property taxes for purposes of
12 Sections 2558, 42238, and 84751 of the Education Code. The
13 report shall identify, by agency, the amounts that have been
14 deposited to the county Educational Revenue Augmentation Fund
15 pursuant to subdivision (j).

16 (D) Summarize the statements of dispute. The Controller shall
17 specify the status of these disputes, including whether the
18 Controller or other state entity has provided instructions as to how
19 these disputes should be resolved.

20 (E) Identify agencies that have outstanding passthrough payment
21 liabilities to a local educational agency that exceed the amount of
22 outstanding passthrough overpayments to the local educational
23 agency.

24 (2) On or before February 1, 2009, and annually thereafter
25 through 2015, the Controller shall submit a report to the State
26 Department of Education and the Board of Governors of the
27 California Community Colleges. The report shall identify, by local
28 educational agency and by year of receipt, the total amount of
29 passthrough payments that the local educational agency received
30 from redevelopment agencies listed in subparagraph (A) of
31 paragraph (1).

32 (h) (1) On or before April 1, 2009, and annually thereafter until
33 April 1, 2015, the State Department of Education shall do all of
34 the following:

35 (A) Calculate for each school district for the 2003–04 to
36 2007–08, inclusive, fiscal years the difference between 43.3 percent
37 of the amount reported pursuant to paragraph (2) of subdivision
38 (g) and the amount subtracted from each school district’s
39 apportionment pursuant to paragraph (6) of subdivision (h) of
40 Section 42238 of the Education Code.

1 (B) Calculate for each county superintendent of schools for the
 2 2003–04 to 2007–08, inclusive, fiscal years the difference between
 3 19 percent of the amount reported pursuant to paragraph (2) of
 4 subdivision (g) and the amount received pursuant to Sections
 5 33607.5 and 33607.7 and subtracted from each county
 6 superintendent of schools apportionment pursuant to subdivision
 7 (c) of Section 2558 of the Education Code.

8 (C) Notify each school district and county superintendent of
 9 schools for which any amount calculated in subparagraph (A) or
 10 (B) is nonzero as to the reported change and its resulting impact
 11 on apportionments. After April 1, 2009, however, the department
 12 shall not notify a school district or county superintendent of schools
 13 if the amount calculated in subparagraph (A) or (B) is the same
 14 amount as the department calculated in the preceding year.

15 (2) On or before April 1, 2010, and annually thereafter until
 16 April 1, 2015, the State Department of Education shall do all of
 17 the following:

18 (A) Calculate for each school district for the 2008–09 fiscal
 19 year the difference between 43.3 percent of the amount reported
 20 pursuant to paragraph (2) of subdivision (g) and the amount
 21 subtracted from each school district’s apportionment pursuant to
 22 paragraph (6) of subdivision (h) of Section 42238 of the Education
 23 Code.

24 (B) Calculate for each county superintendent of schools for the
 25 2008–09 fiscal year the difference between 19 percent of the
 26 amount reported pursuant to paragraph (2) of subdivision (g) and
 27 the amount received pursuant to Sections 33607.5 and 33607.7
 28 and subtracted from each county superintendent of schools
 29 apportionment pursuant to subdivision (c) of Section 2558 of the
 30 Education Code.

31 (C) Notify each school district and county superintendent of
 32 schools for which any amount calculated in subparagraph (A) or
 33 (B) is nonzero as to the reported change and its resulting impact
 34 on revenue limit apportionments. After April 1, 2010, however,
 35 the department shall not notify a school district or county
 36 superintendent of schools if the amount calculated in subparagraph
 37 (A) or (B) is the same amount as the department calculated in the
 38 preceding year.

39 (3) For the purposes of Article 3 (commencing with Section
 40 41330) of Chapter 3 of Part 24 of Division 3 of the Education

1 Code, the amounts reported to each school district and county
2 superintendent of schools in the notification required pursuant to
3 subparagraph (C) of paragraph (1) and subparagraph (C) of
4 paragraph (2) shall be deemed to be apportionment significant
5 audit exceptions and the date of receipt of that notification shall
6 be deemed to be the date of receipt of the final audit report that
7 includes those audit exceptions.

8 (4) On or before March 1, 2009, and annually thereafter until
9 March 1, 2015, the Board of Governors of the California
10 Community Colleges shall do all of the following:

11 (A) Calculate for each community college district for the
12 2003–04 to 2007–08, inclusive, fiscal years the difference between
13 47.5 percent of the amount reported pursuant to paragraph (2) of
14 subdivision (g) and the amount subtracted from each district’s total
15 revenue owed pursuant to subdivision (d) of Section 84751 of the
16 Education Code.

17 (B) Notify each community college district for which any
18 amount calculated in subparagraph (A) is nonzero as to the reported
19 change and its resulting impact on apportionments. After March
20 1, 2009, however, the board shall not notify a school district or
21 county superintendent of schools if the amount calculated in
22 subparagraph (A) is the same amount as the board calculated in
23 the preceding year.

24 (5) On or before March 1, 2010, and annually thereafter until
25 March 1, 2015, the Board of Governors of the California
26 Community Colleges shall do all of the following:

27 (A) Calculate for each community college district for the
28 2003–04 to 2007–08, inclusive, fiscal years the difference between
29 47.5 percent of the amount reported pursuant to paragraph (2) of
30 subdivision (g) and the amount subtracted from each district’s total
31 revenue owed pursuant to subdivision (d) of Section 84751 of the
32 Education Code.

33 (B) Notify each community college district for which any
34 amount calculated in subparagraph (A) is nonzero as to the reported
35 change and its resulting impact on revenue apportionments. After
36 March 1, 2010, however, the board shall not notify a community
37 college district if the amount calculated in subparagraph (A) is the
38 same amount as the board calculated in the preceding year.

39 (6) A community college district may submit documentation to
40 the Board of Governors of the California Community Colleges

1 showing that all or part of the amount reported to the district
2 pursuant to subparagraph (B) of paragraph (4) and subparagraph
3 (B) of paragraph (5) was previously reported to the California
4 Community Colleges for the purpose of the revenue level
5 calculations made pursuant to Section 84751 of the Education
6 Code. Upon acceptance of the documentation, the board of
7 governors shall adjust the amounts calculated in paragraphs (4)
8 and (5) accordingly.

9 (7) The Board of Governors of the California Community
10 Colleges shall make corrections in any amounts allocated in any
11 fiscal year to each community college district for which any amount
12 calculated in paragraphs (4) and (5) is nonzero so as to account
13 for the changes reported pursuant to paragraph (4) of subdivision
14 (b) and paragraph (4) of subdivision (c). The board may make the
15 corrections over a period of time, not to exceed five years.

16 (i) (1) After February 1, 2009, for an agency listed on the most
17 recent Controller's report pursuant to subparagraph (B) or (E) of
18 paragraph (1) of subdivision (g), all of the following shall apply:

19 (A) The agency shall be prohibited from adding new project
20 areas or expanding existing project areas. For purposes of this
21 paragraph, "project area" has the same meaning as in Sections
22 33320.1 to 33320.3, inclusive, and Section 33492.3.

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

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

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

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

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

- 1 (iv) Obligations incurred pursuant to Section 33445.
2 (v) Indebtedness incurred pursuant to Section 33334.2 or
3 33334.6.
4 (vi) Obligations incurred pursuant to Section 33401.
5 (vii) An amount, to be expended for the monthly operation and
6 administration of the agency, that may not exceed 75 percent of
7 the average monthly amount spent for those purposes in the fiscal
8 year preceding the fiscal year in which the agency was first listed
9 on the Controller's report pursuant to subparagraph (B) or (E) of
10 paragraph (1) of subdivision (g).
- 11 (2) After February 1, 2009, an agency identified in subparagraph
12 (B) or (E) of paragraph (1) of subdivision (g) shall incur interest
13 charges on any passthrough payment that is made to a local
14 educational agency more than 60 days after the close of the fiscal
15 year in which the passthrough payment was required. Interest shall
16 be charged at a rate equal to 150 percent of the current Pooled
17 Money Investment Account earnings annual yield rate and shall
18 be charged for the period beginning 60 days after the close of the
19 fiscal year in which the passthrough payment was due through the
20 date that the payment is made.
- 21 (3) The Controller, with the concurrence of the Director of
22 Finance, may waive the provisions of paragraphs (1) and (2) for
23 a period of up to 12 months if the Controller determines all of the
24 following:
- 25 (A) The county auditor has identified the agency in its most
26 recent report issued pursuant to paragraph (2) of subdivision (f)
27 as an agency for which the auditor has issued a finding of
28 concurrence for all reports required pursuant to subdivisions (b)
29 and (c).
- 30 (B) The agency has filed a statement of dispute on an issue or
31 issues that, in the opinion of the Controller, are likely to be resolved
32 in a manner consistent with the agency's position.
- 33 (C) The agency has made passthrough payments to local
34 educational agencies and the county Educational Revenue
35 Augmentation Fund, or has had funds previously withheld by the
36 auditor, in amounts that would satisfy the agency's passthrough
37 payment requirements to local educational agencies if the issue or
38 issues addressed in the statement of dispute were resolved in a
39 manner consistent with the agency's position.

1 (D) The agency would sustain a fiscal hardship if it made
2 passthrough payments to local educational agencies and the county
3 Educational Revenue Augmentation Fund in the amounts estimated
4 by the county auditor.

5 (j) Notwithstanding any other provision of law, if an agency
6 report submitted pursuant to subdivision (b) or (c) indicates
7 outstanding payment obligations to a local educational agency,
8 the agency shall make these outstanding payments as follows:

9 (1) Of the outstanding payments owed to school districts,
10 including any interest payments pursuant to paragraph (2) of
11 subdivision (i), 43.3 percent shall be deposited in the county
12 Educational Revenue Augmentation Fund and the remainder shall
13 be allocated to the school district or districts.

14 (2) Of the outstanding payments owed to community college
15 districts, including any interest payments pursuant to paragraph
16 (2) of subdivision (i), 47.5 percent shall be deposited in the county
17 Educational Revenue Augmentation Fund and the remainder shall
18 be allocated to the community college district or districts.

19 (3) Of the outstanding payments owed to county offices of
20 education, including any interest payments pursuant to paragraph
21 (2) of subdivision (i), 19 percent shall be deposited in the county
22 Educational Revenue Augmentation Fund and the remainder shall
23 be allocated to the county office of education.

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

33 (2) Notwithstanding any other provision of law, no funds
34 deposited in the county Educational Revenue Augmentation Fund
35 pursuant to subdivision (j) shall be distributed to a community
36 college district.

37 (l) A county may require an agency to reimburse the county for
38 any expenses incurred by the county in performing the services
39 required by this section.

1 SEC. 4. The amendment of Sections 33607.5, 33607.7, and
2 33684 of the Health and Safety Code made by this act does not
3 constitute a change in, but is declaratory of, existing law.

O