

AMENDED IN SENATE APRIL 28, 2009

SENATE BILL

No. 530

Introduced by Senator Dutton

February 27, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

SB 530, as amended, 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. *Existing law requires, on or before October 1, 2009, each redevelopment agency to submit a report to the county auditor and to each affected taxing entity that describes each project area, including its location, purpose, date established, date or dates amended, and statutory and contractual passthrough requirements. Existing law requires the report to include specified information in a specified manner for each project area. Existing law requires the county auditor to review each redevelopment agency's report and any other relevant information to determine whether the county auditor concurs with the information included in the reports. Existing law requires the redevelopment agency to make outstanding payments to a local educational agency, as specified, if the agency's report indicates outstanding payment obligations to a local educational agency.*

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 ~~that contains the provisions required by Section 33670, is either:~~
 6 ~~(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~~

1 during the fiscal year the funds are allocated, which percentage
2 share shall be determined without regard to any amounts allocated
3 to a city, a city and county, or a county pursuant to Sections 97.68
4 and 97.70 of the Revenue and Taxation Code, and without regard
5 to any allocation reductions to a city, a city and county, a county,
6 a special district, or a redevelopment agency pursuant to Sections
7 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and
8 Section 33681.12 and without regard to any revenues that would
9 have been allocated to the county Educational Revenue
10 Augmentation Fund created pursuant to Article 3 (commencing
11 with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the
12 Revenue and Taxation Code. If a community elects not to receive
13 payments or is not entitled to receive payments pursuant to this
14 section, the portion that would otherwise have been calculated for
15 and paid to the community based on the community's proportionate
16 share of property tax revenues shall remain with the agency. The
17 agency shall reduce its payments pursuant to this section to an
18 affected taxing entity by any amount the agency has paid, directly
19 or indirectly, pursuant to Section 33445, 33445.5, 33445.6, 33446,
20 or any other provision of law other than this section for, or in
21 connection with, a public facility owned or leased by that affected
22 taxing agency, except: (A) any amounts the agency has paid
23 directly or indirectly pursuant to an agreement with a taxing entity
24 adopted prior to January 1, 1994; or (B) any amounts that are
25 unrelated to the specific project area or amendment governed by
26 this section. The reduction in a payment by an agency to a school
27 district, community college district, or county office of education,
28 or for special education, shall be subtracted only from the amount
29 that otherwise would be available for use by those entities for
30 educational facilities pursuant to paragraph (4). If the amount of
31 the reduction exceeds the amount that otherwise would have been
32 available for use for educational facilities in any one year, the
33 agency shall reduce its payment in more than one year. For
34 purposes of calculating the allocation of payments made to affected
35 taxing entities pursuant to this section, any county Educational
36 Revenue Augmentation Fund created pursuant to Article 3
37 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division
38 1 of the Revenue and Taxation Code or otherwise established is
39 not an affected taxing entity, and revenues received by local
40 educational agencies from the county Educational Revenue

1 Augmentation Fund shall not be considered property taxes received
2 by the local educational agencies.

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

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

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

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

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

20 (4) (A) Except as specified in subparagraph (E), of the total
21 amount paid each year pursuant to this section to school districts,
22 43.3 percent shall be considered to be property taxes for the
23 purposes of paragraph (1) of subdivision (h) of Section 42238 of
24 the Education Code, and 56.7 percent shall not be considered to
25 be property taxes for the purposes of that section and shall be
26 available to be used for educational facilities.

27 (B) Except as specified in subparagraph (E), of the total amount
28 paid each year pursuant to this section to community college
29 districts, 47.5 percent shall be considered to be property taxes for
30 the purposes of Section 84751 of the Education Code, and 52.5
31 percent shall not be considered to be property taxes for the purposes
32 of that section and shall be available to be used for educational
33 facilities.

34 (C) Except as specified in subparagraph (E), of the total amount
35 paid each year pursuant to this section to county offices of
36 education, 19 percent shall be considered to be property taxes for
37 the purposes of Section 2558 of the Education Code, and 81 percent
38 shall not be considered to be property taxes for the purposes of
39 that section and shall be available to be used for educational
40 facilities.

1 ~~(D) Except as specified in subparagraph (E), of the total amount~~
2 ~~paid each year pursuant to this section for special education, 19~~
3 ~~percent shall be considered to be property taxes for the purposes~~
4 ~~of Section 56712 of the Education Code, and 81 percent shall not~~
5 ~~be considered to be property taxes for the purposes of that section~~
6 ~~and shall be available to be used for education facilities.~~

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

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

19 ~~(b) Commencing with the first 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, including the~~
23 ~~community if the community elects to receive a payment, an~~
24 ~~amount equal to 25 percent of the tax increments received by the~~
25 ~~agency after the amount required to be deposited in the Low and~~
26 ~~Moderate Income Housing Fund has been deducted. In any fiscal~~
27 ~~year in which the agency receives tax increments, the community~~
28 ~~that has adopted the redevelopment project area may elect to~~
29 ~~receive the amount authorized by this subdivision. If the~~
30 ~~community elects not to receive the amount authorized by this~~
31 ~~subdivision, the portion of the payment made pursuant to this~~
32 ~~subdivision that would have otherwise been calculated for and~~
33 ~~paid to the community based on the community's proportionate~~
34 ~~share of property tax revenues shall remain with the agency.~~

35 ~~(c) Commencing with the 11th fiscal year in which the agency~~
36 ~~receives tax increments and continuing through the last fiscal year~~
37 ~~in which the agency receives tax increments, a redevelopment~~
38 ~~agency shall pay to the affected taxing entities, other than the~~
39 ~~community that has adopted the project, in addition to the amounts~~
40 ~~paid pursuant to subdivision (b) and after deducting the amount~~

1 allocated to the Low and Moderate Income Housing Fund, an
2 amount equal to 21 percent of an amount, which shall be calculated
3 by applying the tax rate against the amount by which the assessed
4 value of taxable property in the redevelopment project, as shown
5 upon the local assessment roll for the current year, as prepared by
6 the county assessor and delivered to the auditor pursuant to Section
7 617 of the Revenue and Taxation Code, exceeds the first adjusted
8 base year assessed value of taxable property in the redevelopment
9 project as established pursuant to this subdivision. The first
10 adjusted base year assessed value is the assessed value of taxable
11 property in the project area in the 10th fiscal year in which the
12 agency receives tax increment revenues as shown on the local
13 assessment roll as prepared by the county assessor and delivered
14 to the county auditor pursuant to Section 617 of the Revenue and
15 Taxation Code. For purposes of calculating the payments made
16 pursuant to this subdivision, the assessed value of taxable property
17 for the current year and the first adjusted base year shall not include
18 the value of property included on the roll of state-assessed property
19 prepared by the State Board of Equalization pursuant to Chapter
20 4 (commencing with Section 721) of Part 2 of Division 1 of the
21 Revenue and Taxation Code, and shall not include the value of
22 property included on the supplemental roll prepared pursuant to
23 Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division
24 1 of the Revenue and Taxation Code. The portion of the payment
25 made pursuant to this subdivision that would have otherwise been
26 calculated for and paid to the community based on the community's
27 proportionate share of property tax revenues shall be allocated
28 among the other affected taxing entities in accordance with
29 paragraph (2) of subdivision (a):

30 (d) Commencing with the 31st fiscal year in which the agency
31 receives tax increments and continuing through the last fiscal year
32 in which the agency receives tax increments, a redevelopment
33 agency shall pay to the affected taxing entities, other than the
34 community that has adopted the project, in addition to the amounts
35 paid pursuant to subdivisions (b) and (c) and after deducting the
36 amount allocated to the Low and Moderate Income Housing Fund,
37 an amount equal to 14 percent of an amount that shall be calculated
38 by applying the tax rate against the amount by which the assessed
39 value of taxable property in the redevelopment project, as shown
40 on the local assessment roll for the current year, as prepared by

1 the county assessor and delivered to the county auditor pursuant
2 to Section 617 of the Revenue and Taxation Code, exceeds the
3 second adjusted base year assessed value of taxable property in
4 the redevelopment project as established pursuant to this
5 subdivision. The second adjusted base year assessed value is the
6 assessed value of taxable property in the project area in the 30th
7 fiscal year in which the agency receives tax increments as shown
8 on the local assessment roll as prepared by the county assessor
9 and delivered to the county auditor pursuant to Section 617 of the
10 Revenue and Taxation Code. For purposes of calculating the
11 payments made pursuant to this subdivision, the assessed value of
12 taxable property for the current year and the first adjusted base
13 year shall not include the value of property included on the roll of
14 state-assessed property prepared by the State Board of Equalization
15 pursuant to Chapter 4 (commencing with Section 721) of Part 2
16 of Division 1 of the Revenue and Taxation Code, and shall not
17 include the value of property included on the supplemental roll
18 prepared pursuant to Chapter 3.5 (commencing with Section 75)
19 of Part 0.5 of Division 1 of the Revenue and Taxation Code. The
20 portion of the payment made pursuant to this subdivision that
21 would have otherwise been calculated for and paid to the
22 community based on the community's proportionate share of
23 property tax revenues shall be allocated among the other affected
24 taxing entities in accordance with paragraph (2) of subdivision (a).

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

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

36 (3) Within 45 days after receipt of the agency's request, the
37 affected taxing entity shall approve or disapprove the request for
38 subordination. An affected taxing entity may disapprove a request
39 for subordination only if it finds, based upon substantial evidence,
40 that the agency will not be able to pay the debt payments and the

1 amount required to be paid to the affected taxing entity. If the
2 affected taxing entity does not act within 45 days after receipt of
3 the agency's request, the request to subordinate shall be deemed
4 approved and shall be final and conclusive.

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

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

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

14 (2) Notwithstanding any other provision of law, a redevelopment
15 agency shall not be required, either directly or indirectly, as a
16 measure to mitigate a significant environmental effect or as part
17 of any settlement agreement or judgment brought in any action to
18 contest the validity of a redevelopment plan pursuant to Section
19 33501, to make any other payments to affected taxing entities, or
20 to pay for public facilities that will be owned or leased to an
21 affected taxing entity.

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

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

27 33607.7. (a) This section shall apply to a redevelopment plan
28 amendment for any redevelopment plans adopted prior to January
29 1, 1994, that increases the limitation on the number of dollars to
30 be allocated to the redevelopment agency or that increases, or
31 eliminates pursuant to paragraph (1) of subdivision (e) of Section
32 33333.6, the time limit on the establishing of loans, advances, and
33 indebtedness established pursuant to paragraphs (1) and (2) of
34 subdivision (a) of Section 33333.6, as those paragraphs read on
35 December 31, 2001, or that lengthens the period during which the
36 redevelopment plan is effective if the redevelopment plan being
37 amended contains the provisions required by subdivision (b) of
38 Section 33670. However, this section shall not apply to those
39 redevelopment plans that add new territory.

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

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

8 ~~(2) If an agreement does not exist, the following:~~

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

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

1 assessor and delivered to the county auditor pursuant to Section
2 617 of the Revenue and Taxation Code, exceeds the second
3 adjusted base year assessed value of taxable property in the
4 redevelopment project as established pursuant to this subparagraph.
5 The portion of the payment made pursuant to this subparagraph
6 that would have otherwise been calculated for and paid to the
7 community based on the community's proportionate share of
8 property tax revenues shall be paid instead to the agency.

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

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

35 (e) (1) The first adjusted base year assessed value shall be the
36 assessed value of the taxable property in the redevelopment project
37 in the year in which the limitation being amended would have
38 taken effect without the amendment or, if more than one limitation
39 is being amended, the first year in which one or more of the
40 limitations would have taken effect without the amendment. as

1 shown on the local assessment roll as prepared by the county
2 assessor and delivered to the auditor pursuant to Section 617 of
3 the Revenue and Taxation Code.

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

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

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

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

33 ~~SEC. 3.~~

34 *SECTION 1.* Section 33684 of the Health and Safety Code is
35 amended to read:

36 33684. (a) (1) This section shall apply to each redevelopment
37 project area that, pursuant to a redevelopment plan that contains
38 the provisions required by Section 33670, meets any of the
39 following:

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

3 (B) Was adopted prior to January 1, 1994, but amended after
4 January 1, 1994, to include new territory. For plans amended after
5 January 1, 1994, only the tax increments from territory added by
6 the amendment shall be subject to this section.

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

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

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

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

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

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

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

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

8 (5) Total sums reported in paragraph (4) for each local
9 educational agency that are considered to be property taxes under
10 the provisions of paragraph (4) of subdivision (a) of Sections
11 33607.5 and 33607.7.

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

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

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

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

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

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

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

- 1 (3) Total passthrough payments to each taxing entity that the
2 agency was responsible to make between July 1, 2008, and June
3 30, 2009, pursuant to Sections 33607.5 and 33607.7, excluding
4 payments identified in paragraph (2).
- 5 (4) Total passthrough payments that the agency disbursed to
6 each taxing entity between July 1, 2008, and June 30, 2009,
7 pursuant to Sections 33607.5 and 33607.7.
- 8 (5) Total sums reported in paragraph (4) for each local
9 educational agency that are considered to be property taxes under
10 the provisions of paragraph (4) of subdivision (a) of Sections
11 33607.5 and 33607.7.
- 12 (6) Total outstanding payment obligations to each taxing entity
13 as of June 30, 2009. This amount shall be calculated by subtracting
14 the amounts reported in paragraph (4) from paragraph (3) and
15 reporting any positive sum.
- 16 (7) Total outstanding overpayments to each taxing entity as of
17 June 30, 2009. This amount shall be calculated by subtracting the
18 amounts reported in paragraph (3) from paragraph (4) and reporting
19 any positive sum.
- 20 (8) The dates on which the agency made payments identified
21 in paragraph (6) or intends to make the payments identified in
22 paragraph (6).
- 23 (d) If an agency reports pursuant to paragraph (6) of subdivision
24 (b) or paragraph (6) of subdivision (c) that it has an outstanding
25 passthrough payment obligation to any taxing entity, the agency
26 shall submit annual updates to the county auditor on October 1 of
27 each year until such time as the county auditor notifies the agency
28 in writing that the agency’s outstanding payment obligations have
29 been fully satisfied. The report shall contain both of the following:
- 30 (1) A list of payments to each taxing agency and to the
31 Educational Revenue Augmentation Fund pursuant to subdivision
32 (j) that the agency disbursed after the agency’s last update filed
33 pursuant to this subdivision or, if no update has been filed, after
34 the agency’s submission of the reports required pursuant to
35 subdivisions (b) and (c). The list of payments shall include only
36 those payments that address obligations identified pursuant to
37 paragraph (6) of subdivision (b) and paragraph (6) of subdivision
38 (c). The update shall specify the date on which each payment was
39 disbursed.

1 (2) A revised estimate of the agency's total outstanding
2 passthrough payment obligation to each taxing agency pursuant
3 to paragraph (6) of subdivision (b) and paragraph (6) of subdivision
4 (c) and the dates on which the agency intends to make these
5 payments.

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

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

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

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

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

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

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

38 (5) The Controller may revoke a finding of concurrence and
39 direct the agency to resubmit a report to the county auditor pursuant

1 to paragraphs (1), (2), and (3) if the Controller finds significant
2 errors in a report.

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

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

10 (2) A list of the agencies for which the county auditor has issued
11 a finding of concurrence for all project areas identified in paragraph
12 (1).

13 (3) A list of agencies for which the county auditor has not issued
14 a finding of concurrence for all project areas identified in paragraph
15 (1).

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

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

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

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

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

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

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

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

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

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

23 (E) Identify agencies that have outstanding passthrough payment
24 liabilities to a local educational agency that exceed the amount of
25 outstanding passthrough overpayments to the local educational
26 agency.

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

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

38 (A) Calculate for each school district for the 2003–04 to
39 2007–08, inclusive, fiscal years the difference between 43.3 percent
40 of the amount reported pursuant to paragraph (2) of subdivision

1 (g) and the amount subtracted from each school district's
2 apportionment pursuant to paragraph (6) of subdivision (h) of
3 Section 42238 of the Education Code.

4 (B) Calculate for each county superintendent of schools for the
5 2003–04 to 2007–08, inclusive, fiscal years the difference between
6 19 percent of the amount reported pursuant to paragraph (2) of
7 subdivision (g) and the amount received pursuant to Sections
8 33607.5 and 33607.7 and subtracted from each county
9 superintendent of schools apportionment pursuant to subdivision
10 (c) of Section 2558 of the Education Code.

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

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

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

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

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

1 (A) or (B) is the same amount as the department calculated in the
2 preceding year.

3 (3) For the purposes of Article 3 (commencing with Section
4 41330) of Chapter 3 of Part 24 of Division 3 of the Education
5 Code, the amounts reported to each school district and county
6 superintendent of schools in the notification required pursuant to
7 subparagraph (C) of paragraph (1) and subparagraph (C) of
8 paragraph (2) shall be deemed to be apportionment significant
9 audit exceptions and the date of receipt of that notification shall
10 be deemed to be the date of receipt of the final audit report that
11 includes those audit exceptions.

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

15 (A) Calculate for each community college district for the
16 2003–04 to 2007–08, inclusive, fiscal years the difference between
17 47.5 percent of the amount reported pursuant to paragraph (2) of
18 subdivision (g) and the amount subtracted from each district’s total
19 revenue owed pursuant to subdivision (d) of Section 84751 of the
20 Education Code.

21 (B) Notify each community college district for which any
22 amount calculated in subparagraph (A) is nonzero as to the reported
23 change and its resulting impact on apportionments. After March
24 1, 2009, however, the board shall not notify a school district or
25 county superintendent of schools if the amount calculated in
26 subparagraph (A) is the same amount as the board calculated in
27 the preceding year.

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

31 (A) Calculate for each community college district for the
32 2003–04 to 2007–08, inclusive, fiscal years the difference between
33 47.5 percent of the amount reported pursuant to paragraph (2) of
34 subdivision (g) and the amount subtracted from each district’s total
35 revenue owed pursuant to subdivision (d) of Section 84751 of the
36 Education Code.

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

1 college district if the amount calculated in subparagraph (A) is the
2 same amount as the board calculated in the preceding year.

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

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

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

23 (A) The agency shall be prohibited from adding new project
24 areas or expanding existing project areas. For purposes of this
25 paragraph, "project area" has the same meaning as in Sections
26 33320.1 to 33320.3, inclusive, and Section 33492.3.

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

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

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

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

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

6 (iv) Obligations incurred pursuant to Section 33445.

7 (v) Indebtedness incurred pursuant to Section 33334.2 or
8 33334.6.

9 (vi) Obligations incurred pursuant to Section 33401.

10 (vii) An amount, to be expended for the monthly operation and
11 administration of the agency, that may not exceed 75 percent of
12 the average monthly amount spent for those purposes in the fiscal
13 year preceding the fiscal year in which the agency was first listed
14 on the Controller's report pursuant to subparagraph (B) or (E) of
15 paragraph (1) of subdivision (g).

16 (2) After February 1, 2009, an agency identified in subparagraph
17 (B) or (E) of paragraph (1) of subdivision (g) shall incur interest
18 charges on any passthrough payment that is made to a local
19 educational agency more than 60 days after the close of the fiscal
20 year in which the passthrough payment was required. Interest shall
21 be charged at a rate equal to 150 percent of the current Pooled
22 Money Investment Account earnings annual yield rate and shall
23 be charged for the period beginning 60 days after the close of the
24 fiscal year in which the passthrough payment was due through the
25 date that the payment is made.

26 (3) The Controller, with the concurrence of the Director of
27 Finance, may waive the provisions of paragraphs (1) and (2) for
28 a period of up to 12 months if the Controller determines all of the
29 following:

30 (A) The county auditor has identified the agency in its most
31 recent report issued pursuant to paragraph (2) of subdivision (f)
32 as an agency for which the auditor has issued a finding of
33 concurrence for all reports required pursuant to subdivisions (b)
34 and (c).

35 (B) The agency has filed a statement of dispute on an issue or
36 issues that, in the opinion of the Controller, are likely to be resolved
37 in a manner consistent with the agency's position.

38 (C) The agency has made passthrough payments to local
39 educational agencies and the county Educational Revenue
40 Augmentation Fund, or has had funds previously withheld by the

1 auditor, in amounts that would satisfy the agency's passthrough
2 payment requirements to local educational agencies if the issue or
3 issues addressed in the statement of dispute were resolved in a
4 manner consistent with the agency's position.

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

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

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

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

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

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

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

1 *(l)* A county may require an agency to reimburse the county for
2 any expenses incurred by the county in performing the services
3 required by this section.

4 ~~SEC. 4.~~

5 ~~SEC. 2.~~ The amendment of ~~Sections 33607.5, 33607.7, and~~
6 ~~Section 33684~~ of the Health and Safety Code made by this act does
7 not constitute a change in, but is declaratory of, existing law.

O