

AMENDED IN ASSEMBLY OCTOBER 7, 2010

SENATE BILL

No. 863

Introduced by Committee on Budget and Fiscal Review

January 11, 2010

~~An act relating to the Budget Act of 2010.~~ *An act to amend Sections 16142, 16142.1, and 51244 of, to add Section 16148 to, and to add and repeal Section 51244.3 of, the Government Code, and to add Sections 33333.14 and 33691.5 to the Health and Safety Code, relating to local government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 863, as amended, Committee on Budget and Fiscal Review.
~~Budget Act of 2010.~~ *Local government.*

(1) Existing law, the Williamson Act, authorizes a city or county to enter into 10-year contracts with owners of land devoted to agricultural use, whereby the owners agree to continue using the property for that purpose, and the city or county agrees to value the land accordingly for purposes of property taxation. Existing law sets forth procedures for reimbursing cities and counties for property tax revenues not received as a result of these contracts.

This bill would, beginning January 1, 2011, and until January 1, 2015, authorize a county, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue are less than $\frac{1}{2}$ of the participating county's actual foregone general fund property tax revenue, to revise the term for newly renewed and new contracts and require the assessor to value the property, as specified, based on the revised contract term. The bill would provide that a landowner may choose to nonrenew and begin the cancellation process. The bill would

also provide that any increased revenues generated by properties under a new contract shall be paid to the county. this bill would appropriate \$10,000,000 from the General Fund to the Controller for the 2010–2011 fiscal year to make subvention payments to counties, as specified.

The bill would provide, in the event that this bill is enacted, that the provisions of Chapter 391 of the Statutes of 2010 not become effective.

(2) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight in those communities. Existing law requires each agency to prepare, or cause to be prepared, and approve a redevelopment plan for each project area. Existing law requires that a redevelopment plan contain specified limitations, including, but not limited to, a limitation on the number of dollars of taxes that may be divided and allocated to a redevelopment agency.

This bill would, notwithstanding specified provisions, eliminate the tax increment limit for the redevelopment plan for the Centre City Redevelopment Project, including, but not limited to, the original project area, the expanded project area, and the merged project area.

(3) The Community Redevelopment Law also requires a redevelopment agency to use at least 20% of tax increments generated from a project area to increase and improve the community's supply of low- and moderate-income housing, and those funds to be held in a separate Low and Moderate Income Housing Fund until used. That law authorizes a redevelopment agency, from July 1, 2009, to June 30, 2010, inclusive, to suspend all or part of its required allocation to its Low and Moderate Income Housing Fund, but requires the redevelopment agency to repay the revenue diverted during the suspension within a specified time period, ending as of June 30, 2015. That law requires redevelopment agencies in this state to make a specified remittance to county Supplemental Educational Revenue Augmentation Funds for the 2009–10 fiscal year, and another remittance to those funds for the 2010–11 fiscal year. That law subjects a redevelopment agency that does not make either or both of the required remittances to specified prohibitions and the requirement that it allocate an additional 5% of all tax increments it receives for low- and moderate-income housing for the remainder of the time it receives them.

This bill would exempt a redevelopment agency that fails to allocate either or both of the required remittances, or to otherwise arrange for their full payment, as specified, from those prohibitions and the above-described requirement, if the county auditor certifies to the

Department of Finance that (1) the redevelopment agency adopted a specified resolution, or specified resolutions, and failed to make the associated remittance by May 10, 2010, or May 10, 2011, as applicable, (2) the county reduced the tax increment revenue payable to the redevelopment agency by at least 20% in the 2009–10 fiscal year, and (3) the redevelopment agency has entered into a specified agreement with the Department of Finance with respect to paying the required remittances.

(4) This bill would make legislative findings and declarations as to the necessity of a special statute for the Centre City Redevelopment Project of the City of San Diego.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2010.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

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

3 (a) A number of historical, educational, and cultural resources
4 of regional and statewide significance are located within and
5 adjacent to the Centre City Redevelopment Project of the City of
6 San Diego.

7 (b) Significant portions of the project area of the Centre City
8 Redevelopment Project are owned by state, local, and nonprofit
9 entities and produce no property tax revenue for any taxing entity.
10 This act will provide a unique opportunity for revitalization and
11 investment in the area without adverse fiscal impact to the state.

12 (c) The preservation and feasible reuse of the historical,
13 educational, and cultural resources of regional and statewide
14 significance and the completion of a number of major public
15 infrastructure improvements are essential to eliminate blight and
16 improve the economic health of the neighborhoods which surround
17 and are located within the Centre City Redevelopment Project.

18 (d) It is the intent of the Legislature to permit the financing of
19 this preservation and reuse project and the construction of major
20 public infrastructure and of related private development

1 *improvements to feasibly occur by providing necessary public*
2 *financing that utilizes tax increment revenues, thereby creating*
3 *the means to attract and induce the necessary private investment*
4 *of capital.*

5 *(e) Every dollar of tax increment expended for the Centre City*
6 *Redevelopment Project has resulted in the investment of a*
7 *significant multiple of dollars by private enterprise and the creation*
8 *of thousands of construction and permanent new jobs.*

9 *(f) The completion of major public infrastructure improvements*
10 *made possible by the immediate increase in bonding capacity*
11 *resulting from this act will be accomplished in a coordinated*
12 *manner as part of the implementation of the Centre City*
13 *Redevelopment Project and will relieve other state and local*
14 *governmental agencies from the responsibility of providing or*
15 *funding those infrastructure improvements and allow them to focus*
16 *their limited resources on other urgent projects.*

17 *SEC. 2. Section 16142 of the Government Code is amended to*
18 *read:*

19 16142. (a) The Secretary of the *Natural Resources Agency*
20 shall direct the Controller to pay annually out of the funds
21 appropriated by Section 16140, to each eligible county, city, or
22 city and county, the following amounts for each acre of land within
23 its regulatory jurisdiction that is assessed pursuant to Section 423,
24 423.3, 423.4, or 423.5, or 426 if it was previously assessed under
25 Section 423.4, of the Revenue and Taxation Code:

26 (1) Five dollars (\$5) for prime agricultural land, as defined in
27 Section 51201.

28 (2) One dollar (\$1) for all land, other than prime agricultural
29 land, which is devoted to open-space uses of statewide significance,
30 as defined in Section 16143.

31 (b) The amount per acre in paragraph (1) of subdivision (a) may
32 be increased by the Secretary of the *Natural Resources Agency* to
33 a figure which would offset any savings due to a more restrictive
34 determination by the secretary as to what land is devoted to
35 open-space use of statewide significance.

36 (c) The amount per acre in subdivision (a) shall only be paid
37 for 10 years from the date that the land was first assessed pursuant
38 to Section 426 of the Revenue and Taxation Code, if it was
39 previously assessed under Section 423.4 of that code.

1 (d) Notwithstanding any other provision of law, for the 2008–09
2 fiscal year and each fiscal year thereafter, the Controller shall
3 reduce, by 10 percent, any payment made pursuant to this
4 ~~subdivision~~ section.

5 (e) (1) *Effective January 1, 2011, if the payment pursuant to*
6 *this section for the previous fiscal year is less than one-half of the*
7 *participating county’s actual foregone general fund property tax*
8 *revenue, the county may make a determination to implement*
9 *subdivision (b) of Section 51244 and Section 51244.3. The*
10 *implementation of these sections shall be suspended for any*
11 *subsequent fiscal year in which the payment for the previous fiscal*
12 *year exceeds one-half of the foregone general fund property tax*
13 *revenue.*

14 *For purposes of this subdivision, a county’s actual foregone*
15 *property tax revenue shall be based on the county’s respective*
16 *share of the general property tax dollars as reflected in the most*
17 *recent annual report issued by the State Board of Equalization or*
18 *20 percent, whichever is higher.*

19 (2) *This subdivision shall remain operative only until January*
20 *1, 2015.*

21 *SEC. 3. Section 16142.1 of the Government Code is amended*
22 *to read:*

23 16142.1. (a) In lieu of the payments made pursuant to Section
24 16142, in a county that has adopted farmland security zones
25 pursuant to Section 51296, the Secretary of the *Natural Resources*
26 *Agency* shall direct the Controller to pay annually out of the funds
27 appropriated by Section 16140, to each eligible county, city, or
28 city and county, the following amount for each acre of land within
29 its regulatory jurisdiction that is assessed pursuant to Section 423.4
30 or 426 of the Revenue and Taxation Code, if it was previously
31 assessed under Section 423.4 of that code:

32 Eight dollars (\$8) for land that is within, or within three miles
33 of the boundaries of the sphere of influence of, each incorporated
34 city.

35 (b) The amount per acre in subdivision (a) shall only be paid
36 for 10 years from the date that the land was first assessed pursuant
37 to Section 426 of the Revenue and Taxation Code, if it was
38 previously assessed under Section 423.4 of that code. The
39 appropriation authorized by this subdivision shall not exceed one
40 hundred thousand dollars (\$100,000) per year until 2005.

1 (c) Notwithstanding any other provision of law, for the 2008–09
2 fiscal year and each fiscal year thereafter, the Controller shall
3 reduce, by 10 percent, any payments made pursuant to this
4 ~~subdivision~~ section.

5 (d) (1) *Effective January 1, 2011, if the payment pursuant to*
6 *this section for the previous fiscal year is less than one-half of the*
7 *participating county’s actual foregone general fund property tax*
8 *revenue, the county may make a determination to implement*
9 *subdivision (b) of Section 51244 and Section 51244.3. The*
10 *implementation of these sections shall be suspended for any*
11 *subsequent fiscal year in which the payment for the previous fiscal*
12 *year exceeds one-half of the foregone general fund property tax*
13 *revenue.*

14 *For purposes of this subdivision, a county’s actual foregone*
15 *property tax revenue shall be based on the county’s respective*
16 *share of the general property tax dollars as reflected in the most*
17 *recent annual report issued by the State Board of Equalization or*
18 *20 percent, whichever is higher.*

19 (2) *This subdivision shall remain operative only until January*
20 *1, 2015.*

21 *SEC. 4. Section 16148 is added to the Government Code, to*
22 *read:*

23 *16148. Ten million dollars (\$10,000,000) is appropriated for*
24 *the 2010–2011 fiscal year from the General Fund to the Controller*
25 *to make subvention payments to counties pursuant to Section 16140*
26 *in proportion to the losses incurred by those counties by reason*
27 *of the reduction of assessed property taxes.*

28 *SEC. 5. Section 51244 of the Government Code is amended to*
29 *read:*

30 *51244. (a) Each contract shall be for an initial term of no less*
31 *than 10 years. Each contract shall provide that on the anniversary*
32 *date of the contract or such other annual date as specified by the*
33 *contract a year shall be added automatically to the initial term*
34 *unless notice of nonrenewal is given as provided in Section 51245.*

35 *(b) (1) If the county makes a determination pursuant to*
36 *subdivision (e) of Section 16142 or subdivision (d) of Section*
37 *16142.1, contracts shall be for a term of no less than nine years*
38 *for contracts currently 10 years in length or 18 years for contracts*
39 *currently 20 years in length, as the case may be. For new contracts*
40 *entered into during a year in which this subdivision is in effect,*

1 *the initial contract length shall be either nine or 18 years. Each*
2 *contract shall provide, except in the initial year of the*
3 *determination, that on the anniversary date of the contract or such*
4 *other annual date as specified by the contract, a year shall be*
5 *added automatically to the initial term unless notice of nonrenewal*
6 *is given as provided in Section 51245.*

7 *In any subsequent year during the reduced term of contract in*
8 *which increased revenue is not realized by the county pursuant to*
9 *Section 51244.3, two or three additional years shall be added to*
10 *the contract on the next anniversary date, as necessary, to restore*
11 *the contract to its full 10-year or 20-year contract length.*

12 *(2) In any year in which this subdivision is implemented, the*
13 *county shall record a notice that states the affected parcel number*
14 *or numbers and current owner's names, or, alternatively, the same*
15 *information for those parcels that are not affected.*

16 *(3) An addition to the assessed value shall be conveyed to the*
17 *auditor, consistent with the 10-percent reduction in the length of*
18 *the restriction, equal to 10 percent of the difference between the*
19 *valuation pursuant to Section 423, 423.3, or 423.5 of the Revenue*
20 *and Taxation Code, as applicable, and the valuation under*
21 *subdivision (b) of Section 51 or Section 110.1 of the Revenue and*
22 *Taxation Code whichever is lower. If the valuation under*
23 *subdivision (b) of Section 51 or Section 110.1 of the Revenue and*
24 *Taxation Code is lower, the addition to the assessed value shall*
25 *be zero. The increased amount of tax revenue that results from the*
26 *decrease in restriction shall be separately displayed on the*
27 *taxpayer's annual bill.*

28 *(4) A landowner may elect to serve notice of nonrenewal instead*
29 *of accepting a nine-year or 18-year contract, as the case may be.*
30 *In that case, the additional assessed value shall not be added to*
31 *the property as provided for in paragraph (3).*

32 *For purposes of this subdivision, a landowner may serve notice*
33 *of nonrenewal at any time. However, a landowner who withdraws*
34 *that notice prior to the effective date shall be subject to term*
35 *modification and additional assessed value. Once served and*
36 *effective, a landowner nonrenewal notice may not be withdrawn*
37 *except for cause and with the consent of the county. A county may*
38 *adopt amendments to its uniform rules to facilitate implementation*
39 *of this subdivision during the 2010–11 fiscal year, and thereafter*
40 *as necessary.*

1 (5) *In addition to any other notice requirements, a county shall*
2 *provide a landowner under contract with timely written notice of*
3 *all of the following:*

4 (A) *Any initial hearing by the county on a proposal to adopt or*
5 *rescind the implementation of this subdivision.*

6 (B) *Any final decision regarding the adoption or rescission of*
7 *implementation of this subdivision.*

8 (C) *The landowner's right to prevent the reduction in the term*
9 *of his or her contract pursuant to this subdivision by serving notice*
10 *of nonrenewal as specified by Section 51245. This nonrenewal*
11 *notice may be combined with the nonrenewal notice in*
12 *subparagraph (B).*

13 (6) *A county shall not modify or revalue a landowner's contract*
14 *pursuant to this subdivision unless the landowner is given at least*
15 *90 days' notice of the opportunity to prevent the modification and*
16 *revaluation by serving notice of nonrenewal and the landowner*
17 *fails to serve notice of nonrenewal. The county may use the primary*
18 *owner of record from the assessment roll to identify landowners*
19 *entitled to receive notice under this subdivision. A landowner shall*
20 *be advised of the landowner's right to avoid continued imposition*
21 *of this subdivision in any future year and thereafter by serving a*
22 *notice of nonrenewal for that contract year. Failure of the*
23 *landowner to serve timely notice of nonrenewal in any year shall*
24 *be considered implied consent to the implementation of this*
25 *subdivision for that year.*

26 *Until February 1, 2011, the 90-day notice requirement may be*
27 *reduced to 60 days if the county adopts a procedure to allow*
28 *landowners to serve a notice of nonrenewal.*

29 (7) *This subdivision shall not apply to any of the following:*

30 (A) *Contracts that have been nonrenewed.*

31 (B) *Contracts with cities.*

32 (C) *Open-space or agricultural easements.*

33 (D) *Scenic restrictions.*

34 (E) *Wildlife habitat contracts.*

35 (F) *Atypical term contracts, including, but not limited to, 20-year*
36 *initial term contracts declining to 10 years, or re-encumbrances*
37 *pursuant to Section 51295, if the county's board of supervisors*
38 *determines the application of this subdivision to them would be*
39 *inequitable or administratively infeasible.*

1 (8) *This subdivision shall remain operative only until January*
2 *1, 2015.*

3 *SEC. 6. Section 51244.3 is added to the Government Code, to*
4 *read:*

5 *51244.3. (a) This section shall apply to properties under a*
6 *nine-year or 18-year contract, as the case may be, pursuant to*
7 *subdivision (b) of Section 51244. Notwithstanding any other*
8 *provision to the contrary, increased revenues generated by those*
9 *properties shall be allocated exclusively to the respective counties*
10 *in which those properties are located.*

11 *(b) This section shall only apply if the county makes a*
12 *determination pursuant to either Section 16142 or Section 16142.1.*

13 *(c) This section shall remain in effect only until January 1, 2015,*
14 *and as of that date is repealed, unless a later enacted statute, that*
15 *is enacted before January 1, 2015, deletes or extends that date.*

16 *SEC. 7. Section 33333.14 is added to the Health and Safety*
17 *Code, to read:*

18 *33333.14. (a) The Legislature hereby finds and declares that*
19 *the Redevelopment Agency of the City of San Diego's*
20 *Redevelopment Plan for the Centre City Redevelopment Project,*
21 *as approved and adopted on May 11, 1992, by the City Council*
22 *of the City of San Diego by Ordinance No. 0-17767, as amended,*
23 *contains an unrealistically low dollar limit on the receipt of tax*
24 *increment. The Legislature further finds and declares that this*
25 *limit severely restricts the ability of the Redevelopment Agency of*
26 *the City of San Diego to address conditions of blight which remain*
27 *within its Centre City Redevelopment Project.*

28 *(b) Notwithstanding any other law to the contrary or any*
29 *redevelopment plan previously adopted by the City of San Diego,*
30 *commencing on the effective date of this section and in each fiscal*
31 *year thereafter until the expiration of the time limit on the receipt*
32 *of taxes and repayment of indebtedness set forth in the*
33 *redevelopment plan adopted by the City of San Diego for its Centre*
34 *City Redevelopment Project pursuant to subdivision (b) of Section*
35 *33333.6 and other applicable statutes, the dollar limit on the*
36 *receipt of tax increment for the Centre City Redevelopment Project*
37 *is eliminated, and the Redevelopment Agency of the City of San*
38 *Diego may receive tax increment revenue from the Centre City*
39 *Redevelopment Project without a dollar limit.*

1 SEC. 8. Section 33691.5 is added to the Health and Safety
2 Code, to read:

3 33691.5. (a) A redevelopment agency that fails to allocate to
4 the county auditor either or both of the full remittances required
5 pursuant to subdivision (a) of Section 33690 or subdivision (a) of
6 Section 33690.5, respectively, or that fails to arrange for full
7 payment of either or both of those remittances pursuant to
8 subdivision (c) of Section 33688, subdivision (d) of Section 33691,
9 or Section 33692, shall be exempt from the prohibitions set forth
10 in subdivision (e) of Section 33691 and the requirement set forth
11 in paragraph (4) of subdivision (k) of Section 33334.2, if the county
12 auditor certifies to the Department of Finance that all of the
13 following conditions have been met:

14 (1) The agency adopted the resolution described in paragraph
15 (1) or paragraph (2) of subdivision (c) of Section 33691, and failed
16 to make the full remittance by May 10, 2010, or May 10, 2011, as
17 applicable, pursuant to Section 33692.

18 (2) The county reduced the tax increment revenue payable to
19 the agency by at least 20 percent in the 2009–10 fiscal year.

20 (3) The agency has entered into an agreement with the
21 Department of Finance, as described in subdivision (d) of Section
22 33691, with respect to either or both of the full remittances, and
23 that agreement (A) commits the agency to paying the remaining
24 amount due to satisfy either or both of the full remittances over a
25 time period of no more than the earlier of 30 years or the life of
26 the redevelopment agency and (B) requires the first payment
27 towards that obligation to be due to the county on or before May
28 10, 2011, without regard to whether that payment is for the full
29 remittance for the 2009–10 fiscal year, 2010–11 fiscal year, or
30 both.

31 (b) An agency that is making payments as described in
32 paragraph (3) of subdivision (a) may use all legally available
33 funds to make those payments, and may pay off the outstanding
34 balance of either or both of those full remittances at any time.

35 SEC. 9. (a) If this act is enacted by the Legislature in the
36 2009–10 Regular Session, Chapter 391 of the Statutes of 2010
37 shall not become effective.

38 (b) It is the Legislature's intent to make the options in Sections
39 2, 3, 5, and 6 of this act available, but not required, for use by

1 *counties and landowners for the 2010–11 fiscal year, if feasible,*
2 *and no later than the 2011–12 fiscal year.*

3 *SEC. 10. The Legislature finds and declares that a special law*
4 *is necessary and that a general law cannot be made applicable*
5 *within the meaning of Section 16 of Article IV of the California*
6 *Constitution because of the unique circumstances facing the Centre*
7 *City Redevelopment Project of the City of San Diego.*

8 *SEC. 11. This act is an urgency statute necessary for the*
9 *immediate preservation of the public peace, health, or safety within*
10 *the meaning of Article IV of the Constitution and shall go into*
11 *immediate effect. The facts constituting the necessity are:*

12 *To support state and local governments during the current*
13 *economic crisis, it is necessary that this bill go into immediate*
14 *effect.*

15 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
16 ~~changes relating to the Budget Act of 2010.~~