

Introduced by Senator WrightFebruary 14, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 286, as introduced, Wright. Redevelopment: local education agency payments.

The Community Redevelopment Law requires a redevelopment agency that has adopted a redevelopment plan on or after January 1, 1994, that contains specified provisions, amends a plan to include new territory, or amends its plan to modify specified limitations, to make payments 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 property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined.

This bill would, notwithstanding existing law, on and after January 1, 2012, require that agency payments to a local education agency under the above provisions be adjusted to ensure that the local education agency continues to receive, at a minimum, the amount attributable to the agency's property tax revenue received during the year immediately preceding the adoption or amendment of the redevelopment plan.

Vote: majority. Appropriation: no. Fiscal committee: yes.
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 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
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. The agency shall reduce its payments pursuant
33 to this section to an affected taxing entity by any amount the agency
34 has paid, directly or indirectly, pursuant to Section 33445, 33445.5,
35 33445.6, 33446, or any other provision of law other than this

1 section for, or in connection with, a public facility owned or leased
2 by that affected taxing agency, except: (A) any amounts the
3 agency has paid directly or indirectly pursuant to an agreement
4 with a taxing entity adopted prior to January 1, 1994; or (B) any
5 amounts that are unrelated to the specific project area or
6 amendment governed by this section. The reduction in a payment
7 by an agency to a school district, community college district, or
8 county office of education, or for special education, shall be
9 subtracted only from the amount that otherwise would be available
10 for use by those entities for educational facilities pursuant to
11 paragraph (4). If the amount of the reduction exceeds the amount
12 that otherwise would have been available for use for educational
13 facilities in any one year, the agency shall reduce its payment in
14 more than one year.

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

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

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

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

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

32 (4) (A) Except as specified in subparagraph (E), of the total
33 amount paid each year pursuant to this section to school districts,
34 43.3 percent shall be considered to be property taxes for the
35 purposes of paragraph (1) of subdivision (h) of Section 42238 of
36 the Education Code, and 56.7 percent shall not be considered to
37 be property taxes for the purposes of that section and shall be
38 available to be used for educational facilities.

39 (B) Except as specified in subparagraph (E), of the total amount
40 paid each year pursuant to this section to community college

1 districts, 47.5 percent shall be considered to be property taxes for
2 the purposes of Section 84751 of the Education Code, and 52.5
3 percent shall not be considered to be property taxes for the purposes
4 of that section and shall be available to be used for educational
5 facilities.

6 (C) Except as specified in subparagraph (E), of the total amount
7 paid each year pursuant to this section to county offices of
8 education, 19 percent shall be considered to be property taxes for
9 the purposes of Section 2558 of the Education Code, and 81 percent
10 shall not be considered to be property taxes for the purposes of
11 that section and shall be available to be used for educational
12 facilities.

13 (D) Except as specified in subparagraph (E), of the total amount
14 paid each year pursuant to this section for special education, 19
15 percent shall be considered to be property taxes for the purposes
16 of Section 56712 of the Education Code, and 81 percent shall not
17 be considered to be property taxes for the purposes of that section
18 and shall be available to be used for education facilities.

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

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

31 (b) Commencing with the first fiscal year in which the agency
32 receives tax increments and continuing through the last fiscal year
33 in which the agency receives tax increments, a redevelopment
34 agency shall pay to the affected taxing entities, including the
35 community if the community elects to receive a payment, an
36 amount equal to 25 percent of the tax increments received by the
37 agency after the amount required to be deposited in the Low and
38 Moderate Income Housing Fund has been deducted. In any fiscal
39 year in which the agency receives tax increments, the community

1 that has adopted the redevelopment project area may elect to
2 receive the amount authorized by this paragraph.

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

17 (d) Commencing with the 31st fiscal year in which the agency
18 receives tax increments and continuing through the last fiscal year
19 in which the agency receives tax increments, a redevelopment
20 agency shall pay to the affected taxing entities, other than the
21 community which has adopted the project, in addition to the
22 amounts paid pursuant to subdivisions (b) and (c) and after
23 deducting the amount allocated to the Low and Moderate Income
24 Housing Fund, an amount equal to 14 percent of the portion of tax
25 increments received by the agency, which shall be calculated by
26 applying the tax rate against the amount of assessed value by which
27 the current year assessed value exceeds the second adjusted base
28 year assessed value. The second adjusted base year assessed value
29 is the assessed value of the project area in the 30th fiscal year in
30 which the agency receives tax increments.

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

37 (2) At the time the agency requests an affected taxing entity to
38 subordinate the amount to be paid to it, the agency shall provide
39 the affected taxing entity with substantial evidence that sufficient

1 funds will be available to pay both the debt service and the
 2 payments required by this section, when due.

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

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

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

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

21 (2) Notwithstanding any other provision of law, a redevelopment
 22 agency shall not be required, either directly or indirectly, as a
 23 measure to mitigate a significant environmental effect or as part
 24 of any settlement agreement or judgment brought in any action to
 25 contest the validity of a redevelopment plan pursuant to Section
 26 33501, to make any other payments to affected taxing entities, or
 27 to pay for public facilities that will be owned or leased to an
 28 affected taxing entity.

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

32 (h) *Notwithstanding existing law, on and after January 1, 2012,*
 33 *payments made to a local education agency pursuant to this section*
 34 *shall be adjusted to ensure that the local education agency*
 35 *continues to receive, at minimum, the amount attributable to the*
 36 *agency’s property tax revenues received pursuant to Chapter 3.6*
 37 *(commencing with Section 75) and Chapter 6 (commencing with*
 38 *Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation*
 39 *Code during the year immediately preceding the year of the plan’s*
 40 *adoption or amendment.*

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

3 33607.7. (a) This section shall apply to a redevelopment plan
4 amendment for any redevelopment plans adopted prior to January
5 1, 1994, that increases the limitation on the number of dollars to
6 be allocated to the redevelopment agency or that increases, or
7 eliminates pursuant to paragraph (1) of subdivision (e) of Section
8 33333.6, the time limit on the establishing of loans, advances, and
9 indebtedness established pursuant to paragraphs (1) and (2) of
10 subdivision (a) of Section 33333.6, as those paragraphs read on
11 December 31, 2001, or that lengthens the period during which the
12 redevelopment plan is effective if the redevelopment plan being
13 amended contains the provisions required by subdivision (b) of
14 Section 33670. However, this section shall not apply to those
15 redevelopment plans that add new territory.

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

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

23 (2) If an agreement does not exist, the amounts required pursuant
24 to subdivisions (b), (c), (d), and (e) of Section 33607.5, until
25 termination of the redevelopment plan, calculated against the
26 amount of assessed value by which the current year assessed value
27 exceeds an adjusted base year assessed value. The amounts shall
28 be allocated between property taxes and educational facilities
29 according to the appropriate formula in paragraph (3) of
30 subdivision (a) of Section 33607.5. In determining the applicable
31 amount under Section 33607.5, the first fiscal year shall be the
32 first fiscal year following the fiscal year in which the adjusted base
33 year value is determined.

34 (c) The adjusted base year assessed value shall be the assessed
35 value of the project area in the year in which the limitation being
36 amended would have taken effect without the amendment or, if
37 more than one limitation is being amended, the first year in which
38 one or more of the limitations would have taken effect without the
39 amendment. The agency shall commence making these payments
40 pursuant to the terms of the agreement, if applicable, or, if an

1 agreement does not exist, in the first fiscal year following the fiscal
2 year in which the adjusted base year value is determined.
3 *(d) Notwithstanding existing law, on and after January 1, 2012,*
4 *payments made to a local education agency pursuant to this section*
5 *shall be adjusted to ensure that the local education agency*
6 *continues to receive, at minimum, the amount attributable to the*
7 *agency's property tax revenues received pursuant to Chapter 3.6*
8 *(commencing with Section 75) and Chapter 6 (commencing with*
9 *Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation*
10 *Code during the year immediately preceding the year of the plan's*
11 *amendment.*

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