AMENDED IN SENATE APRIL 27, 2011

SENATE BILL No. 286

Introduced by Senator Wright
(Principal coauthor: Senator Rubio)

February 14, 2011

~~An act to amend Sections 33607.5 and 33607.7 of the Health and~~ *An act to amend Sections 33080.3, 33080.6, 33320.1, 33334.2, 33367, 33426.5, 33488, 33601, 33610, 33670, and 33670.5 of, to add Sections 33080.14, 33444.7, 33444.8, 33460.1, 33491, 33607.9, 33675.1, and 50464.6 to, the Health and* Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 286, as amended, Wright. ~~Redevelopment: local education agency payments.~~ *Redevelopment.*

(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in blighted areas in those communities known as project areas. Existing law requires that each redevelopment agency submit the final report of any audit undertaken by any other local, state, or federal government entity to its legislative body and to additionally present an annual report to the legislative body containing specified information.

This bill would, until January 1, 2013, prohibit the legislative body of a city, county, or city and county from adopting an ordinance to adopt or amend a redevelopment plan, as described. The bill would also impose new requirements on the agency with respect to implementation plans and evidentiary standards and expand existing prohibitions on agency direct assistance to certain projects.

The bill would require the Controller, on or before January 1, 2013, to issue regulations revising and consolidating reporting for redevelopment agencies and to develop a simple, uniform, and consistent methodology for the calculation, payment, and reporting of passthrough payments. The bill would also require the Controller to review and revise the guidelines adopted for the content of the final report at least every 5 years, as specified. The bill would also transfer certain reporting requirements from the Department of Housing and Community Development to the Controller, as specified, and require that agencies send certain notifications to the Controller in addition to sending the notifications to the department. The bill would require that the department develop guidelines establishing standards to evaluate agency performance.

(2) The bill would require the State Auditor to conduct audits of selected redevelopment agencies to ensure compliance with existing law. The bill would require each agency, immediately upon receipt, to deposit 0.025% of tax increment into the Redevelopment Agency State Audit Fund, which the bill would create, to fund the audits.

(3) The California Constitution authorizes a redevelopment agency to receive funding through tax increment revenues attributable to increases in assessed property tax valuation of property in a project area due to redevelopment. Existing law prescribes the procedure by which the tax increment revenue is allocated.

The bill would provide, for purposes of the above provisions, tax increment revenue transferred to an agency exclude any funds considered educational entity property tax revenues. The bill would provide that this provision applies only to tax increment revenues generated from any redevelopment project established on or after January 1, 2012.

(4) The bill would authorize an agency to loan or grant funds for projects relating to energy efficiency or the reduction of greenhouse gas emissions. The bill would also authorize an agency to provide direct assistance, as described, to businesses within project areas for industrial or manufacturing uses or similar uses of statewide benefit.

~~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:

SECTION 1. Section 33080.3 of the Health and Safety Code is amended to read:

33080.3. The Controller shall develop and periodically revise the guidelines for the content of the report required by Section 33080.1. The Controller shall appoint an advisory committee to advise in the development of the guidelines. The advisory committee shall include representatives from among those persons nominated by the department, the Legislative Analyst, the California Society of Certified Public Accountants, the California Redevelopment Association, and any other authorities in the field that the Controller deems necessary and appropriate. *The Controller shall review and revise the guidelines at least every five years, following consultation with the advisory committee.*

SEC. 2. Section 33080.6 of the Health and Safety Code is amended to read:

33080.6. *(a)* On or before May 1 of each year, the ~~department~~ *Controller* shall compile and publish *annual* reports of the activities of redevelopment agencies for the previous fiscal year, based on the information reported pursuant to subdivision (c) of Section 33080.1 and reporting the types of findings made by agencies pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 33334.2, including the date of the findings. The ~~department's~~ *Controller's* compilation shall also report on the project area mergers reported pursuant to Section 33488. The ~~department~~ *Controller* shall publish this information for each project area of each redevelopment agency. ~~These reports may also contain the biennial review of relocation assistance required by Section 50460.~~ The first report published pursuant to this section shall be for the ~~1984–85~~ *2013–14* fiscal year. ~~For fiscal year 1987–88 and succeeding fiscal years, the report shall contain a list of those project areas which are not subject to the requirements of Section 33413.~~

~~The department shall send a copy of the executive summary of its report to each redevelopment agency for which information was reported pursuant to Section 33080.1 for the fiscal year covered by the report. The department shall send a copy of its report to each redevelopment agency that requests a copy.~~

(b) Changes to this section made by the act amending this section shall take effect on January 1, 2013.

SEC. 3. Section 33080.14 is added to the Health and Safety Code, to read:

33080.14. (a) On or before January 1, 2013, the department shall develop guidelines establishing specific measures and standards to evaluate redevelopment agency performance in specific areas, including the following:

(1) A uniform method of calculating and reporting job creation and retention.

(2) Standards for measuring the efficiency and effectiveness of expenditures for affordable housing.

(3) Standards for measuring and reducing poverty levels in project areas.

(4) Standards for measuring and reducing crime in project areas.

(5) Methods for measuring reductions in vehicle miles traveled accomplished through redevelopment projects, including, but not limited to, assistance provided to infill and transit oriented development.

(6) Standards for reporting on brownfield cleanup and hazardous waste mitigation.

(b) The department shall appoint an advisory committee to assist and advise in the development of the guidelines required by this section. The advisory committee shall include representatives with demonstrated expertise in redevelopment, local government metrics that measure any one or more of the standards described above, or any other fields of study that the department deems necessary and appropriate.

(c) Commencing with the 2013–14 fiscal year, the annual report required by Section 33080.1 shall include a discussion of the redevelopment agency's performance based on the guidelines prepared by the department pursuant to this section.

SEC. 4. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. (a) "Project area" means, except as provided in Section 33320.2, 33320.3, 33320.4, or 33492.3, a predominantly urbanized area of a community that is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and that is selected by the planning commission pursuant to Section 33322.

(b) As used in this section, "predominantly urbanized" means that not less than 80 percent of the land in the project area is either of the following:

(1) Has been or is developed for urban uses.

(2) Is an integral part of one or more areas developed for urban uses that are surrounded or substantially surrounded by parcels that have been or are developed for urban uses. Parcels separated by only an improved right-of-way shall be deemed adjacent for the purpose of this subdivision. Parcels that are not blighted shall not be included in the project area for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion.

(c) For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner that is consistent with zoning standards or is otherwise permitted under law.

(d) Except for a redevelopment plan or plan amendment to add territory to a project area pursuant to Chapter 4.5 (commencing with Section 33492), a redevelopment plan or plan amendment to add territory to a project area shall not be adopted by a community if the proposed project area or area to be added by plan

amendment, when aggregated with all other existing project areas within the community, would result in having (1) 25 percent of a city's total land area included within the combined redevelopment project areas or (2) 10 percent of a county's or city and county's total unincorporated land area included within redevelopment project areas. The limitations contained in this subdivision shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 2012, or to an area that is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 2012.

~~(d)~~

(e) The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area that is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

SEC. 5. Section 33334.2 of the Health and Safety Code is amended to read:

33334.2. (a) Except as provided in subdivision (k), not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, lower income households, as defined by Section 50079.5, very low income households, as defined in Section 50105, and extremely low income households, as defined by Section 50106, that is occupied by these persons and families, unless one of the following findings is made annually by resolution:

(1) (A) That no need exists in the community to improve, increase, or preserve the supply of low- and moderate-income housing, including housing for very low income households in a manner that would benefit the project area and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, including its share of the regional housing needs of very low income households and persons and families of low or moderate income.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that the community does not have a need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

(2) (A) That some stated percentage less than 20 percent of the taxes that are allocated to the agency pursuant to Section 33670 is sufficient to meet the housing needs of the community, including its share of the regional housing needs of persons and families of low- or moderate-income and very low income households, and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that a percentage of less than 20 percent will be sufficient to meet the community's need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

(C) For purposes of making the findings specified in this paragraph and paragraph (1), the housing element of the general plan of a city, county, or city and county shall be current, and shall have been determined by the department pursuant to Section 65585 to be in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(3) (A) That the community is making a substantial effort to meet its existing and projected housing needs, including its share of the regional housing needs, with respect to persons and families of low and moderate income, particularly very low income households, as identified in the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, and that this effort, consisting of direct financial contributions of local funds used to increase and improve the supply of housing affordable to, and occupied by, persons and families of low or moderate income and very low income households is equivalent in impact to the funds otherwise required to be set aside pursuant to this section. In addition to any other local funds, these direct financial contributions may include federal or state grants paid directly to a community and that the community has the discretion of using for the purposes for which moneys in the Low and Moderate Income Housing Fund may be used. The legislative body shall consider the need that can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within, or adjacent to, the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan. No finding under this subdivision may be made until the community has provided or ensured the availability of replacement dwelling units as defined in Section 33411.2 and until it has complied with Article 9 (commencing with Section 33410).

(B) In making the determination that other financial contributions are equivalent in impact pursuant to this subdivision, the agency shall include only those financial contributions that are directly related to programs or activities authorized under subdivision (e).

(C) The authority for making the finding specified in this paragraph shall expire on June 30, 1993, except that the expiration shall not be deemed to impair contractual obligations to bondholders or private entities incurred prior to May 1, 1991, and made in reliance on the provisions of this paragraph. Agencies that make this finding after June 30, 1993, shall show evidence that the agency entered into the specific contractual obligation with the specific intention of making a finding under this paragraph in order to provide sufficient revenues to pay off the indebtedness.

(b) Within 10 days following the making of a finding under either paragraph (1) or (2) of subdivision (a), the agency shall send the ~~Department of Housing and Community Development~~ *department and the Controller* a copy of the finding, including the factual information supporting the finding and other factual information in the housing element that demonstrates that either (1) the community does not need to increase, improve, or preserve the supply of housing for low- and moderate-income households, including very low income households, or (2) a percentage less than 20 percent will be sufficient to meet the community's need to improve, increase, and preserve the supply of housing for low- and moderate-income households, including very low income households. Within 10 days following the making of a finding under paragraph (3) of subdivision (a), the agency shall send the ~~Department of Housing and Community Development~~ *department and the Controller* a copy of the finding, including the factual information supporting the finding that the community is making a substantial effort to meet its existing and projected housing needs. Agencies that make this finding after June 30, 1993, shall also submit evidence to the department of its contractual obligations with bondholders or private entities incurred prior to May 1, 1991, and made in reliance on this finding.

(c) In any litigation to challenge or attack a finding made under paragraph (1), (2), or (3) of subdivision (a), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency. If an agency is determined by a court to have knowingly misrepresented any material facts regarding the community's share of its regional housing need for low- and moderate-income housing, including very low income households, or the community's production record in meeting its share of the regional housing need pursuant to the report required by subdivision (b) of Section 65400 of the Government Code, the agency shall be liable for all court costs and plaintiff's attorney's fees, and shall be required to allocate not less than 25 percent of the agency's tax increment revenues to its Low and Moderate Income Housing Fund in each year thereafter.

(d) Nothing in this section shall be construed as relieving any other public entity or entity with the power of eminent domain of any legal obligations for replacement or relocation housing arising out of its activities.

(e) In carrying out the purposes of this section, the agency may exercise any or all of its powers for the construction, rehabilitation, or preservation of affordable housing for extremely low, very low, low- and moderate-income persons or families, including the following:

(1) Acquire real property or building sites subject to Section 33334.16.

(2) (A) Improve real property or building sites with onsite or offsite improvements, but only if both (i) the improvements are part of the new construction or rehabilitation of affordable housing units for low- or moderate-income persons that are directly benefited by the improvements, and are a reasonable and fundamental component of the housing units, and (ii) the agency requires that the units remain available at affordable housing cost to, and occupied by, persons and families of extremely low, very low, low, or moderate income for the same time period and in the same manner as provided in subdivision (c) and paragraph (2) of subdivision (f) of Section 33334.3.

(B) If the newly constructed or rehabilitated housing units are part of a larger project and the agency improves or pays for onsite or offsite improvements pursuant to the authority in this subdivision, the agency shall pay only a portion of the total cost of the onsite or offsite improvement. The maximum percentage of the total cost of the improvement paid for by the agency shall be determined by dividing the number of housing units that are affordable to low- or moderate-income persons by the total number of housing units, if the project is a housing project, or by dividing the cost of the affordable housing units by the total cost of the project, if the project is not a housing project.

(3) Donate real property to private or public persons or entities.

(4) Finance insurance premiums pursuant to Section 33136.

(5) Construct buildings or structures.

(6) Acquire buildings or structures.

(7) Rehabilitate buildings or structures.

(8) Provide subsidies to, or for the benefit of, extremely low income households, as defined by Section 50106, very low income households, as defined by Section 50105, lower income households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093, to the extent those households cannot obtain housing at affordable costs on the open market. Housing units available on the open market are those units developed without direct government subsidies.

(9) Develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges.

(10) Maintain the community's supply of mobilehomes.

(11) Preserve the availability to lower income households of affordable housing units in housing developments that are assisted or subsidized by public entities and that are threatened with imminent conversion to market rates.

(f) The agency may use these funds to meet, in whole or in part, the replacement housing provisions in Section 33413. However, nothing in this section shall be construed as limiting in any way the requirements of that section.

(g) (1) The agency may use these funds inside or outside the project area. The agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that the use will be of benefit to the project. The determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is always of benefit to a project. Unless the legislative body finds, before the redevelopment plan is adopted, that the provision of low- and moderate-income housing outside the project area will be of benefit to the project, the project area shall include property suitable for low- and moderate-income housing.

(2) (A) The Contra Costa County Redevelopment Agency may use these funds anywhere within the unincorporated territory, or within the incorporated limits of the City of Walnut Creek on sites contiguous to the Pleasant Hill BART Station Area Redevelopment Project area. The agency may only use these funds outside the project area upon a resolution of the agency and board of supervisors determining that the use will be of benefit to the project

area. In addition, the agency may use these funds within the incorporated limits of the City of Walnut Creek only if the agency and the board of supervisors find all of the following:

(i) Both the County of Contra Costa and the City of Walnut Creek have adopted and are implementing complete and current housing elements of their general plans that the Department of Housing and Community Development has determined to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(ii) The development to be funded shall not result in any residential displacement from the site where the development is to be built.

(iii) The development to be funded shall not be constructed in an area that currently has more than 50 percent of its population comprised of racial minorities or low-income families.

(iv) The development to be funded shall allow construction of affordable housing closer to a rapid transit station than could be constructed in the unincorporated territory outside the Pleasant Hill BART Station Area Redevelopment Project.

(B) If the agency uses these funds within the incorporated limits of the City of Walnut Creek, all of the following requirements shall apply:

(i) The funds shall be used only for the acquisition of land for, and the design and construction of, the development of housing containing units affordable to, and occupied by, low- and moderate-income persons.

(ii) If less than all the units in the development are affordable to, and occupied by, low- or moderate-income persons, any agency assistance shall not exceed the amount needed to make the housing affordable to, and occupied by, low- or moderate-income persons.

(iii) The units in the development that are affordable to, and occupied by, low- or moderate-income persons shall remain affordable for a period of at least 55 years.

(iv) The agency and the City of Walnut Creek shall determine, if applicable, whether Article XXXIV of the California Constitution permits the development.

(h) The Legislature finds and declares that expenditures or obligations incurred by the agency pursuant to this section shall constitute an indebtedness of the project.

(i) This section shall only apply to taxes allocated to a redevelopment agency for which a final redevelopment plan is adopted on or after January 1, 1977, or for any area that is added to a project by an amendment to a redevelopment plan, which amendment is adopted on or after the effective date of this section. An agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project for which a redevelopment plan was adopted prior to January 1, 1977, subject to any indebtedness incurred prior to the election.

(j) (1) (A) An action to compel compliance with the requirement of Section 33334.3 to deposit not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 in the Low and Moderate Income Housing Fund shall be commenced within 10 years of the alleged violation. A cause of action for a violation accrues on the last day of the fiscal year in which the funds were required to be deposited in the Low and Moderate Income Housing Fund.

(B) An action to compel compliance with the requirement of this section or Section 33334.6 that money deposited in the Low and Moderate Income Housing Fund be used by the agency for purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost shall be commenced within 10 years of the alleged violation. A cause of action for a violation accrues on the date of the actual expenditure of the funds.

(C) An agency found to have deposited less into the Low and Moderate Income Housing Fund than mandated by Section 33334.3 or to have spent money from the Low and Moderate Income Housing Fund for purposes other than increasing, improving, and preserving the community's supply of low- and moderate-income housing, as mandated, by this section or Section 33334.6 shall repay the funds with interest in one lump sum pursuant to Section 970.4 or 970.5 of the Government Code or may do either of the following:

(i) Petition the court under Section 970.6 for repayment in installments.

(ii) Repay the portion of the judgment due to the Low and Moderate Income Housing Fund in equal installments over a period of five years following the judgment.

(2) Repayment shall not be made from the funds required to be set aside or used for low- and moderate-income housing pursuant to this section.

(3) Notwithstanding clauses (i) and (ii) of subparagraph (C) of paragraph (1), all costs, including reasonable attorney's fees if included in the judgment, are due and shall be paid upon entry of judgment or order.

(4) Except as otherwise provided in this subdivision, Chapter 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title 1 of the Government Code for the enforcement of a judgment against a local public entity applies to a judgment against a local public entity that violates this section.

(5) This subdivision applies to actions filed on and after January 1, 2006.

(6) The limitations period specified in subparagraphs (A) and (B) of paragraph (1) does not apply to a cause of action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(k) (1) From July 1, 2009, to June 30, 2010, inclusive, an agency may suspend all or part of its required allocation to the Low and Moderate Income Housing Fund from taxes that are allocated to that agency pursuant to Section 33670.

(2) An agency that suspends revenue pursuant to paragraph (1) shall pay back to its low- and moderate-income housing fund the amount of revenue that was suspended in the 2009–10 fiscal year pursuant to this subdivision from July 1, 2010, to June 30, 2015, inclusive.

(3) An agency that suspends revenue pursuant to paragraph (1) and fails to repay or have repaid on its behalf the amount of revenue suspended pursuant to paragraph (2) shall, commencing July 1, 2015, be required to allocate an additional 5 percent of all taxes that are allocated to that agency pursuant to Section 33670 for low- and moderate-income housing for the remainder of the time that the agency receives allocations of tax revenue pursuant to Section 33670.

(4) An agency that fails to pay or have paid on its behalf the full amount calculated pursuant to subparagraph (J) of paragraph (2) of subdivision (a) of Section 33690, or subparagraph (J) of paragraph (2) of subdivision (a) of Section 33690.5, as the case may be, shall, commencing July 1, 2010, or July 1, 2011, as

applicable, be required to allocate an additional 5 percent of all taxes that are allocated to that agency pursuant to Section 33670 for low- and moderate-income housing for the remainder of the time that the agency receives allocations of tax revenue pursuant to Section 33670.

SEC. 6. Section 33367 of the Health and Safety Code is amended to read:

33367. The ordinance shall contain all of the following:

(a) The purposes and intent of the legislative body with respect to the project area.

(b) The plan incorporated by reference.

(c) A designation of the approved plan as the official redevelopment plan of the project area.

(d) The findings and determinations of the legislative body~~, which shall be based on clearly articulated and documented evidence,~~ that:

(1) The project area is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part. *This finding shall be supported by empirical and, to the greatest extent feasible, quantifiable evidence demonstrating the prevalence of specific conditions set forth in Section 33031on specific properties that are so substantial that they cause a reduction of, or lack of, proper utilization of the entire project area. Evidence shall be reasonable in nature, credible, and of solid value. Conclusions not based on documented evidence of specific conditions shall be deemed insufficient.*

(2) The redevelopment plan would redevelop the area in conformity with this part and in the interests of the public peace, health, safety, and welfare.

(3) The adoption and carrying out of the redevelopment plan is economically sound and feasible.

(4) The redevelopment plan is consistent with the general plan of the community, including, but not limited to, the community's housing element, which substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(5) The carrying out of the redevelopment plan would promote the public peace, health, safety, and welfare of the community and would effectuate the purposes and policy of this part.

(6) The condemnation of real property, if provided for in the redevelopment plan, is necessary to the execution of the redevelopment plan and adequate provisions have been made for payment for property to be acquired as provided by law.

(7) The agency has a feasible method or plan for the relocation of families and persons displaced from the project area, if the redevelopment plan may result in the temporary or permanent displacement of any occupants of housing facilities in the project area.

(8) (A) There are, or shall be provided, in the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons displaced from the project area, decent, safe, and sanitary dwellings equal in number to the number of and available to the displaced families and persons and reasonably accessible to their places of employment.

(B) Families and persons shall not be displaced prior to the adoption of a relocation plan pursuant to Sections 33411 and 33411.1. Dwelling units housing persons and families of low or moderate income shall not be removed or destroyed prior to the adoption of a replacement housing plan pursuant to Sections 33334.5, 33413, and 33413.5.

(9) All noncontiguous areas of a project area are either blighted or necessary for effective redevelopment and are not included for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion.

(10) Inclusion of any lands, buildings, or improvements which are not detrimental to the public health, safety, or welfare is necessary for the effective redevelopment of the area of which they are a part; that any area included is necessary for effective redevelopment and is not included for the purpose of obtaining the allocation of tax increment revenues from the area pursuant to Section 33670 without other substantial justification for its inclusion.

(11) The elimination of blight and the redevelopment of the project area could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the agency.

(12) The project area is predominantly urbanized, as defined by subdivision (b) of Section 33320.1.

(13) The time limitation and, if applicable, the limitation on the number of dollars to be allocated to the agency that are contained in the plan are reasonably related to the proposed projects to be implemented in the project area and to the ability of the agency to eliminate blight within the project area.

(14) The implementation of the redevelopment plan will improve or alleviate the physical and economic conditions of blight in the project area, as described in the report prepared pursuant to Section 33352.

(e) A statement that the legislative body is satisfied that permanent housing facilities will be available within three years from the time occupants of the project area are displaced and that, pending the development of the facilities, there will be available to the displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement.

SEC. 7. Section 33426.5 of the Health and Safety Code is amended to read:

33426.5. Notwithstanding the provisions of Sections 33391, 33430, 33433, and 33445, or any other provision of this part, an agency shall not provide any form of direct assistance to *the following*:

(a) An automobile dealership which will be or is on a parcel of land which has not previously been developed for urban use, unless, prior to the effective date of the act that adds this section, the agency either owns the land or has entered into an enforceable agreement, for the purchase of the land or of an interest in the land, including, but not limited to, a lease or an agreement containing covenants affecting real property, that requires the land to be developed and used as an automobile dealership.

(b) (1) A development that will be or is on a parcel of land of five acres or more which has not previously been developed for urban use and that will, when developed, generate sales or use tax pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, unless the principal permitted use of the development is office, hotel, manufacturing, or industrial, or unless, prior to the effective date of the act that adds this section, the agency either owns the land or has entered into an enforceable agreement, for the purchase of the land or of an interest in the land, including, but not limited to, a lease or an agreement containing covenants affecting real property, that requires the land to be developed.

(2) For the purposes of this subdivision, a parcel shall include land on an adjacent or nearby parcel on which a use exists that is necessary for the legal development of the parcel.

(c) A development that will be or is on a parcel of land of 20 acres or more that has not previously been developed for urban use, except that this restriction shall not apply to land located within both a project area adopted pursuant to Chapter 4.5 (commencing with Section 33492) and the boundaries of a former military base that has been closed or realigned by the actions of the federal Defense Base Closure and Realignment Commission.

(d) A development or business, either directly or indirectly, for the acquisition, construction, improvement, rehabilitation, or replacement of property that is or would be used for a golf course or for a racetrack, speedway or other racing venue.

(e) A development or business, for the acquisition, construction, improvement, rehabilitation, or replacement of property that is or would be used for a stadium, coliseum, arena, ballpark or other sports facility that is intended for use by a professional sports franchise unless the proposed assistance or another component of the financing for the proposed project is submitted to the electorate that resides in the territorial jurisdiction of the agency providing assistance, and is approved by a majority of the voters voting on the proposed development.

~~(c)~~

(f) A development or business, either directly or indirectly, for the acquisition, construction, improvement, rehabilitation, or replacement of property that is or would be used for gambling or gaming of any kind whatsoever including, but not limited to, casinos, gaming clubs, bingo operations, or any facility wherein banked or percentage games, any form of gambling device, or lotteries, other than the California State Lottery, are or will be played.

~~(d)~~

(g) The prohibition in subdivision ~~(c)~~ *(f)* is not intended to prohibit a redevelopment agency from acquiring property on or in which an existing gambling enterprise is located, for the purpose

of selling or leasing the property for uses other than gambling, provided that the agency acquires the property for fair market value.

~~(e)~~

(h) This section shall not be construed to apply to agency assistance in the construction of public improvements that serve all or a portion of a project area and that are not required to be constructed as a condition of approval of a development described in subdivision (a), (b), ~~or (c),~~ *(c), (d), (e), or (f)* or to prohibit assistance in the construction of public improvements that are being constructed for a development that is not described in subdivision (a), (b), ~~or (c)~~ *(c), (d), (e), or (f).*

SEC. 8. Section 33444.7 is added to the Health and Safety Code, to read:

33444.7. An agency may establish a program under which it loans or grants funds to owners or tenants to improve, rehabilitate, or retrofit buildings or structures located within the redevelopment project area to increase energy efficiency or reduce greenhouse gas emissions resulting from such buildings or structures, or to facilitate infill development of areas targeted for such development in an approved sustainable communities strategy that applies to the agency's jurisdiction.

SEC. 9. Section 33444.8 is added to the Health and Safety Code, to read:

33444.8. (a) An agency may provide direct assistance to businesses within project areas in connection with new or existing facilities for industrial or manufacturing uses or similar uses of statewide benefit, where the assistance provided is reasonably expected to result in the retention or expansion of not less than 25 full-time equivalent jobs within the project area.

(b) Direct assistance may include, but is not limited to, loans, loan guarantees, or the provision or replacement of machinery and equipment in new or existing facilities for industrial or manufacturing uses in the project area.

(c) The Legislature finds and declares that the purpose of this section is to clarify existing law and to provide agencies with additional authority to assist businesses in order to encourage the retention of existing employment opportunities and the attraction of new employment opportunities. These activities and programs

shall constitute redevelopment as prescribed in Sections 33020 and 33021.

SEC. 10. Section 33460.1 is added to the Health and Safety Code, to read:

33460.1. Immediately upon receipt, each agency shall deposit one quarter of one-tenth of 1 percent of the tax increment received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted, into the Redevelopment Agency State Audit Fund created pursuant to Section 50464.6 to be used solely for the purpose described in subdivision (b) of that section.

SEC. 11. Section 33488 of the Health and Safety Code is amended to read:

33488. Prior to merging project areas pursuant to Section 33486, a redevelopment agency shall notify the department *and the Controller* of its intention to merge its project areas, which shall occur no later than 30 days prior to adoption of the ordinance which provides for merger.

SEC. 12. Section 33491 is added to the Health and Safety Code, to read:

33491. (a) Commencing with the implementation plan next adopted following January 1, 2012, an implementation plan shall contain the specific goals and objectives of the agency for the project area and the specific programs and potential projects that will cause not less than 50 percent of its net unencumbered revenue during the next five years to be expended for one or more of the following:

(1) Development, including rehabilitation, resulting in significant job retention or creation.

(2) Remediation of contaminated properties.

(3) Infill and transit-oriented development.

(4) Military base conversion.

(5) Public infrastructure, excluding buildings.

(6) Housing affordable to persons of very low and extremely low income.

(b) "Net unencumbered revenue" shall mean all revenue received by the agency, less: debt service on bonds, notes and other obligations entered into prior to January 1, 2012; payments to taxing agencies pursuant to Section 33607.5 or 33607.7 or under

agreements entered into pursuant to former Section 33401; and deposits in the agency's low- and moderate-income housing fund.

(c) Prior to approving an implementation plan subject to this subdivision, the agency shall obtain the recommendation of the project area committee. If a project area committee does not exist, the agency shall obtain the recommendation of a community advisory body designated by the legislative body which is representative of interests described in subdivision (c) of Section 33385. If the project area committee or community advisory body does not make its recommendation within 60 days after receiving a copy of the proposed implementation plan, the agency may consider the implementation plan without their recommendation.

(d) The implementation plans adopted five and 10 years after the implementation plan that implements this subdivision shall evaluate the agency's progress in achieving the goals and objectives described in subdivision (a). The agency shall obtain the recommendation of the project area committee or community advisory body in the manner set forth in subdivision (c). If the project area committee or community advisory body recommends against adoption of the implementation plan adopted 10 years after the implementation plan that implements this subdivision, the agency shall only adopt that implementation plan upon a two-thirds vote of all of its members. Until an implementation plan has been approved as set forth in this subdivision, an agency shall not undertake any activity not provided for in the existing implementation plan.

SEC. 13. Section 33601 of the Health and Safety Code is amended to read:

33601. *(a)* An agency may borrow money or accept financial or other assistance from the state or the federal government or any other public agency for any redevelopment project within its area of operation, and may comply with any conditions of such loan or grant.

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(b) An agency may borrow money (by the issuance of bonds or otherwise) or accept financial or other assistance from any private lending institution for any redevelopment project for any of the purposes of this part, and may execute trust deeds or mortgages on any real or personal property owned or acquired.

(c) An agency shall pay interest on any money borrowed from the legislative body at a rate no greater than simple interest on 10 year United States Treasury bills. The provisions of this subdivision shall become effective January 1, 2012, and shall apply to money borrowed from the legislative body at any time, regardless of the provisions of any note, agreement, or other written instrument to the contrary.

SEC. 14. Section 33607.9 is added to the Health and Safety Code, to read:

33607.9. On or before January 1, 2013, the Controller shall develop a simple, uniform, and consistent methodology for the calculation, payment, and reporting of passthrough payments as required by Sections 33607.5 and 33607.7 that is consistent with existing published case law and Attorney General opinions interpreting Sections 33607.5 and 33607.7. The Controller shall appoint an advisory committee to advise in the development of methodology. The advisory committee shall include representatives from the Chancellor of the California Community Colleges, the State Department of Education, the California Redevelopment Association, county auditor-controllers, and any other authorities in the field that the Controller deems necessary or appropriate.

SEC. 15. Section 33610 of the Health and Safety Code is amended to read:

33610. *(a)* At any time after the agency created for any community becomes authorized to transact business and exercise its powers, the legislative body of the community may appropriate to the agency such amounts as the legislative body deems necessary for the administrative expenses and overhead of the agency. The money appropriated may be paid to the agency as a grant to defray the expenses and overhead, or as a loan to be repaid upon such terms and conditions as the legislative body may provide.

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(b) In addition to the common understanding and usual interpretation of the term, “administrative expense” includes, but is not limited to, expenses of redevelopment planning and dissemination of redevelopment information.

(c) An agency may enter into an agreement with the legislative body to reimburse the legislative body for administrative expenses and overhead of the agency paid by the legislative body. An agency

shall not pay costs of providing services, materials, or facilities which do not directly benefit the redevelopment project.

SEC. 16. Section 33670 of the Health and Safety Code is amended to read:

33670. Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of that property by the taxing agency, last equalized prior to the effective date of the ordinance, shall be allocated to and when collected shall be paid to the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of the ordinance but to which that territory has been annexed or otherwise included after that effective date, the assessment roll of the county last equalized on the effective date of the ordinance shall be used in determining the assessed valuation of the taxable property in the project on the effective date); and

(b) Except as provided in subdivision (e) or in Section 33492.15, that portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in that project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid to the respective taxing agencies. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid to the respective taxing agencies as taxes on all other property are paid.

(c) In any redevelopment project in which taxes have been divided pursuant to this section prior to 1968, located within any county with total assessed valuation subject to general property taxes for the 1967–68 fiscal year between two billion dollars ($2,000,000,000) and two billion one hundred million dollars ($2,100,000,000), if the total assessed valuation of taxable property within the redevelopment project for the 1967–68 fiscal year was reduced, the total sum of the assessed value of taxable property used as the basis for apportionment of taxes under subdivision (a) shall be reduced by 10 percent for the 1968–69 fiscal year and fiscal years thereafter.

(d) For the purposes of this section, taxes shall not include taxes from the supplemental assessment roll levied pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code for the 1983–84 fiscal year.

(e) That portion of the taxes in excess of the amount identified in subdivision (a) which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency. This subdivision shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.

(f) For purposes of this section, taxes levied, divided, and allocated shall exclude any funds considered educational entity property tax revenues. This subdivision shall apply to tax increment revenues generated from any redevelopment project area established on or after January 1, 2012.

SEC. 17. Section 33670.5 of the Health and Safety Code is amended to read:

33670.5. *(a)* Section 33670 fulfills the intent of Section 16 of Article XVI of the Constitution. To further carry out the intent of Section 16 of Article XVI of the Constitution, whenever that provision requires the allocation of money between agencies such allocation shall be consistent with the intent of the people when they approved Section 16 of Article XVI of the Constitution. Whenever money is allocated between agencies by means of a comparison of assessed values for different years, that comparison shall be based on the same assessment ratio. When there are different assessment ratios for the years compared, the assessed value shall be changed so that it is based on the same assessment ratio for the years so compared.

(b) Pursuant to subdivision (f) of Section 33670, the Legislature finds and declares that moneys allocated pursuant to Section 33670 in order to carry out the intent of Section 16 of Article XVI of the California Constitution exclude any funds considered educational entity property tax revenues.

SEC. 18. Section 33675.1 is added to the Health and Safety Code, to read:

33675.1. On or before January 1, 2013, and periodically thereafter, the Controller shall review the uniform form for a statement of indebtedness and a reconciliation statement prescribed pursuant to Section 33675 and shall, after obtaining the input of county auditor-controllers, the California Redevelopment Association, the Society of Certified Public Accountants, and any other authorities in the field that the Controller deems necessary or appropriate, make revisions to the uniform form for a statement of indebtedness and a reconciliation statement consistent with this part, including, but not limited to, the types and amounts of indebtedness to be reported.

SEC. 19. Section 50464.6 is added to the Health and Safety Code, to read:

50464.6. (a) The Redevelopment Agency State Audit Fund is hereby created in the State Treasury and is available, upon appropriation, to the State Auditor for the purposes of subdivision (b). Notwithstanding Section 16305.7 of the Government Code, any moneys received by the State Auditor pursuant to Section 33460.1, and any other sources, repayments, interest, or new appropriations, shall be deposited in the fund established by this section. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund. The State Auditor may *require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. Notwithstanding Section 16305.7 of the Government Code, all interest, dividends, and pecuniary gains from the investments shall accrue to the fund.*

(b) To the extent funds are available pursuant to subdivision (a), the State Auditor shall conduct or shall have conducted performance audits of selected redevelopment agencies to ensure compliance with the requirements of the Community Redevelopment Law. The performance audits conducted pursuant to this subdivision shall include reviews of redevelopment agencies' separately required independent audits from the previous year. The State Auditor shall require that each agency take action to correct any audit violations found through the performance audit. If the State Auditor determines that an agency has not corrected the audit violations within 180 days of a final audit report, the State Auditor shall forward all relevant documents to the Attorney General for action pursuant to Section 33080.8.

SEC. 20. (a) By January 1, 2013, the Controller shall issue regulations revising and consolidating reporting for redevelopment agencies. The goal of the regulations shall be to do all of the following: (1) unify and simplify the reporting requirements of redevelopment agencies; (2) focus reporting requirements on information that will be of the greatest utility in monitoring the activities of redevelopment agencies and their compliance with the provisions of the Community Redevelopment Law; and (3) produce consistent and comparable data using a user-friendly, self-checking electronic data reporting system. The Controller shall consult with an advisory committee comprised of persons nominated by the department, the Legislative Analyst, the California Society of Certified Public Accountants, the California Redevelopment Association, and any other authorities in the field that the Controller deems necessary and appropriate.

(b) In connection with issuing the regulations described in subdivision (a), by January 1, 2013, the Controller shall prepare or cause to be prepared a management study that evaluates the reporting of redevelopment agencies and recommends any new management systems, including required technology, needed to implement the proposed regulations.

All matter omitted in this version of the bill appears in the bill as introduced in the Senate, February 14, 2011. (JR11)

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