

AMENDED IN SENATE JUNE 11, 2013

AMENDED IN SENATE MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 662

**Introduced by Assembly Members Atkins, Dickinson, Mitchell,
Perea, Ting, and Torres**
(Coauthor: Senator Wolk)

February 21, 2013

An act to amend Section 53395.4 of the Government Code, and to amend Sections 34163, 34171, 34177, 34178, 34191.4, and 34191.5 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 662, as amended, Atkins. Local government: infrastructure financing districts.

(1) Existing law authorizes the creation of infrastructure financing districts, as defined, for the sole purpose of financing public facilities, subject to adoption of a resolution by the legislative body and affected taxing entities proposed to be subject to the division of taxes and voter approval requirements. Existing law prohibits an infrastructure financing district from including any portion of a redevelopment project area.

This bill would delete that prohibition.

(2) Existing law dissolved redevelopment agencies and community development agencies as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Existing law prohibits

a successor agency from entering into contracts with, incur obligations, or make commitments to, any entity, as specified, or to amend or modify existing agreements, obligations, or commitments with any entity, for any purpose.

This bill would authorize a successor agency, if the successor agency has received a finding of completion, to enter into, or amend existing, contracts and agreements, make land use decisions, or otherwise administer projects in connection with long-term enforceable obligations, if the contract or agreement, land use decision, or project will not commit new tax funds or otherwise adversely affect the flow of tax increment to the taxing agencies.

(3) Existing law specifies that the term “enforceable obligation” does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency, as specified.

This bill would provide that an agreement entered into between the redevelopment agency and the city, county, or city and county that created the redevelopment agency prior to October 1, 2011, is an enforceable obligation if the agreement relates to a project identified, in whole or in part, in an infill infrastructure grant program disbursement agreement entered into by the Department of Housing and Community Development pursuant to the Infill Infrastructure Grant Program. *The bill would also provide that an agreement entered into between the redevelopment agency and the city, county, or city and county that created the redevelopment agency prior to October 1, 2011, is an enforceable obligation if the agreement relates to state highway infrastructure improvements to which the redevelopment agency committed funds pursuant to a specified code section.*

(4) Existing law requires a successor agency to submit a Recognized Obligation Payment Schedule to the Department of Finance, and requires the successor agency to make payments pursuant to that schedule.

This bill would authorize the successor agency to schedule Recognized Obligation Payment Schedule payments beyond the existing Recognized Obligation Payment Schedule cycle upon a showing that a lender requires cash on hand beyond the Recognized Obligation Payment Schedule cycle, or when a payment is shown to be due during the Recognized Obligation Payment Schedule period. The bill would authorize the successor agency to utilize reasonable estimates and projections to support payment amounts where a payment is shown to be due during the Recognized Obligation Payment Schedule period but

an invoice or other billing document has not been received if the successor agency submits appropriate supporting documentation for the basis of the estimate or projection to the department. The bill would provide that a Recognized Obligation Payment Schedule may also include appropriation of moneys from bonds subject to passage during the Recognized Obligation Payment Schedule cycle when an enforceable obligation requires the agency to issue the bonds and use the proceeds to pay for project expenditures.

(5) Existing law specifies that certain loan agreements entered into by a former redevelopment agency are enforceable obligations and sets forth the requirement for repayment of those loans, as specified.

This bill would prohibit the loan repayment schedule from including amounts paid back pursuant to the due diligence review process during the 2012–13 base year.

(6) Existing law requires a successor agency to prepare a long-range property management plan that addresses the disposition and use of the real properties of a former redevelopment agency and requires a transfer of the property to the city, county, or city and county if the plan directs the use or liquidation of the property for a project identified in an approved redevelopment plan, as specified.

This bill would specify that the term “identified in an approved redevelopment plan” includes properties listed in a community plan, a 5-year implementation plan, or other similar document.

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 53395.4 of the Government Code is
2 amended to read:

3 53395.4. (a) A district may finance only the facilities or
4 services authorized in this chapter to the extent that the facilities
5 or services are in addition to those provided in the territory of the
6 district before the district was created. The additional facilities or
7 services may not supplant facilities or services already available
8 within that territory when the district was created but may
9 supplement those facilities and services as needed to serve new
10 developments.

11 (b) A district may include areas that are not contiguous.

1 SEC. 2. Section 34163 of the Health and Safety Code is
2 amended to read:

3 34163. Notwithstanding Part 1 (commencing with Section
4 33000), Part 1.5 (commencing with Section 34000), Part 1.6
5 (commencing with Section 34050), and Part 1.7 (commencing
6 with Section 34100), or any other law, commencing on the effective
7 date of this part, an agency shall not have the authority to, and
8 shall not, do any of the following:

9 (a) Make loans or advances or grant or enter into agreements
10 to provide funds or provide financial assistance of any sort to any
11 entity or person for any purpose, including, but not limited to, all
12 of the following:

13 (1) Loans of moneys or any other thing of value or commitments
14 to provide financing to nonprofit organizations to provide those
15 organizations with financing for the acquisition, construction,
16 rehabilitation, refinancing, or development of multifamily rental
17 housing or the acquisition of commercial property for lease, each
18 pursuant to Chapter 7.5 (commencing with Section 33741) of Part
19 1.

20 (2) Loans of moneys or any other thing of value for residential
21 construction, improvement, or rehabilitation pursuant to Chapter
22 8 (commencing with Section 33750) of Part 1. These include, but
23 are not limited to, construction loans to purchasers of residential
24 housing, mortgage loans to purchasers of residential housing, and
25 loans to mortgage lenders, or any other entity, to aid in financing
26 pursuant to Chapter 8 (commencing with Section 33750).

27 (3) The purchase, by an agency, of mortgage or construction
28 loans from mortgage lenders or from any other entities.

29 (b) (1) Enter into contracts with, incur obligations, or make
30 commitments to, any entity, whether governmental, tribal, or
31 private, or any individual or groups of individuals for any purpose,
32 including, but not limited to, loan agreements, passthrough
33 agreements, regulatory agreements, services contracts, leases,
34 disposition and development agreements, joint exercise of powers
35 agreements, contracts for the purchase of capital equipment,
36 agreements for redevelopment activities, including, but not limited
37 to, agreements for planning, design, redesign, development,
38 demolition, alteration, construction, reconstruction, rehabilitation,
39 site remediation, site development or improvement, removal of
40 graffiti, land clearance, and seismic retrofits.

1 (2) Notwithstanding paragraph (1), if a successor agency has
2 received a finding of completion, the successor agency may enter
3 into, or amend existing, contracts and agreements, make land use
4 decisions, or otherwise administer projects in connection with
5 long-term enforceable obligations, if the contract or agreement,
6 land use decision, or project will not commit new tax funds, or
7 will not otherwise adversely affect the flow of tax increment to
8 the taxing agencies.

9 (c) Amend or modify existing agreements, obligations, or
10 commitments with any entity, for any purpose, including, but not
11 limited to, any of the following:

12 (1) Renewing or extending term of leases or other agreements,
13 except that the agency may extend lease space for its own use to
14 a date not to exceed six months after the effective date of the act
15 adding this part and for a rate no more than 5 percent above the
16 rate the agency currently pays on a monthly basis.

17 (2) Modifying terms and conditions of existing agreements,
18 obligations, or commitments.

19 (3) Forgiving all or any part of the balance owed to the agency
20 on existing loans or extend the term or change the terms and
21 conditions of existing loans.

22 (4) Making any future deposits to the Low and Moderate Income
23 Housing Fund created pursuant to Section 33334.3.

24 (5) Transferring funds out of the Low and Moderate Income
25 Housing Fund, except to meet the minimum housing-related
26 obligations that existed as of January 1, 2011, to make required
27 payments under Sections 33690 and 33690.5, and to borrow funds
28 pursuant to Section 34168.5.

29 (d) Dispose of assets by sale, long-term lease, gift, grant,
30 exchange, transfer, assignment, or otherwise, for any purpose,
31 including, but not limited to, any of the following:

32 (1) Assets, including, but not limited to, real property, deeds of
33 trust, and mortgages held by the agency, moneys, accounts
34 receivable, contract rights, proceeds of insurance claims, grant
35 proceeds, settlement payments, rights to receive rents, and any
36 other rights to payment of whatever kind.

37 (2) Real property, including, but not limited to, land, land under
38 water and waterfront property, buildings, structures, fixtures, and
39 improvements on the land, any property appurtenant to, or used
40 in connection with, the land, every estate, interest, privilege,

1 easement, franchise, and right in land, including rights-of-way,
2 terms for years, and liens, charges, or encumbrances by way of
3 judgment, mortgage, or otherwise, and the indebtedness secured
4 by the liens.

5 (e) Acquire real property by any means for any purpose,
6 including, but not limited to, the purchase, lease, or exercising of
7 an option to purchase or lease, exchange, subdivide, transfer,
8 assume, obtain option upon, acquire by gift, grant, bequest, devise,
9 or otherwise acquire any real property, any interest in real property,
10 and any improvements on it, including the repurchase of developed
11 property previously owned by the agency and the acquisition of
12 real property by eminent domain; provided, however, that nothing
13 in this subdivision is intended to prohibit the acceptance or transfer
14 of title for real property acquired prior to the effective date of this
15 part.

16 (f) Transfer, assign, vest, or delegate any of its assets, funds,
17 rights, powers, ownership interests, or obligations for any purpose
18 to any entity, including, but not limited to, the community, the
19 legislative body, another member of a joint powers authority, a
20 trustee, a receiver, a partner entity, another agency, a nonprofit
21 corporation, a contractual counterparty, a public body, a
22 limited-equity housing cooperative, the state, a political subdivision
23 of the state, the federal government, any private entity, or an
24 individual or group of individuals.

25 (g) Accept financial or other assistance from the state or federal
26 government or any public or private source if the acceptance
27 necessitates or is conditioned upon the agency incurring
28 indebtedness as that term is described in this part.

29 SEC. 3. Section 34171 of the Health and Safety Code is
30 amended to read:

31 34171. The following terms shall have the following meanings:

32 (a) “Administrative budget” means the budget for administrative
33 costs of the successor agencies as provided in Section 34177.

34 (b) “Administrative cost allowance” means an amount that,
35 subject to the approval of the oversight board, is payable from
36 property tax revenues of up to 5 percent of the property tax
37 allocated to the successor agency on the Recognized Obligation
38 Payment Schedule covering the period January 1, 2012, through
39 June 30, 2012, and up to 3 percent of the property tax allocated to
40 the Redevelopment Obligation Retirement Fund money that is

1 allocated to the successor agency for each fiscal year thereafter;
2 provided, however, that the amount shall not be less than two
3 hundred fifty thousand dollars (\$250,000), unless the oversight
4 board reduces this amount, for any fiscal year or such lesser amount
5 as agreed to by the successor agency. However, the allowance
6 amount shall exclude, and shall not apply to, any administrative
7 costs that can be paid from bond proceeds or from sources other
8 than property tax. Administrative cost allowances shall exclude
9 any litigation expenses related to assets or obligations, settlements
10 and judgments, and the costs of maintaining assets prior to
11 disposition. Employee costs associated with work on specific
12 project implementation activities, including, but not limited to,
13 construction inspection, project management, or actual
14 construction, shall be considered project-specific costs and shall
15 not constitute administrative costs.

16 (c) “Designated local authority” shall mean a public entity
17 formed pursuant to subdivision (d) of Section 34173.

18 (d) (1) “Enforceable obligation” means any of the following:

19 (A) Bonds, as defined by Section 33602 and bonds issued
20 pursuant to Chapter 10.5 (commencing with Section 5850) of
21 Division 6 of Title 1 of the Government Code, including the
22 required debt service, reserve set-asides, and any other payments
23 required under the indenture or similar documents governing the
24 issuance of the outstanding bonds of the former redevelopment
25 agency. A reserve may be held when required by the bond
26 indenture or when the next property tax allocation will be
27 insufficient to pay all obligations due under the provisions of the
28 bond for the next payment due in the following half of the calendar
29 year.

30 (B) Loans of moneys borrowed by the redevelopment agency
31 for a lawful purpose, to the extent they are legally required to be
32 repaid pursuant to a required repayment schedule or other
33 mandatory loan terms.

34 (C) Payments required by the federal government, preexisting
35 obligations to the state or obligations imposed by state law, other
36 than passthrough payments that are made by the county
37 auditor-controller pursuant to Section 34183, or legally enforceable
38 payments required in connection with the agencies’ employees,
39 including, but not limited to, pension payments, pension obligation
40 debt service, unemployment payments, or other obligations

1 conferred through a collective bargaining agreement. Costs incurred
2 to fulfill collective bargaining agreements for layoffs or
3 terminations of city employees who performed work directly on
4 behalf of the former redevelopment agency shall be considered
5 enforceable obligations payable from property tax funds. The
6 obligations to employees specified in this subparagraph shall
7 remain enforceable obligations payable from property tax funds
8 for any employee to whom those obligations apply if that employee
9 is transferred to the entity assuming the housing functions of the
10 former redevelopment agency pursuant to Section 34176. The
11 successor agency or designated local authority shall enter into an
12 agreement with the housing entity to reimburse it for any costs of
13 the employee obligations.

14 (D) Judgments or settlements entered by a competent court of
15 law or binding arbitration decisions against the former
16 redevelopment agency, other than passthrough payments that are
17 made by the county auditor-controller pursuant to Section 34183.
18 Along with the successor agency, the oversight board shall have
19 the authority and standing to appeal any judgment or to set aside
20 any settlement or arbitration decision.

21 (E) Any legally binding and enforceable agreement or contract
22 that is not otherwise void as violating the debt limit or public
23 policy. However, nothing in this act shall prohibit either the
24 successor agency, with the approval or at the direction of the
25 oversight board, or the oversight board itself from terminating any
26 existing agreements or contracts and providing any necessary and
27 required compensation or remediation for such termination. Titles
28 of or headings used on or in a document shall not be relevant in
29 determining the existence of an enforceable obligation.

30 (F) Contracts or agreements necessary for the administration or
31 operation of the successor agency, in accordance with this part,
32 including, but not limited to, agreements concerning litigation
33 expenses related to assets or obligations, settlements and
34 judgements, and the costs of maintaining assets prior to disposition,
35 and agreements to purchase or rent office space, equipment and
36 supplies, and pay-related expenses pursuant to Section 33127 and
37 for carrying insurance pursuant to Section 33134.

38 (G) Amounts borrowed from, or payments owing to, the Low
39 and Moderate Income Housing Fund of a redevelopment agency,
40 which had been deferred as of the effective date of the act adding

1 this part; provided, however, that the repayment schedule is
2 approved by the oversight board. Repayments shall be transferred
3 to the Low and Moderate Income Housing Asset Fund established
4 pursuant to subdivision (d) of Section 34176 as a housing asset
5 and shall be used in a manner consistent with the affordable
6 housing requirements of the Community Redevelopment Law (Part
7 1 (commencing with Section 33000)).

8 (2) For purposes of this part, “enforceable obligation” does not
9 include any agreements, contracts, or arrangements between the
10 city, county, or city and county that created the redevelopment
11 agency and the former redevelopment agency. However, written
12 agreements entered into (A) at the time of issuance, but in no event
13 later than December 31, 2010, of indebtedness obligations, and
14 (B) solely for the purpose of securing or repaying those
15 indebtedness obligations may be deemed enforceable obligations
16 for purposes of this part. Notwithstanding this paragraph, loan
17 agreements entered into between the redevelopment agency and
18 the city, county, or city and county that created it, within two years
19 of the date of creation of the redevelopment agency, may be
20 deemed to be enforceable obligations. Notwithstanding this
21 paragraph, an agreement entered into between the redevelopment
22 agency and the city, county, or city and county that created the
23 redevelopment agency prior to October 1, 2011, is an enforceable
24 obligation if the agreement relates to a project identified, in whole
25 or in part, in an infill infrastructure grant program disbursement
26 agreement entered into by the Department of Housing and
27 Community Development pursuant to the Infill Infrastructure Grant
28 Program and in accordance with Part 12 (commencing with Section
29 53545.12) of Division 31. *Notwithstanding this paragraph, an*
30 *agreement entered into between the redevelopment agency and*
31 *the city, county, or city and county that created the redevelopment*
32 *agency prior to October 1, 2011, is an enforceable obligation if*
33 *the agreement relates to state highway infrastructure improvements*
34 *to which the redevelopment agency committed funds pursuant to*
35 *the provisions of Section 33445.*

36 (3) Contracts or agreements between the former redevelopment
37 agency and other public agencies, to perform services or provide
38 funding for governmental or private services or capital projects
39 outside of redevelopment project areas that do not provide benefit
40 to the redevelopment project and thus were not properly authorized

1 under Part 1 (commencing with Section 33000) shall be deemed
2 void on the effective date of this part; provided, however, that such
3 contracts or agreements for the provision of housing properly
4 authorized under Part 1 (commencing with Section 33000) shall
5 not be deemed void.

6 (e) “Indebtedness obligations” means bonds, notes, certificates
7 of participation, or other evidence of indebtedness, issued or
8 delivered by the redevelopment agency, or by a joint exercise of
9 powers authority created by the redevelopment agency, to
10 third-party investors or bondholders to finance or refinance
11 redevelopment projects undertaken by the redevelopment agency
12 in compliance with the Community Redevelopment Law (Part 1
13 (commencing with Section 33000)).

14 (f) “Oversight board” shall mean each entity established pursuant
15 to Section 34179.

16 (g) “Recognized obligation” means an obligation listed in the
17 Recognized Obligation Payment Schedule.

18 (h) “Recognized Obligation Payment Schedule” means the
19 document setting forth the minimum payment amounts and due
20 dates of payments required by enforceable obligations for each
21 six-month fiscal period as provided in subdivision (m) of Section
22 34177.

23 (i) “School entity” means any entity defined as such in
24 subdivision (f) of Section 95 of the Revenue and Taxation Code.

25 (j) “Successor agency” means the successor entity to the former
26 redevelopment agency as described in Section 34173.

27 (k) “Taxing entities” means cities, counties, a city and county,
28 special districts, and school entities, as defined in subdivision (f)
29 of Section 95 of the Revenue and Taxation Code, that receive
30 passthrough payments and distributions of property taxes pursuant
31 to the provisions of this part.

32 (l) “Property taxes” include all property tax revenues, including
33 those from unitary and supplemental and roll corrections applicable
34 to tax increment.

35 (m) “Department” means the Department of Finance unless the
36 context clearly refers to another state agency.

37 (n) “Sponsoring entity” means the city, county, or city and
38 county, or other entity that authorized the creation of each
39 redevelopment agency.

1 (o) “Final judicial determination” means a final judicial
2 determination made by any state court that is not appealed, or by
3 a court of appellate jurisdiction that is not further appealed, in an
4 action by any party.

5 SEC. 4. Section 34177 of the Health and Safety Code is
6 amended to read:

7 34177. Successor agencies are required to do all of the
8 following:

9 (a) Continue to make payments due for enforceable obligations.

10 (1) On and after February 1, 2012, and until a Recognized
11 Obligation Payment Schedule becomes operative, only payments
12 required pursuant to an enforceable obligations payment schedule
13 shall be made. The initial enforceable obligation payment schedule
14 shall be the last schedule adopted by the redevelopment agency
15 under Section 34169. However, payments associated with
16 obligations excluded from the definition of enforceable obligations
17 by paragraph (2) of subdivision (d) of Section 34171 shall be
18 excluded from the enforceable obligations payment schedule and
19 be removed from the last schedule adopted by the redevelopment
20 agency under Section 34169 prior to the successor agency adopting
21 it as its enforceable obligations payment schedule pursuant to this
22 subdivision. The enforceable obligation payment schedule may
23 be amended by the successor agency at any public meeting and
24 shall be subject to the approval of the oversight board as soon as
25 the board has sufficient members to form a quorum. In recognition
26 of the fact that the timing of the California Supreme Court’s ruling
27 in the case California Redevelopment Association v. Matosantos
28 (2011) 53 Cal.4th 231 delayed the preparation by successor
29 agencies and the approval by oversight boards of the January 1,
30 2012, through June 30, 2012, Recognized Obligation Payment
31 Schedule, a successor agency may amend the Enforceable
32 Obligation Payment Schedule to authorize the continued payment
33 of enforceable obligations until the time that the January 1, 2012,
34 through June 30, 2012, Recognized Obligation Payment Schedule
35 has been approved by the oversight board and by the Department
36 of Finance. The successor agency may utilize reasonable estimates
37 and projections to support payment amounts for enforceable
38 obligations if the successor agency submits appropriate supporting
39 documentation of the basis for the estimate or projection to the
40 Department of Finance.

1 (2) The Department of Finance and the Controller shall each
2 have the authority to require any documents associated with the
3 enforceable obligations to be provided to them in a manner of their
4 choosing. Any taxing entity, the department, and the Controller
5 shall each have standing to file a judicial action to prevent a
6 violation under this part and to obtain injunctive or other
7 appropriate relief.

8 (3) Commencing on the date the Recognized Obligation Payment
9 Schedule is valid pursuant to subdivision (l), only those payments
10 listed in the Recognized Obligation Payment Schedule may be
11 made by the successor agency from the funds specified in the
12 Recognized Obligation Payment Schedule. In addition, after it
13 becomes valid, the Recognized Obligation Payment Schedule shall
14 supersede the Statement of Indebtedness, which shall no longer
15 be prepared nor have any effect under the Community
16 Redevelopment Law (Part 1 (commencing with Section 33000)).

17 (4) Nothing in the act adding this part is to be construed as
18 preventing a successor agency, with the prior approval of the
19 oversight board, as described in Section 34179, from making
20 payments for enforceable obligations from sources other than those
21 listed in the Recognized Obligation Payment Schedule.

22 (5) From February 1, 2012, to July 1, 2012, a successor agency
23 shall have no authority and is hereby prohibited from accelerating
24 payment or making any lump-sum payments that are intended to
25 prepay loans unless such accelerated repayments were required
26 prior to the effective date of this part.

27 (b) Maintain reserves in the amount required by indentures,
28 trust indentures, or similar documents governing the issuance of
29 outstanding redevelopment agency bonds.

30 (c) Perform obligations required pursuant to any enforceable
31 obligation.

32 (d) Remit unencumbered balances of redevelopment agency
33 funds to the county auditor-controller for distribution to the taxing
34 entities, including, but not limited to, the unencumbered balance
35 of the Low and Moderate Income Housing Fund of a former
36 redevelopment agency. In making the distribution, the county
37 auditor-controller shall utilize the same methodology for allocation
38 and distribution of property tax revenues provided in Section
39 34188.

1 (e) Dispose of assets and properties of the former redevelopment
2 agency as directed by the oversight board; provided, however, that
3 the oversight board may instead direct the successor agency to
4 transfer ownership of certain assets pursuant to subdivision (a) of
5 Section 34181. The disposal is to be done expeditiously and in a
6 manner aimed at maximizing value. Proceeds from asset sales and
7 related funds that are no longer needed for approved development
8 projects or to otherwise wind down the affairs of the agency, each
9 as determined by the oversight board, shall be transferred to the
10 county auditor-controller for distribution as property tax proceeds
11 under Section 34188. The requirements of this subdivision shall
12 not apply to a successor agency that has been issued a finding of
13 completion by the Department of Finance pursuant to Section
14 34179.7.

15 (f) Enforce all former redevelopment agency rights for the
16 benefit of the taxing entities, including, but not limited to,
17 continuing to collect loans, rents, and other revenues that were due
18 to the redevelopment agency.

19 (g) Effectuate transfer of housing functions and assets to the
20 appropriate entity designated pursuant to Section 34176.

21 (h) Expeditiously wind down the affairs of the redevelopment
22 agency pursuant to the provisions of this part and in accordance
23 with the direction of the oversight board.

24 (i) Continue to oversee development of properties until the
25 contracted work has been completed or the contractual obligations
26 of the former redevelopment agency can be transferred to other
27 parties. Bond proceeds shall be used for the purposes for which
28 bonds were sold unless the purposes can no longer be achieved,
29 in which case, the proceeds may be used to defease the bonds.

30 (j) Prepare a proposed administrative budget and submit it to
31 the oversight board for its approval. The proposed administrative
32 budget shall include all of the following:

33 (1) Estimated amounts for successor agency administrative costs
34 for the upcoming six-month fiscal period.

35 (2) Proposed sources of payment for the costs identified in
36 paragraph (1).

37 (3) Proposals for arrangements for administrative and operations
38 services provided by a city, county, city and county, or other entity.

39 (k) Provide administrative cost estimates, from its approved
40 administrative budget that are to be paid from property tax revenues

1 deposited in the Redevelopment Property Tax Trust Fund, to the
2 county auditor-controller for each six-month fiscal period.
3 (l) (1) Before each six-month fiscal period, prepare a
4 Recognized Obligation Payment Schedule in accordance with the
5 requirements of this paragraph. For each recognized obligation,
6 the Recognized Obligation Payment Schedule shall identify one
7 or more of the following sources of payment:
8 (A) Low and Moderate Income Housing Fund.
9 (B) Bond proceeds.
10 (C) Reserve balances.
11 (D) Administrative cost allowance.
12 (E) The Redevelopment Property Tax Trust Fund, but only to
13 the extent no other funding source is available or when payment
14 from property tax revenues is required by an enforceable obligation
15 or by the provisions of this part.
16 (F) Other revenue sources, including rents, concessions, asset
17 sale proceeds, interest earnings, and any other revenues derived
18 from the former redevelopment agency, as approved by the
19 oversight board in accordance with this part.
20 (2) A Recognized Obligation Payment Schedule shall not be
21 deemed valid unless all of the following conditions have been met:
22 (A) A Recognized Obligation Payment Schedule is prepared
23 by the successor agency for the enforceable obligations of the
24 former redevelopment agency. The initial schedule shall project
25 the dates and amounts of scheduled payments for each enforceable
26 obligation for the remainder of the time period during which the
27 redevelopment agency would have been authorized to obligate
28 property tax increment had the a redevelopment agency not been
29 dissolved.
30 (B) The Recognized Obligation Payment Schedule is submitted
31 to and duly approved by the oversight board. The successor agency
32 shall submit a copy of the Recognized Obligation Payment
33 Schedule to the county administrative officer, the county
34 auditor-controller, and the Department of Finance at the same time
35 that the successor agency submits the Recognized Obligation
36 Payment Schedule to the oversight board for approval.
37 (C) A copy of the approved Recognized Obligation Payment
38 Schedule is submitted to the county auditor-controller and both
39 the Controller's office and the Department of Finance and be posted
40 on the successor agency's Internet Web site.

1 (3) The Recognized Obligation Payment Schedule shall be
2 forward looking to the next six months. The first Recognized
3 Obligation Payment Schedule shall be submitted to the Controller's
4 office and the Department of Finance by April 15, 2012, for the
5 period of January 1, 2012, to June 30, 2012, inclusive. This
6 Recognized Obligation Payment Schedule shall include all
7 payments made by the former redevelopment agency between
8 January 1, 2012, through January 31, 2012, and shall include all
9 payments proposed to be made by the successor agency from
10 February 1, 2012, through June 30, 2012. Former redevelopment
11 agency enforceable obligation payments due, and reasonable or
12 necessary administrative costs due or incurred, prior to January 1,
13 2012, shall be made from property tax revenues received in the
14 spring of 2011 property tax distribution, and from other revenues
15 and balances transferred to the successor agency.

16 (m) The Recognized Obligation Payment Schedule for the period
17 of January 1, 2013, to June 30, 2013, shall be submitted by the
18 successor agency, after approval by the oversight board, no later
19 than September 1, 2012. Commencing with the Recognized
20 Obligation Payment Schedule covering the period July 1, 2013,
21 through December 31, 2013, successor agencies shall submit an
22 oversight board-approved Recognized Obligation Payment
23 Schedule to the Department of Finance and to the county
24 auditor-controller no fewer than 90 days before the date of property
25 tax distribution. The Department of Finance shall make its
26 determination of the enforceable obligations and the amounts and
27 funding sources of the enforceable obligations no later than 45
28 days after the Recognized Obligation Payment Schedule is
29 submitted. Within five business days of the department's
30 determination, a successor agency may request additional review
31 by the department and an opportunity to meet and confer on
32 disputed items. The meet and confer period may vary; an untimely
33 submittal of a Recognized Obligation Payment Schedule may result
34 in a meet and confer period of less than 30 days. The department
35 shall notify the successor agency and the county auditor-controllers
36 as to the outcome of its review at least 15 days before the date of
37 property tax distribution.

38 (1) The successor agency shall submit a copy of the Recognized
39 Obligation Payment Schedule to the Department of Finance
40 electronically, and the successor agency shall complete the

1 Recognized Obligation Payment Schedule in the manner provided
2 for by the department. A successor agency shall be in
3 noncompliance with this paragraph if it only submits to the
4 department an electronic message or a letter stating that the
5 oversight board has approved a Recognized Obligation Payment
6 Schedule.

7 (2) If a successor agency does not submit a Recognized
8 Obligation Payment Schedule by the deadlines provided in this
9 subdivision, the city, county, or city and county that created the
10 redevelopment agency shall be subject to a civil penalty equal to
11 ten thousand dollars (\$10,000) per day for every day the schedule
12 is not submitted to the department. The civil penalty shall be paid
13 to the county auditor-controller for allocation to the taxing entities
14 under Section 34183. If a successor agency fails to submit a
15 Recognized Obligation Payment Schedule by the deadline, any
16 creditor of the successor agency or the Department of Finance or
17 any affected taxing entity shall have standing to and may request
18 a writ of mandate to require the successor agency to immediately
19 perform this duty. Those actions may be filed only in the County
20 of Sacramento and shall have priority over other civil matters.
21 Additionally, if an agency does not submit a Recognized Obligation
22 Payment Schedule within ten days of the deadline, the maximum
23 administrative cost allowance for that period shall be reduced by
24 25 percent.

25 (3) If a successor agency fails to submit to the department an
26 oversight board-approved Recognized Obligation Payment
27 Schedule that complies with all requirements of this subdivision
28 within five business days of the date upon which the Recognized
29 Obligation Payment Schedule is to be used to determine the amount
30 of property tax allocations, the department may determine if any
31 amount should be withheld by the county auditor-controller for
32 payments for enforceable obligations from distribution to taxing
33 entities, pending approval of a Recognized Obligation Payment
34 Schedule. The county auditor-controller shall distribute the portion
35 of any of the sums withheld pursuant to this paragraph to the
36 affected taxing entities in accordance with paragraph (4) of
37 subdivision (a) of Section 34183 upon notice by the department
38 that a portion of the withheld balances are in excess of the amount
39 of enforceable obligations. The county auditor-controller shall
40 distribute withheld funds to the successor agency only in

1 accordance with a Recognized Obligation Payment Schedule
2 approved by the department. County auditor-controllers shall lack
3 the authority to withhold any other amounts from the allocations
4 provided for under Section 34183 or 34188 unless required by a
5 court order.

6 (4) (A) The Recognized Obligation Payment Schedule payments
7 required pursuant to this subdivision may be scheduled beyond
8 the existing Recognized Obligation Payment Schedule cycle upon
9 a showing that a lender requires cash on hand beyond the
10 Recognized Obligation Payment Schedule cycle.

11 (B) When a payment is shown to be due during the Recognized
12 Obligation Payment Schedule period, but an invoice or other billing
13 document has not yet been received, the successor agency may
14 utilize reasonable estimates and projections to support payment
15 amounts for enforceable obligations if the successor agency submits
16 appropriate supporting documentation of the basis for the estimate
17 or projection to the department.

18 (C) A Recognized Obligation Payment Schedule may also
19 include appropriation of moneys from bonds subject to passage
20 during the Recognized Obligation Payment Schedule cycle when
21 an enforceable obligation requires the agency to issue the bonds
22 and use the proceeds to pay for project expenditures.

23 (n) Cause a postaudit of the financial transactions and records
24 of the successor agency to be made at least annually by a certified
25 public accountant.

26 SEC. 5. Section 34178 of the Health and Safety Code is
27 amended to read:

28 34178. (a) Commencing on the operative date of this part,
29 agreements, contracts, or arrangements between the city or county,
30 or city and county that created the redevelopment agency and the
31 redevelopment agency are invalid and shall not be binding on the
32 successor agency; provided, however, that a successor entity
33 wishing to enter or reenter into agreements with the city, county,
34 or city and county that formed the redevelopment agency that it
35 is succeeding may do so upon obtaining the approval of its
36 oversight board. A successor agency or an oversight board shall
37 not exercise the powers granted by this subdivision to restore
38 funding for an enforceable obligation that was deleted or reduced
39 by the Department of Finance pursuant to subdivision (h) of Section
40 34179 unless it reflects the decisions made during the meet and

1 confer process with the Department of Finance or pursuant to a
2 court order.

3 (b) Notwithstanding subdivision (a), any of the following
4 agreements are not invalid and may bind the successor agency:

5 (1) A duly authorized written agreement entered into at the time
6 of issuance, but in no event later than December 31, 2010, of
7 indebtedness obligations, and solely for the purpose of securing
8 or repaying those indebtedness obligations.

9 (2) A written agreement between a redevelopment agency and
10 the city, county, or city and county that created it that provided
11 loans or other startup funds for the redevelopment agency that
12 were entered into within two years of the formation of the
13 redevelopment agency.

14 (3) A joint exercise of powers agreement in which the
15 redevelopment agency is a member of the joint powers authority.
16 However, upon assignment to the successor agency by operation
17 of the act adding this part, the successor agency's rights, duties,
18 and performance obligations under that joint exercise of powers
19 agreement shall be limited by the constraints imposed on successor
20 agencies by the act adding this part.

21 (4) An agreement entered into between the redevelopment
22 agency and the city, county, or city and county that created the
23 redevelopment agency prior to October 1, 2011, if the agreement
24 relates to a project identified, in whole or in part, in an infill
25 infrastructure grant program disbursement agreement entered into
26 by the Department of Housing and Community Development
27 pursuant to the Infill Infrastructure Grant Program in accordance
28 with Part 12 (commencing with Section 53545.12) of Division 31.

29 (5) *An agreement entered into between the redevelopment*
30 *agency and the city, county, or city and county that created the*
31 *redevelopment agency prior to October 1, 2011, if the agreement*
32 *relates to state highway infrastructure improvements to which the*
33 *redevelopment agency committed funds pursuant to the provisions*
34 *of Section 33445.*

35 SEC. 6. Section 34191.4 of the Health and Safety Code is
36 amended to read:

37 34191.4. The following provisions shall apply to any successor
38 agency that has been issued a finding of completion by the
39 Department of Finance:

1 (a) All real property and interests in real property identified in
2 subparagraph (C) of paragraph (5) of subdivision (c) of Section
3 34179.5 shall be transferred to the Community Redevelopment
4 Property Trust Fund of the successor agency upon approval by the
5 Department of Finance of the long-range property management
6 plan submitted by the successor agency pursuant to subdivision
7 (b) of Section 34191.7 unless that property is subject to the
8 requirements of any existing enforceable obligation.

9 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
10 application by the successor agency and approval by the oversight
11 board, loan agreements entered into between the redevelopment
12 agency and the city, county, or city and county that created by the
13 redevelopment agency shall be deemed to be enforceable
14 obligations provided that the oversight board makes a finding that
15 the loan was for legitimate redevelopment purposes.

16 (2) If the oversight board finds that the loan is an enforceable
17 obligation, the accumulated interest on the remaining principal
18 amount of the loan shall be recalculated from origination at the
19 interest rate earned by funds deposited into the Local Agency
20 Investment Fund. The loan shall be repaid to the city, county, or
21 city and county in accordance with a defined schedule over a
22 reasonable term of years at an interest rate not to exceed the interest
23 rate earned by funds deposited into the Local Agency Investment
24 Fund. The annual loan repayments provided for in the recognized
25 obligations payment schedules shall be subject to all of the
26 following limitations:

27 (A) Loan repayments shall not be made prior to the 2013–14
28 fiscal year. Beginning in the 2013–14 fiscal year, the maximum
29 repayment amount authorized each fiscal year for repayments
30 made pursuant to this subdivision and paragraph (7) of subdivision
31 (e) of Section 34176 combined shall be equal to one-half of the
32 increase between the amount distributed to the taxing entities
33 pursuant to paragraph (4) of subdivision (a) of Section 34183 in
34 that fiscal year and the amount distributed to taxing entities
35 pursuant to that paragraph in the 2012–13 base year. Loan or
36 deferral repayments made pursuant to this subdivision shall be
37 second in priority to amounts to be repaid pursuant to paragraph
38 (7) of subdivision (e) of Section 34176.

39 (B) Repayments received by the city, county or city and county
40 that formed the redevelopment agency shall first be used to retire

1 any outstanding amounts borrowed and owed to the Low and
2 Moderate Income Housing Fund of the former redevelopment
3 agency for purposes of the Supplemental Educational Revenue
4 Augmentation Fund and shall be distributed to the Low and
5 Moderate Income Housing Asset Fund established by subdivision
6 (d) of Section 34176.

7 (C) Twenty percent of any loan repayment shall be deducted
8 from the loan repayment amount and shall be transferred to the
9 Low and Moderate Income Housing Asset Fund, after all
10 outstanding loans from the Low and Moderate Income Housing
11 Fund for purposes of the Supplemental Educational Revenue
12 Augmentation Fund have been paid.

13 (D) The loan repayment schedule shall not include amounts
14 paid back pursuant to the due diligence review process during the
15 2012–13 base year.

16 (c) (1) Bond proceeds derived from bonds issued on or before
17 December 31, 2010, shall be used for the purposes for which the
18 bonds were sold.

19 (2) (A) Notwithstanding Section 34177.3 or any other
20 conflicting provision of law, bond proceeds in excess of the
21 amounts needed to satisfy approved enforceable obligations shall
22 thereafter be expended in a manner consistent with the original
23 bond covenants. Enforceable obligations may be satisfied by the
24 creation of reserves for projects that are the subject of the
25 enforceable obligation and that are consistent with the contractual
26 obligations for those projects, or by expending funds to complete
27 the projects. An expenditure made pursuant to this paragraph shall
28 constitute the creation of excess bond proceeds obligations to be
29 paid from the excess proceeds. Excess bond proceeds obligations
30 shall be listed separately on the Recognized Obligation Payment
31 Schedule submitted by the successor agency.

32 (B) If remaining bond proceeds cannot be spent in a manner
33 consistent with the bond covenants pursuant to subparagraph (A),
34 the proceeds shall be used to defease the bonds or to purchase
35 those same outstanding bonds on the open market for cancellation.

36 SEC. 7. Section 34191.5 of the Health and Safety Code is
37 amended to read:

38 34191.5. (a) There is hereby established a Community
39 Redevelopment Property Trust Fund, administered by the successor
40 agency, to serve as the repository of the former redevelopment

1 agency's real properties identified in subparagraph (C) of paragraph
2 (5) of subdivision (c) of Section 34179.5.

3 (b) The successor agency shall prepare a long-range property
4 management plan that addresses the disposition and use of the real
5 properties of the former redevelopment agency. The report shall
6 be submitted to the oversight board and the Department of Finance
7 for approval no later than six months following the issuance to the
8 successor agency of the finding of completion.

9 (c) The long-range property management plan shall do all of
10 the following:

11 (1) Include an inventory of all properties in the trust. The
12 inventory shall consist of all of the following information:

13 (A) The date of the acquisition of the property and the value of
14 the property at that time, and an estimate of the current value of
15 the property.

16 (B) The purpose for which the property was acquired.

17 (C) Parcel data, including address, lot size, and current zoning
18 in the former agency redevelopment plan or specific, community,
19 or general plan.

20 (D) An estimate of the current value of the parcel including, if
21 available, any appraisal information.

22 (E) An estimate of any lease, rental, or any other revenues
23 generated by the property, and a description of the contractual
24 requirements for the disposition of those funds.

25 (F) The history of environmental contamination, including
26 designation as a brownfield site, any related environmental studies,
27 and history of any remediation efforts.

28 (G) A description of the property's potential for transit-oriented
29 development and the advancement of the planning objectives of
30 the successor agency.

31 (H) A brief history of previous development proposals and
32 activity, including the rental or lease of property.

33 (2) Address the use or disposition of all of the properties in the
34 trust. Permissible uses include the retention of the property for
35 governmental use pursuant to subdivision (a) of Section 34181,
36 the retention of the property for future development, the sale of
37 the property, or the use of the property to fulfill an enforceable
38 obligation. The plan shall separately identify and list properties in
39 the trust dedicated to governmental use purposes and properties
40 retained for purposes of fulfilling an enforceable obligation. With

1 respect to the use or disposition of all other properties, all of the
2 following shall apply:

3 (A) (i) If the plan directs the use or liquidation of the property
4 for a project identified in an approved redevelopment plan, the
5 property shall transfer to the city, county, or city and county.

6 (ii) For purposes of this subparagraph, the term “identified in
7 an approved redevelopment plan” includes properties listed in a
8 community plan, a five-year implementation plan, or other similar
9 document.

10 (B) If the plan directs the liquidation of the property or the use
11 of revenues generated from the property, such as lease or parking
12 revenues, for any purpose other than to fulfill an enforceable
13 obligation or other than that specified in subparagraph (A), the
14 proceeds from the sale shall be distributed as property tax to the
15 taxing entities.

16 (C) Property shall not be transferred to a successor agency, city,
17 county, or city and county, unless the long-range property
18 management plan has been approved by the oversight board and
19 the Department of Finance.