

Assembly Bill No. 1450

Passed the Assembly August 29, 2014

Chief Clerk of the Assembly

Passed the Senate August 29, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 34183 of the Health and Safety Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

AB 1450, Garcia. Local government: redevelopment: revenues from property tax override rates.

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. Existing law requires revenues equivalent to those that would have been allocated to each redevelopment agency, had the agency not been dissolved, to be allocated to the Redevelopment Property Tax Trust Fund of each successor agency for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies. Existing law requires, from February 1, 2012, to July 1, 2012, inclusive, and for each fiscal year thereafter, the county auditor-controller, after deducting administrative costs, to allocate property tax revenues in each Redevelopment Property Tax Trust Fund in a specified manner.

This bill would authorize a city or county that levies a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the general property tax rate, to make a request to an oversight board to prohibit revenues derived from that property tax rate from being deposited into a Redevelopment Property Tax Fund. This bill would authorize an oversight board to deny this request based on substantial evidence that a former redevelopment agency made a pledge of revenues that specifically included revenues derived from the imposition of that property tax rate. This bill, for the 2014–15 fiscal year and each fiscal year thereafter, except to the extent an oversight board denies a request, would prohibit any revenues derived from the imposition of that property tax rate from being allocated to a Redevelopment Property Tax Trust Fund and

would, instead, require these revenues to be allocated to, and when collected to be paid into, the fund of the city or county whose voters approved the tax. The bill would require all allocations of revenues derived from the imposition of that property tax rate made by any county auditor-controller prior to July 1, 2014, to be deemed correct, and would prohibit any city, county, county auditor-controller, successor agency, or affected taxing entity from being subject to any claim, as specified. This bill would require, to the extent that revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the general property tax rate, are deposited into a Redevelopment Property Tax Trust Fund, the county-auditor controller to allocate moneys from each Redevelopment Property Tax Trust Fund to a city or county that levies a property tax as so described after certain other allocations have been made.

By adding to the duties of local government officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The California Constitution limits property-based tax levies, with exceptions to these limits only when a local jurisdiction obtains the approval of its voting electorate to use additional property-based tax levies for specific purposes approved by the voting electorate, in accordance with applicable constitutional and statutory provisions.

(2) With the enactment of Chapter 5 of the 2011–12 First Extraordinary Session (Assembly Bill 26), the Legislature intended that, upon dissolution of redevelopment agencies in the State of California, property taxes that would have been allocated to redevelopment agencies are no longer deemed tax increment.

(3) It is the intent of the Legislature in enacting this act to do all of the following:

(A) If a redevelopment agency had previously pledged revenues derived from the imposition of a property tax rate, approved by the voters of a city, county, or city and county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, to pay a portion of the debt service due on indebtedness incurred by the former redevelopment agency on an approved recognized obligation payment schedule, then the successor agency shall continue to pledge those revenues, in a commensurate rate going forward. For example, if revenues derived from a pension tax rate approved by the voters of a city, county, or city and county were pledged to pay up to 25 percent of the annual debt service for the indebtedness approved in a recognized obligation payment schedule, the successor agency shall continue to pay up to 25 percent of the annual debt service on the indebtedness until maturity. Any and all excess pledged revenues derived from the pension property tax rate that are not necessary to pay the debt service on the indebtedness shall be allocated and paid to the city, county, or city and county whose voters approved the pension property tax rate.

(B) Ensure that the use of revenues derived from the imposition of a property tax rate approved by the voters of a city, county, or city and county, to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, is consistent with the use approved by the voters of a city, county, or city and county, once revenues from such property tax rates are not needed to pay approved indebtedness of a former redevelopment agency.

(C) Implement the allocation and distribution of voter-approved, property-based tax revenues for pension programs under the redevelopment dissolution process in a manner that would have been consistent with the allocation and distribution of those

revenues had redevelopment agencies not been dissolved, in accordance with applicable constitutional provisions.

(4) Further, it is the intent of the Legislature that this act not affect any property tax allocations that occurred prior to July 1, 2014.

SEC. 2. Section 34183 of the Health and Safety Code is amended to read:

34183. (a) Notwithstanding any other law, from February 1, 2012, to July 1, 2012, and for each fiscal year thereafter, the county auditor-controller shall, after deducting administrative costs allowed under Section 34182 and Section 95.3 of the Revenue and Taxation Code, allocate moneys in each Redevelopment Property Tax Trust Fund as follows:

(1) Subject to any prior deductions required by subdivision (b), first, the county auditor-controller shall remit from the Redevelopment Property Tax Trust Fund to each local agency and school entity an amount of property tax revenues in an amount equal to that which would have been received under Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections read on January 1, 2011, or pursuant to any passthrough agreement between a redevelopment agency and a taxing entity that was entered into prior to January 1, 1994, that would be in force during that fiscal year, had the redevelopment agency existed at that time. The amount of the payments made pursuant to this paragraph shall be calculated solely on the basis of passthrough payment obligations, existing prior to the effective date of this part and continuing as obligations of successor entities, shall occur no later than May 16, 2012, and no later than June 1, 2012, and each January 2 and June 1 thereafter. Notwithstanding subdivision (e) of Section 33670, that portion of the taxes in excess of the amount identified in subdivision (a) of Section 33670, which are attributable to a tax rate levied by a taxing entity 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 entity. The amount of passthrough payments computed pursuant to this section, including any passthrough agreements, shall be computed as though the requirement to set

aside funds for the Low and Moderate Income Housing Fund was still in effect.

(2) Second, on June 1, 2012, and each January 2 and June 1 thereafter, to each successor agency for payments listed in its Recognized Obligation Payment Schedule for the six-month fiscal period beginning January 1, 2012, and July 1, 2012, and each January 2 and June 1 thereafter, in the following order of priority:

(A) Debt service payments scheduled to be made for tax allocation bonds.

(B) Payments scheduled to be made on revenue bonds, but only to the extent the revenues pledged for them are insufficient to make the payments and only if the agency's tax increment revenues were also pledged for the repayment of the bonds.

(C) Payments scheduled for other debts and obligations listed in the Recognized Obligation Payment Schedule that are required to be paid from former tax increment revenue.

(3) Third, on June 1, 2012, and each January 2 and June 1 thereafter, to each successor agency for the administrative cost allowance, as defined in Section 34171, for administrative costs set forth in an approved administrative budget for those payments required to be paid from former tax increment revenues.

(4) (A) Fourth, on January 2, 2015, and each January 2 and June 1 thereafter, to a city or county that levies a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, an amount of property tax revenues equal to the amount of revenues derived from the imposition of that tax rate that were allocated to the Redevelopment Property Tax Trust Fund for that fiscal period.

(B) This paragraph shall not apply to the extent that revenues derived from the imposition of a property tax rate described in subparagraph (A) are not deposited into a Redevelopment Property Tax Trust Fund as provided by subdivision (f).

(5) Fifth, on June 1, 2012, and each January 2 and June 1 thereafter, any moneys remaining in the Redevelopment Property Tax Trust Fund after the payments and transfers authorized by paragraphs (1) to (4), inclusive, shall be distributed to local agencies and school entities in accordance with Section 34188.

(b) If the successor agency reports, no later than April 1, 2012, and May 1, 2012, and each December 1 and May 1 thereafter, to the county auditor-controller that the total amount available to the successor agency from the Redevelopment Property Tax Trust Fund allocation to that successor agency's Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, are insufficient to fund the payments required by paragraphs (1) to (3), inclusive, of subdivision (a) in the next six-month fiscal period, the county auditor-controller shall notify the Controller and the Department of Finance no later than 10 days from the date of that notification. The county auditor-controller shall verify whether the successor agency will have sufficient funds from which to service debts according to the Recognized Obligation Payment Schedule and shall report the findings to the Controller. If the Controller concurs that there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the amount remaining to be distributed to taxing entities pursuant to paragraphs (4) and (5) of subdivision (a), and if that amount is exhausted, from amounts available for distribution for administrative costs in paragraph (3) of subdivision (a). If an agency, pursuant to the provisions of Section 33492.15, 33492.72, 33607.5, 33671.5, 33681.15, or 33688 or as expressly provided in a passthrough agreement entered into pursuant to Section 33401, made passthrough payment obligations subordinate to debt service payments required for enforceable obligations, funds for servicing bond debt may be deducted from the amounts for passthrough payments under paragraph (1) of subdivision (a), as provided in those sections, but only to the extent that the amounts remaining to be distributed to taxing entities pursuant to paragraphs (4) and (5) of subdivision (a) and the amounts available for distribution for administrative costs in paragraph (3) of subdivision (a) have all been exhausted.

(c) The county treasurer may loan any funds from the county treasury to the Redevelopment Property Tax Trust Fund of the successor agency for the purpose of paying an item approved on the Recognized Obligation Payment Schedule at the request of the Department of Finance that are necessary to ensure prompt

payments of redevelopment agency debts. An enforceable obligation is created for repayment of those loans.

(d) The Controller may recover the costs of audit and oversight required under this part from the Redevelopment Property Tax Trust Fund by presenting an invoice therefor to the county auditor-controller who shall set aside sufficient funds for and disburse the claimed amounts prior to making the next distributions to the taxing entities pursuant to Section 34188. Subject to the approval of the Director of Finance, the budget of the Controller may be augmented to reflect the reimbursement, pursuant to Section 28.00 of the Budget Act.

(e) Within 10 days of each distribution of property tax, the county auditor-controller shall provide a report to the department regarding the distribution for each successor agency that includes information on the total available for allocation, the passthrough amounts and how they were calculated, the amounts distributed to successor agencies, and the amounts distributed to taxing entities in a manner and form specified by the department. This reporting requirement shall also apply to distributions required under subdivision (b) of Section 34183.5.

(f) (1) A city or county that levies a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, may make a request to an oversight board to prohibit revenues derived from the imposition of that property tax rate from being deposited into a Redevelopment Property Tax Trust Fund.

(2) Based on substantial evidence that a former redevelopment agency made a pledge of revenues that specifically included revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, an oversight board may deny a request made pursuant to paragraph (1) in an amount not to exceed the amount of revenues pledged by the former redevelopment agency.

(3) Notwithstanding any other law, for the 2014–15 fiscal year and each fiscal year thereafter, except to the extent an oversight

board denies a request as provided by paragraph (2), any revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, shall not be allocated to a Redevelopment Property Tax Trust Fund and shall instead be allocated to, and when collected shall be paid into, the fund of the city or county whose voters approved the tax.

(4) Notwithstanding any other law, all allocations of revenues derived from the imposition of a property tax rate, approved by the voters of a city or county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, made by any county auditor-controller prior to July 1, 2014, shall be deemed correct and shall not be affected by this act. A city, county, county auditor-controller, successor agency, or affected taxing entity shall not be subject to any claim for money, damages, or reallocated revenues based on any allocation of such revenues prior to July 1, 2014.

SEC. 3. (a) No inference shall be drawn from the enactment of this act with respect to the use, distribution, or allocation of revenues derived from the imposition of a property tax rate, approved by the voters of a city, county, or city and county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, made by any county auditor-controller prior to July 1, 2014.

(b) The Legislature is aware of *City of San Jose, etc. v. Sharma et al.*, Court of Appeal Case No. C074539, which is pending litigation. It is the express intent of the Legislature that no party in that pending litigation be in any way prejudiced by the passage of this act. Therefore, the provisions of this act, except the addition of paragraph (4) to subdivision (a) of Section 34183 of the Health and Safety Code, shall not apply to the City of San Jose Successor Agency. Furthermore, this act shall not be indicative of any legislative intent concerning any issues before the courts in that litigation, and no provision of this act shall be relied upon in any way regarding the issues pending before the courts in that litigation.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid underfunded pension programs as a result of revenues derived from the imposition of a property tax rate, approved by the voters of a city, county, or city and county to make payments in support of pension programs and levied in addition to the property tax rate limited by subdivision (a) of Section 1 of Article XIII A of the California Constitution, being allocated first to successor agencies to make payments on the indebtedness incurred by the dissolved redevelopment agencies, with remaining balances being allocated in accordance with applicable constitutional and statutory provisions, instead of being paid entirely into the fund of the city, county, or city and county whose voters approved the tax, it is necessary that this act take effect immediately.

Approved _____, 2014

Governor