

Introduced by Senators Torres and Lara

February 21, 2014

An act to amend Section 34171 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1393, as introduced, Torres. Local government: community redevelopment: successor agencies to redevelopment agencies.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies as of February 1, 2012, and provides for the designation successor agencies to act as successor entities to the dissolved redevelopment agencies. Existing law defines various terms for these purposes.

This bill would make technical, nonsubstantive changes to the provision of law setting forth those definitions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

- 1 SECTION 1. Section 34171 of the Health and Safety Code is
- 2 amended to read:
- 3 34171. The following terms shall have the following meanings:
- 4 (a) "Administrative budget" means the budget for administrative
- 5 costs of the successor agencies as provided in Section 34177.
- 6 (b) "Administrative cost allowance" means an amount that,
- 7 subject to the approval of the oversight board, is payable from
- 8 property tax revenues of up to 5 percent of the property tax

1 allocated to the successor agency on the Recognized Obligation
2 Payment Schedule covering the period January 1, 2012, through
3 June 30, 2012, and up to 3 percent of the property tax allocated to
4 the Redevelopment Obligation Retirement Fund money that is
5 allocated to the successor agency for each fiscal year thereafter;
6 provided, however, that the amount shall not be less than two
7 hundred fifty thousand dollars (\$250,000), unless the oversight
8 board reduces this amount, for any fiscal year or ~~such a~~ lesser
9 amount as agreed to by the successor agency. However, the
10 allowance amount shall exclude, and shall not apply to, any
11 administrative costs that can be paid from bond proceeds or from
12 sources other than property tax. Administrative cost allowances
13 shall exclude any litigation expenses related to assets or obligations,
14 settlements and judgments, and the costs of maintaining assets
15 prior to disposition. Employee costs associated with work on
16 specific project implementation activities, including, but not limited
17 to, construction inspection, project management, or actual
18 construction, shall be considered project-specific costs and shall
19 not constitute administrative costs.

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

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

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

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

38 (C) Payments required by the federal government, preexisting
39 obligations to the state or obligations imposed by state law, other
40 than passthrough payments that are made by the county

1 auditor-controller pursuant to Section 34183, or legally enforceable
2 payments required in connection with the agencies' employees,
3 including, but not limited to, pension payments, pension obligation
4 debt service, unemployment payments, or other obligations
5 conferred through a collective bargaining agreement. Costs incurred
6 to fulfill collective bargaining agreements for layoffs or
7 terminations of city employees who performed work directly on
8 behalf of the former redevelopment agency shall be considered
9 enforceable obligations payable from property tax funds. The
10 obligations to employees specified in this subparagraph shall
11 remain enforceable obligations payable from property tax funds
12 for any employee to whom those obligations apply if that employee
13 is transferred to the entity assuming the housing functions of the
14 former redevelopment agency pursuant to Section 34176. The
15 successor agency or designated local authority shall enter into an
16 agreement with the housing entity to reimburse it for any costs of
17 the employee obligations.

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

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

34 (F) Contracts or agreements necessary for the administration or
35 operation of the successor agency, in accordance with this part,
36 including, but not limited to, agreements concerning litigation
37 expenses related to assets or obligations, settlements and
38 judgements, and the costs of maintaining assets prior to disposition,
39 and agreements to purchase or rent office space, equipment and

1 supplies, and pay-related expenses pursuant to Section 33127 and
2 for carrying insurance pursuant to Section 33134.

3 (G) Amounts borrowed from, or payments owing to, the Low
4 and Moderate Income Housing Fund of a redevelopment agency,
5 which had been deferred as of the effective date of the act adding
6 this part; provided, however, that the repayment schedule is
7 approved by the oversight board. Repayments shall be transferred
8 to the Low and Moderate Income Housing Asset Fund established
9 pursuant to subdivision (d) of Section 34176 as a housing asset
10 and shall be used in a manner consistent with the affordable
11 housing requirements of the Community Redevelopment Law (Part
12 1 (commencing with Section 33000)).

13 (2) For purposes of this part, “enforceable obligation” does not
14 include any agreements, contracts, or arrangements between the
15 city, county, or city and county that created the redevelopment
16 agency and the former redevelopment agency. However, written
17 agreements entered into (A) at the time of issuance, but in no event
18 later than December 31, 2010, of indebtedness obligations, and
19 (B) solely for the purpose of securing or repaying those
20 indebtedness obligations may be deemed enforceable obligations
21 for purposes of this part. Notwithstanding this paragraph, loan
22 agreements entered into between the redevelopment agency and
23 the city, county, or city and county that created it, within two years
24 of the date of creation of the redevelopment agency, may be
25 deemed to be enforceable obligations.

26 (3) Contracts or agreements between the former redevelopment
27 agency and other public agencies, to perform services or provide
28 funding for governmental or private services or capital projects
29 outside of redevelopment project areas that do not provide benefit
30 to the redevelopment project and thus were not properly authorized
31 under Part 1 (commencing with Section 33000) shall be deemed
32 void on the effective date of this part; provided, however, that ~~such~~
33 *the* contracts or agreements for the provision of housing properly
34 authorized under Part 1 (commencing with Section 33000) shall
35 not be deemed void.

36 (e) “Indebtedness obligations” means bonds, notes, certificates
37 of participation, or other evidence of indebtedness, issued or
38 delivered by the redevelopment agency, or by a joint exercise of
39 powers authority created by the redevelopment agency, to
40 third-party investors or bondholders to finance or refinance

1 redevelopment projects undertaken by the redevelopment agency
2 in compliance with the Community Redevelopment Law (Part 1
3 (commencing with Section 33000)).

4 (f) “Oversight board” ~~shall mean~~ *means* each entity established
5 pursuant to Section 34179.

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

8 (h) “Recognized Obligation Payment Schedule” means the
9 document setting forth the minimum payment amounts and due
10 dates of payments required by enforceable obligations for each
11 six-month fiscal period as provided in subdivision (m) of Section
12 34177.

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

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

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

22 (l) “Property taxes” ~~include~~ *means* all property tax revenues,
23 including those from unitary and supplemental and roll corrections
24 applicable to tax increment.

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

27 (n) “Sponsoring entity” means the city, county, or city and
28 county, or other entity that authorized the creation of each
29 redevelopment agency.

30 (o) “Final judicial determination” means a final judicial
31 determination made by any state court that is not appealed, or by
32 a court of appellate jurisdiction that is not further appealed, in an
33 action by any party.