

ASSEMBLY BILL

No. 368

Introduced by Assembly Member Steinorth

February 17, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 368, as introduced, Steinorth. Community redevelopment.

Existing law relating to redevelopment agencies provides for specified payments with respect to development project areas.

This bill would make nonsubstantive changes to those provisions.

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 33607.5 of the Health and Safety Code
2 is amended to read:
3 33607.5. (a) (1) This section shall apply to each
4 redevelopment project area that, pursuant to a redevelopment plan
5 ~~which~~ *that* contains the provisions required by Section 33670, is
6 either: (A) adopted on or after January 1, 1994, including later
7 amendments to these redevelopment plans; or (B) adopted prior
8 to January 1, 1994, but amended, after January 1, 1994, to include
9 new territory. For plans amended after January 1, 1994, only the
10 tax increments from territory added by the amendment shall be
11 subject to this section. All the amounts calculated pursuant to this
12 section shall be calculated after the amount required to be deposited

1 in the Low and Moderate Income Housing Fund pursuant to
2 Sections 33334.2, 33334.3, and 33334.6 has been deducted from
3 the total amount of tax increment funds received by the agency in
4 the applicable fiscal year.

5 (2) The payments made pursuant to this section shall be in
6 addition to any amounts the affected taxing entities receive
7 pursuant to subdivision (a) of Section 33670. The payments made
8 pursuant to this section to the affected taxing entities, including
9 the community, shall be allocated among the affected taxing
10 entities, including the community if the community elects to receive
11 payments, in proportion to the percentage share of property taxes
12 each affected taxing entity, including the community, receives
13 during the fiscal year the funds are allocated, which percentage
14 share shall be determined without regard to any amounts allocated
15 to a city, a city and county, or a county pursuant to Sections 97.68
16 and 97.70 of the Revenue and Taxation Code, and without regard
17 to any allocation reductions to a city, a city and county, a county,
18 a special district, or a redevelopment agency pursuant to Sections
19 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and
20 Section 33681.12. The agency shall reduce its payments pursuant
21 to this section to an affected taxing entity by any amount the agency
22 has paid, directly or indirectly, pursuant to Section 33445, 33445.5,
23 33445.6, 33446, or any other provision of law other than this
24 section for, or in connection with, a public facility owned or leased
25 by that affected taxing agency, except: (A) any amounts the
26 agency has paid directly or indirectly pursuant to an agreement
27 with a taxing entity adopted prior to January 1, 1994; or (B) any
28 amounts that are unrelated to the specific project area or
29 amendment governed by this section. The reduction in a payment
30 by an agency to a school district, community college district, or
31 county office of education, or for special education, shall be
32 subtracted only from the amount that otherwise would be available
33 for use by those entities for educational facilities pursuant to
34 paragraph (4). If the amount of the reduction exceeds the amount
35 that otherwise would have been available for use for educational
36 facilities in any one year, the agency shall reduce its payment in
37 more than one year.

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

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

3 (B) Determine the amount of the total payment without the
4 reduction ~~which~~ *that*: (i) would have been considered property
5 taxes; and (ii) would have been available to be used for educational
6 facilities pursuant to paragraph (4).

7 (C) Reduce the amount available to be used for educational
8 facilities.

9 (D) Send the payment to the school district, community college
10 district, or county office of education, or for special education,
11 with a statement that the payment is being reduced and including
12 the calculation required by this subdivision showing the amount
13 to be considered property taxes and the amount, if any, available
14 for educational facilities.

15 (4) (A) Except as specified in subparagraph (E), of the total
16 amount paid each year pursuant to this section to school districts,
17 43.3 percent shall be considered to be property taxes for the
18 purposes of paragraph (1) of subdivision (h) of Section 42238 of
19 the Education Code, as it read on January 1, 2013, and paragraph
20 (1) of subdivision (j) of Section 42238.02 of the Education Code,
21 and 56.7 percent shall not be considered to be property taxes for
22 the purposes of that section and shall be available to be used for
23 educational facilities, including, in the case of amounts paid during
24 the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive,
25 land acquisition, facility construction, reconstruction, remodeling,
26 maintenance, or deferred maintenance.

27 (B) Except as specified in subparagraph (E), of the total amount
28 paid each year pursuant to this section to community college
29 districts, 47.5 percent shall be considered to be property taxes for
30 the purposes of Section 84751 of the Education Code, and 52.5
31 percent shall not be considered to be property taxes for the purposes
32 of that section and shall be available to be used for educational
33 facilities, including, in the case of amounts paid during the 2011–12
34 fiscal year through the 2015–16 fiscal year, inclusive, land
35 acquisition, facility construction, reconstruction, remodeling,
36 maintenance, or deferred maintenance.

37 (C) Except as specified in subparagraph (E), of the total amount
38 paid each year pursuant to this section to county offices of
39 education, 19 percent shall be considered to be property taxes for
40 the purposes of Section 2558 of the Education Code, as it read on

1 January 1, 2013, and Section 2575 of the Education Code, and 81
2 percent shall not be considered to be property taxes for the purposes
3 of that section and shall be available to be used for educational
4 facilities, including, in the case of amounts paid during the 2011–12
5 fiscal year through the 2015–16 fiscal year, inclusive, land
6 acquisition, facility construction, reconstruction, remodeling,
7 maintenance, or deferred maintenance.

8 (D) Except as specified in subparagraph (E), of the total amount
9 paid each year pursuant to this section for special education, 19
10 percent shall be considered to be property taxes for the purposes
11 of Section 56712 of the Education Code, and 81 percent shall not
12 be considered to be property taxes for the purposes of that section
13 and shall be available to be used for education facilities, including,
14 in the case of amounts paid during the 2011–12 fiscal year through
15 the 2015–16 fiscal year, inclusive, land acquisition, facility
16 construction, reconstruction, remodeling, maintenance, or deferred
17 maintenance.

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

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

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

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

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

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

35 (2) At the time the agency requests an affected taxing entity to
36 subordinate the amount to be paid to it, the agency shall provide
37 the affected taxing entity with substantial evidence that sufficient
38 funds will be available to pay both the debt service and the
39 payments required by this section, when due.

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

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

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

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

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

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