

ASSEMBLY BILL

No. 1009

Introduced by Assembly Member Cristina Garcia

February 26, 2015

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 1009, as introduced, Cristina 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 2015–16 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, 2015, 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.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

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

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

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

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

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

36 (B) Ensure that the use of revenues derived from the imposition
37 of a property tax rate approved by the voters of a city, county, or
38 city and county, to make payments in support of pension programs

1 and levied in addition to the property tax rate limited by subdivision
2 (a) of Section 1 of Article XIII A of the California Constitution,
3 is consistent with the use approved by the voters of a city, county,
4 or city and county, once revenues from such property tax rates are
5 not needed to pay approved indebtedness of a former
6 redevelopment agency.

7 (C) Implement the allocation and distribution of voter-approved,
8 property-based tax revenues for pension programs under the
9 redevelopment dissolution process in a manner that would have
10 been consistent with the allocation and distribution of those
11 revenues had redevelopment agencies not been dissolved, in
12 accordance with applicable constitutional provisions.

13 (4) Further, it is the intent of the Legislature that this act not
14 affect any property tax allocations that occurred prior to July 1,
15 2015.

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

18 34183. (a) Notwithstanding any other law, from February 1,
19 2012, to July 1, 2012, and for each fiscal year thereafter, the county
20 auditor-controller shall, after deducting administrative costs
21 allowed under Section 34182 and Section 95.3 of the Revenue and
22 Taxation Code, allocate moneys in each Redevelopment Property
23 Tax Trust Fund as follows:

24 (1) Subject to any prior deductions required by subdivision (b),
25 first, the county auditor-controller shall remit from the
26 Redevelopment Property Tax Trust Fund to each local agency and
27 school entity an amount of property tax revenues in an amount
28 equal to that which would have been received under Section 33401,
29 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections
30 read on January 1, 2011, or pursuant to any passthrough agreement
31 between a redevelopment agency and a taxing entity that was
32 entered into prior to January 1, 1994, that would be in force during
33 that fiscal year, had the redevelopment agency existed at that time.
34 The amount of the payments made pursuant to this paragraph shall
35 be calculated solely on the basis of passthrough payment
36 obligations, existing prior to the effective date of this part and
37 continuing as obligations of successor entities, shall occur no later
38 than May 16, 2012, and no later than June 1, 2012, and each
39 January 2 and June 1 thereafter. Notwithstanding subdivision (e)
40 of Section 33670, that portion of the taxes in excess of the amount

1 identified in subdivision (a) of Section 33670, which are
2 attributable to a tax rate levied by a taxing entity for the purpose
3 of producing revenues in an amount sufficient to make annual
4 repayments of the principal of, and the interest on, any bonded
5 indebtedness for the acquisition or improvement of real property
6 shall be allocated to, and when collected shall be paid into, the
7 fund of that taxing entity. The amount of passthrough payments
8 computed pursuant to this section, including any passthrough
9 agreements, shall be computed as though the requirement to set
10 aside funds for the Low and Moderate Income Housing Fund was
11 still in effect.

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

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

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

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

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

31 (4) (A) *Fourth, on January 2, 2016, and each January 2 and*
32 *June 1 thereafter, to a city or county that levies a property tax*
33 *rate, approved by the voters of a city or county to make payments*
34 *in support of pension programs and levied in addition to the*
35 *property tax rate limited by subdivision (a) of Section 1 of Article*
36 *XIII A of the California Constitution, an amount of property tax*
37 *revenues equal to the amount of revenues derived from the*
38 *imposition of that tax rate that were allocated to the Redevelopment*
39 *Property Tax Trust Fund for that fiscal period.*

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

5 ~~(4) Fourth~~

6 (5) Fifth, on June 1, 2012, and each January 2 and June 1
 7 thereafter, any moneys remaining in the Redevelopment Property
 8 Tax Trust Fund after the payments and transfers authorized by
 9 paragraphs (1) to ~~(3)~~, (4), inclusive, shall be distributed to local
 10 agencies and school entities in accordance with Section 34188.

11 (b) If the successor agency reports, no later than April 1, 2012,
 12 and May 1, 2012, and each December 1 and May 1 thereafter, to
 13 the county auditor-controller that the total amount available to the
 14 successor agency from the Redevelopment Property Tax Trust
 15 Fund allocation to that successor agency's Redevelopment
 16 Obligation Retirement Fund, from other funds transferred from
 17 each redevelopment agency, and from funds that have or will
 18 become available through asset sales and all redevelopment
 19 operations, are insufficient to fund the payments required by
 20 paragraphs (1) to (3), inclusive, of subdivision (a) in the next
 21 six-month fiscal period, the county auditor-controller shall notify
 22 the Controller and the Department of Finance no later than 10 days
 23 from the date of that notification. The county auditor-controller
 24 shall verify whether the successor agency will have sufficient funds
 25 from which to service debts according to the Recognized
 26 Obligation Payment Schedule and shall report the findings to the
 27 Controller. If the Controller concurs that there are insufficient
 28 funds to pay required debt service, the amount of the deficiency
 29 shall be deducted first from the amount remaining to be distributed
 30 to taxing entities pursuant to ~~paragraph (4)~~, paragraphs (4) and
 31 (5) of subdivision (a), and if that amount is exhausted, from
 32 amounts available for distribution for administrative costs in
 33 paragraph ~~(3)~~, (3) of subdivision (a). If an agency, pursuant to the
 34 provisions of Section 33492.15, 33492.72, 33607.5, 33671.5,
 35 33681.15, or 33688 or as expressly provided in a passthrough
 36 agreement entered into pursuant to Section 33401, made
 37 passthrough payment obligations subordinate to debt service
 38 payments required for enforceable obligations, funds for servicing
 39 bond debt may be deducted from the amounts for passthrough
 40 payments under paragraph ~~(1)~~, (1) of subdivision (a), as provided

1 in those sections, but only to the extent that the amounts remaining
2 to be distributed to taxing entities pursuant to ~~paragraph~~
3 *paragraphs (4) and (5) of subdivision (a)* and the amounts available
4 for distribution for administrative costs in paragraph (3) of
5 *subdivision (a)* have all been exhausted.

6 (c) The county treasurer may loan any funds from the county
7 treasury to the Redevelopment Property Tax Trust Fund of the
8 successor agency for the purpose of paying an item approved on
9 the Recognized Obligation Payment Schedule at the request of the
10 Department of Finance that are necessary to ensure prompt
11 payments of redevelopment agency debts. An enforceable
12 obligation is created for repayment of those loans.

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

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

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

39 (2) *Based on substantial evidence that a former redevelopment*
40 *agency made a pledge of revenues that specifically included*

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

8 (3) Notwithstanding any other law, for the 2015–16 fiscal year
9 and each fiscal year thereafter, except to the extent an oversight
10 board denies a request as provided by paragraph (2), any revenues
11 derived from the imposition of a property tax rate, approved by
12 the voters of a city or county to make payments in support of
13 pension programs and levied in addition to the property tax rate
14 limited by subdivision (a) of Section 1 of Article XIII A of the
15 California Constitution, shall not be allocated to a Redevelopment
16 Property Tax Trust Fund and shall instead be allocated to, and
17 when collected shall be paid into, the fund of the city or county
18 whose voters approved the tax.

19 (4) Notwithstanding any other law, all allocations of revenues
20 derived from the imposition of a property tax rate, approved by
21 the voters of a city or county to make payments in support of
22 pension programs and levied in addition to the property tax rate
23 limited by subdivision (a) of Section 1 of Article XIII A of the
24 California Constitution, made by any county auditor-controller
25 prior to July 1, 2015, shall be deemed correct and shall not be
26 affected by this act. A city, county, county auditor-controller,
27 successor agency, or affected taxing entity shall not be subject to
28 any claim for money, damages, or reallocated revenues based on
29 any allocation of such revenues prior to July 1, 2014.

30 SEC. 3. (a) No inference shall be drawn from the enactment
31 of this act with respect to the use, distribution, or allocation of
32 revenues derived from the imposition of a property tax rate,
33 approved by the voters of a city, county, or city and county to make
34 payments in support of pension programs and levied in addition
35 to the property tax rate limited by subdivision (a) of Section 1 of
36 Article XIII A of the California Constitution, made by any county
37 auditor-controller prior to July 1, 2015.

38 (b) The Legislature is aware of *City of San Jose, etc. v. Sharma*
39 *et al.*, Court of Appeal Case No. C074539, which is pending
40 litigation. It is the express intent of the Legislature that no party

1 in that pending litigation be in any way prejudiced by the passage
2 of this act. Therefore, the provisions of this act, except the addition
3 of paragraph (4) to subdivision (a) of Section 34183 of the Health
4 and Safety Code, shall not apply to the City of San Jose Successor
5 Agency. Furthermore, this act shall not be indicative of any
6 legislative intent concerning any issues before the courts in that
7 litigation, and no provision of this act shall be relied upon in any
8 way regarding the issues pending before the courts in that litigation.

9 SEC. 4. If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.

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

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