

**ASSEMBLY BILL**

**No. 2514**

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**Introduced by Assembly Member Brown**

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2514, as introduced, Brown. Local government: redevelopment: successor agencies to redevelopment agencies: enforceable obligations.

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 defines the term “enforceable obligation” for these purposes to mean, among other things, preexisting obligations to the state or obligations imposed by state law, other than specified passthrough payments that are made by the county auditor-controller.

This bill would expressly include federal base reuse obligations for the former Norton Air Force Base pursuant to specified agreements as a preexisting obligation to the state or obligation imposed by state law.

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 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) (1) “Administrative cost allowance” means the maximum  
7 amount of administrative costs that may be paid by a successor  
8 agency from the Redevelopment Property Tax Trust Fund in a  
9 fiscal year.

10 (2) The administrative cost allowance shall be 5 percent of the  
11 property tax allocated to the successor agency on the Recognized  
12 Obligation Payment Schedule covering the period January 1, 2012,  
13 through June 30, 2012. The administrative cost allowance shall be  
14 up to 3 percent of the property tax allocated to the Redevelopment  
15 Obligation Retirement Fund for each fiscal year thereafter ending  
16 on June 30, 2016. However, the administrative cost allowance  
17 shall not be less than two hundred fifty thousand dollars (\$250,000)  
18 in any fiscal year, unless this amount is reduced by the oversight  
19 board or by agreement with the successor agency.

20 (3) Commencing July 1, 2016, and for each fiscal year thereafter,  
21 the administrative cost allowance shall be up to 3 percent of the  
22 actual property tax distributed to the successor agency by the  
23 county auditor-controller in the preceding fiscal year for payment  
24 of approved enforceable obligations, reduced by the successor  
25 agency’s administrative cost allowance and loan repayments made  
26 to the city, county, or city and county that created the  
27 redevelopment agency that it succeeded pursuant to subdivision  
28 (b) of Section 34191.4 during the preceding fiscal year. However,  
29 the administrative cost allowance shall not be less than two hundred  
30 fifty thousand dollars (\$250,000) in any fiscal year, unless this  
31 amount is reduced by the oversight board or by agreement between  
32 the successor agency and the department.

33 (4) Notwithstanding paragraph (3), commencing July 1, 2016,  
34 a successor agency’s annual administrative costs shall not exceed  
35 50 percent of the total Redevelopment Property Tax Trust Fund  
36 distributed to pay enforceable obligations in the preceding fiscal  
37 year, which latter amount shall be reduced by the successor  
38 agency’s administrative cost allowance and loan repayments made

1 to the city, county, or city and county that created the  
2 redevelopment agency that it succeeded pursuant to subdivision  
3 (b) of Section 34191.4 during the preceding fiscal year. This  
4 limitation applies to administrative costs whether paid within the  
5 administrative cost allowance or not, but does not apply to  
6 administrative costs paid from bond proceeds or grant funds, or,  
7 in the case of a successor agency that is a designated local  
8 authority, from sources other than property tax.

9 (5) The administrative cost allowance shall be approved by the  
10 oversight board and shall be the sole funding source for any legal  
11 expenses related to civil actions brought by the successor agency  
12 or the city, county, or city and county that created the former  
13 redevelopment agency, including writ proceedings, contesting the  
14 validity of this part or Part 1.8 (commencing with Section 34161)  
15 or challenging acts taken pursuant to these parts. Employee costs  
16 associated with work on specific project implementation activities,  
17 including, but not limited to, construction inspection, project  
18 management, or actual construction, shall be considered  
19 project-specific costs and shall 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,  
40 *specifically including, but not limited to, federal base reuse*

1 obligations for the former Norton Air Force Base as confirmed by  
2 the 1990 Joint Powers Agreement providing for member  
3 contributions and by the 1990 cooperation agreement pass with  
4 a state water contractor; other than passthrough payments that are  
5 made by the county auditor-controller pursuant to Section 34183,  
6 or legally enforceable payments required in connection with the  
7 agencies' employees, including, but not limited to, pension  
8 payments, pension obligation debt service, unemployment  
9 payments, or other obligations conferred through a collective  
10 bargaining agreement. Costs incurred to fulfill collective bargaining  
11 agreements for layoffs or terminations of city employees who  
12 performed work directly on behalf of the former redevelopment  
13 agency shall be considered enforceable obligations payable from  
14 property tax funds. The obligations to employees specified in this  
15 subparagraph shall remain enforceable obligations payable from  
16 property tax funds for any employee to whom those obligations  
17 apply if that employee is transferred to the entity assuming the  
18 housing functions of the former redevelopment agency pursuant  
19 to Section 34176. The successor agency or designated local  
20 authority shall enter into an agreement with the housing entity to  
21 reimburse it for any costs of the employee obligations.

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

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

38 (F) (i) Contracts or agreements necessary for the administration  
39 or operation of the successor agency, in accordance with this part,  
40 including, but not limited to, agreements concerning litigation

1 expenses related to assets or obligations, settlements and  
2 judgments, and the costs of maintaining assets prior to disposition,  
3 and agreements to purchase or rent office space, equipment and  
4 supplies, and pay-related expenses pursuant to Section 33127 and  
5 for carrying insurance pursuant to Section 33134. Beginning  
6 January 1, 2016, any legal expenses related to civil actions,  
7 including writ proceedings, contesting the validity of this part or  
8 Part 1.8 (commencing with Section 34161) or challenging acts  
9 taken pursuant to these parts shall only be payable out of the  
10 administrative cost allowance.

11 (ii) A sponsoring entity may provide funds to a successor agency  
12 for payment of legal expenses related to civil actions initiated by  
13 the successor agency, including writ proceedings, contesting the  
14 validity of this part or Part 1.8 (commencing with Section 34161)  
15 or challenging acts taken pursuant to these parts. If the successor  
16 agency obtains a final judicial determination granting the relief  
17 requested in the action, the funds provided by the sponsoring entity  
18 for legal expenses related to successful causes of action pled by  
19 the successor agency shall be deemed an enforceable obligation  
20 for repayment under the terms set forth in subdivision (h) of  
21 Section 34173. If the successor agency does not receive a final  
22 judicial determination granting the relief requested, the funds  
23 provided by the sponsoring entity shall be considered a grant by  
24 the sponsoring entity and shall not qualify for repayment as an  
25 enforceable obligation.

26 (G) Amounts borrowed from, or payments owing to, the Low  
27 and Moderate Income Housing Fund of a redevelopment agency,  
28 which had been deferred as of the effective date of the act adding  
29 this part; provided, however, that the repayment schedule is  
30 approved by the oversight board. Repayments shall be transferred  
31 to the Low and Moderate Income Housing Asset Fund established  
32 pursuant to subdivision (d) of Section 34176 as a housing asset  
33 and shall be used in a manner consistent with the affordable  
34 housing requirements of the Community Redevelopment Law (Part  
35 1 (commencing with Section 33000)).

36 (2) For purposes of this part, “enforceable obligation” does not  
37 include any agreements, contracts, or arrangements between the  
38 city, county, or city and county that created the redevelopment  
39 agency and the former redevelopment agency. However, written  
40 agreements entered into (A) at the time of issuance, but in no event

1 later than December 31, 2010, of indebtedness obligations, and  
2 (B) solely for the purpose of securing or repaying those  
3 indebtedness obligations may be deemed enforceable obligations  
4 for purposes of this part. Additionally, written agreements entered  
5 into (A) at the time of issuance, but in no event later than June 27,  
6 2011, of indebtedness obligations solely for the refunding or  
7 refinancing of other indebtedness obligations that existed prior to  
8 January 1, 2011, and (B) solely for the purpose of securing or  
9 repaying the refunded or refinanced indebtedness obligations may  
10 be deemed enforceable obligations for purposes of this part.  
11 Notwithstanding this paragraph, loan agreements entered into  
12 between the redevelopment agency and the city, county, or city  
13 and county that created it, within two years of the date of creation  
14 of the redevelopment agency, may be deemed to be enforceable  
15 obligations. Notwithstanding this paragraph, an agreement entered  
16 into by the redevelopment agency prior to June 28, 2011, is an  
17 enforceable obligation if the agreement relates to state highway  
18 infrastructure improvements to which the redevelopment agency  
19 committed funds pursuant to Section 33445. Notwithstanding this  
20 paragraph, an agreement between the city, county, or city and  
21 county that created the former redevelopment agency and the  
22 former redevelopment agency is an enforceable obligation if that  
23 agreement requires the former redevelopment agency to repay or  
24 fulfill an outstanding loan or development obligation imposed by  
25 a grant or loan awarded or issued by a federal agency, including  
26 the United States Department of Housing and Urban Development,  
27 to the city, county, or city and county which subsequently loaned  
28 or provided those funds to the former redevelopment agency.

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

39 (e) "Indebtedness obligations" means bonds, notes, certificates  
40 of participation, or other evidence of indebtedness, issued or

1 delivered by the redevelopment agency, or by a joint exercise of  
2 powers authority created by the redevelopment agency, to  
3 third-party investors or bondholders to finance or refinance  
4 redevelopment projects undertaken by the redevelopment agency  
5 in compliance with the Community Redevelopment Law (Part 1  
6 (commencing with Section 33000)).

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

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

11 (h) “Recognized Obligation Payment Schedule” means the  
12 document setting forth the minimum payment amounts and due  
13 dates of payments required by enforceable obligations for each  
14 six-month fiscal period until June 30, 2016, as provided in  
15 subdivision (m) of Section 34177. On and after July 1, 2016,  
16 “Recognized Obligation Payment Schedule” means the document  
17 setting forth the minimum payment amounts and due dates of  
18 payments required by enforceable obligations for each fiscal year  
19 as provided in subdivision (o) of Section 34177.

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

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

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

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

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

34 (n) “Sponsoring entity” means the city, county, or city and  
35 county, or other entity that authorized the creation of each  
36 redevelopment agency.

37 (o) “Final judicial determination” means a final judicial  
38 determination made by any state court that is not appealed, or by  
39 a court of appellate jurisdiction that is not further appealed, in an  
40 action by any party.

1 (p) From July 1, 2014, to July 1, 2018, inclusive, “housing entity  
2 administrative cost allowance” means an amount of up to 1 percent  
3 of the property tax allocated to the Redevelopment Obligation  
4 Retirement Fund on behalf of the successor agency for each  
5 applicable fiscal year, but not less than one hundred fifty thousand  
6 dollars (\$150,000) per fiscal year.

7 (1) If a local housing authority assumed the housing functions  
8 of the former redevelopment agency pursuant to paragraph (2) or  
9 (3) of subdivision (b) of Section 34176, then the housing entity  
10 administrative cost allowance shall be listed by the successor  
11 agency on the Recognized Obligation Payment Schedule. Upon  
12 approval of the Recognized Obligation Payment Schedule by the  
13 oversight board and the department, the housing entity  
14 administrative cost allowance shall be remitted by the successor  
15 agency on each January 2 and July 1 to the local housing authority  
16 that assumed the housing functions of the former redevelopment  
17 agency pursuant to paragraph (2) or (3) of subdivision (b) of  
18 Section 34176.

19 (2) If there are insufficient moneys in the Redevelopment  
20 Obligations Retirement Fund in a given fiscal year to make the  
21 payment authorized by this subdivision, the unfunded amount may  
22 be listed on each subsequent Recognized Obligation Payment  
23 Schedule until it has been paid in full. In these cases the five-year  
24 time limit on the payments shall not apply.