AMENDED IN SENATE SEPTEMBER 4, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 182

Introduced by Committee on Budget (Evans (Chair), Arambula, Beall, Blumenfield, Brownley, Caballero, Carter, De La Torre, Feuer, Hill, Huffman, Monning, Ruskin, and Swanson)

February 2, 2009

~~An act relating to the Budget Act of 2009.~~ *An act to amend Sections 33690 and 33690.5 of the Health and Safety Code, relating to community redevelopment, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 182, as amended, Committee on Budget. ~~Budget Act of 2009~~ *Community redevelopment: Supplemental Education Revenue Argumentation Fund*.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.~~

(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in blighted areas in those communities known as project areas. Section 16 of Article XVI of the California Constitution authorizes a redevelopment agency to receive funding through tax increments attributable to increases in assessed property tax valuation of property in a project area due to redevelopment. Not less than 20% of tax increments generated from a project area are required to be used by a redevelopment agency to increase and improve the community's supply of low- and moderate-income housing. Redevelopment agencies are required in the 2009–10 fiscal year to remit to the county auditor

an amount of revenue for deposit in the Supplemental Educational Revenue Augmentation Fund in each county for allocation to school entities. Existing law authorizes the agency, in order to make the full allocation, to borrow the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to existing law, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund.

This bill would additionally authorize an agency, in order to make the required allocation to the county Supplemental Educational Revenue Augmentation Fund, to borrow any moneys in the Low and Moderate Income Housing Fund.

(2) Under existing law, the amount of revenue a redevelopment agency is required to remit to the county auditor during the 2009–10 and 2010–11 fiscal years is determined in accordance with specified calculations made by the Director of Finance and is based, in part, on a specified report of the Controller.

This bill would make an adjustment to the calculation made by the Director of Finance with respect to a redevelopment agency that, prior to August 1, 2009, deleted territory from any project area and reported to the State Board of Equalization in accordance with existing law and that deletion is not reflected in certain described reports. The bill would also authorize the director to use equivalent amounts reported in the 2007–08 edition of the specified report of the Controller if the 2007–08 edition is available at the time the required determinations are made.

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

Vote: ~~majority~~ $^{2}/_{3}$. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

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

SECTION 1. Section 33690 of the Health and Safety Code, as added by Section 6 of Chapter 21 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

33690. (a) (1) (A) For the 2009–10 fiscal year, a redevelopment agency shall remit, as determined by the Director of Finance, prior to May 10, 2010, an amount equal to the amount determined for that agency pursuant to paragraph (2) to the county auditor for deposit in the county Supplemental Educational Revenue Augmentation Fund that is established in the county treasury. Notwithstanding any other law, any funds deposited in the Supplemental Educational Revenue Augmentation Fund shall not be distributed to a community college district.

(B) On or before May 25, 2010, the county auditor shall report to the Department of Finance each amount transferred to the Supplemental Educational Revenue Augmentation Fund for the 2009–10 fiscal year.

(2) On or before November 15, 2009, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(C) Determine a percentage factor by dividing one billion seven hundred million dollars ($1,700,000,000) by two and then by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(G) Determine a percentage factor by dividing one billion seven hundred million dollars ($1,700,000,000) by two and then by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency, each legislative body, and each county auditor of each agency's amount. The county auditor shall deposit these amounts in the county Supplemental Educational Revenue Augmentation Fund pursuant to paragraph (1).

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including, without limitation, bonds secured by a pledge of taxes allocated to the agency pursuant to Section 33670. Agencies shall factor in the fiscal obligations created by this subdivision when issuing bonded indebtedness.

(b) To make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income.

(c) (1) Notwithstanding any other law, to make the full allocation required by this section, an agency may borrow *from either* the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, *or any moneys in that fund, or both*, unless~~, in a given fiscal year~~, executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund *or the amount of moneys in the fund, or both*, pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full on or before June 30, 2015. An agency that fails to repay funds borrowed pursuant to this subdivision shall be required to allocate an additional 5 percent of all taxes that are allocated to that agency pursuant to Section 33670 for low- and moderate-income housing for the remainder of the time the agency receives tax revenue pursuant to Section 33670.

(d) The legislative body shall by March 1, 2010, report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33692.

(e) The allocation obligations imposed by this section, including amounts owed, if any, created under this section, are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670, and shall constitute an indebtedness of the agency with respect to the redevelopment project until paid in full.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment project pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the determination required by subdivision (a), the Director of Finance shall use those amounts reported in "Table 7, Assessed Valuation, Tax Increment Distribution and Statement of Indebtedness" for all agencies and for each agency in the 2006–07 edition of the Controller's Community Redevelopment Agencies Annual Report made pursuant to Section 12463.3 of the Government Code*, subject to any adjustments required by subdivision (h). Alternatively, the director may use the equivalent amounts reported in the 2007–08 edition of the Controller's Community Redevelopment Agencies Annual Report for the determinations required by subdivision (a) if that edition is available at the time the determinations are made*.

(h) *With respect to the use of amounts reported in the 2006–07 edition of the Controller's Community Redevelopment Agencies Annual Report for purposes of subdivision (a), both of the following shall apply:*

(1) If revised reports were accepted by the Controller on or before September 1, 2008, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

(2) The director shall adjust the reported amounts of net and total tax increment revenue to exclude amounts apportioned to any redevelopment agency from any territory that has been deleted from any project area, as reported to the State Board of Equalization in accordance with Section 33375 prior to August 1, 2009, and that deletion is not reflected in the Controller's 2006–07 published report or in the revised reports described in paragraph (1).

(i) Except as provided in Section 33331.5, nothing in this section shall be construed as extending the time limits on the ability of agencies to do both of the following:

(1) Establish loans, advances, or indebtedness.

(2) Exercise eminent domain powers.

(j) (1) Notwithstanding Sections 97.2 and 97.3 of Revenue and Taxation Code, the county auditor-controller shall distribute the funds that are remitted to the county Supplemental Educational Revenue Augmentation Fund by a redevelopment agency pursuant to this section only to a K-12 school district or county office of education that is located partially or entirely within any project area of that redevelopment agency in an amount proportional to the average daily attendance of each school district.

(2) The county auditor-controller shall notify each K-12 school district, and the State Department of Education, of the amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives pursuant to this section from each redevelopment agency. The county auditor-controller shall also notify each K-12 school district receiving funds pursuant to paragraph (1) of the project area boundaries of each redevelopment agency from which the K-12 school district received funds.

(3) (A) The county superintendent of schools shall provide the average daily attendance reported for each school district as of the Second Principal Apportionment for the 2009–10 fiscal year to the county auditor-controller.

(B) The county auditor-controller shall, based on information provided by the county superintendent of schools pursuant to subparagraph (A), allocate the funding pursuant to this subdivision to those districts within the county.

(4) The county auditor-controller shall notify, on or before May 25, 2010, the Department of Finance of the amount of funding apportioned to each district or county office of education pursuant to this subdivision.

(5) School districts and county offices of education shall use the funds received under this section to serve pupils living in the redevelopment areas or in housing supported by redevelopment agency funds. Redevelopment agencies shall provide whatever information school districts and county offices of education need to accomplish this purpose.

(k) (1) For the 2009–10 fiscal year, the amount of property tax revenues apportioned to each school district, pursuant to Article 2 (commencing with Section 96.1) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code, shall be reduced by the total amount of Supplemental Educational Revenue Augmentation Fund moneys the district receives. The amount of property tax revenues that is the product of this reduction shall be deposited in the county Supplemental Revenue Augmentation Fund established pursuant to Section 100.06 of the Revenue and Taxation Code.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the total amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives, regardless of the actual date the funds are received, pursuant to this section from each redevelopment agency shall be deemed to be "allocated local proceeds of taxes," as defined in subdivisions (g) and (h) of Section 41202, and for purposes of Section 42238 of the Education Code, for the 2009–10 fiscal year.

(*l*) For purposes of this section, "K-12 school district" has the same meaning as a school district, as defined in Section 80 of the Education Code.

(m) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

SEC. 2. Section 33690.5 of the Health and Safety Code, as added by Section 7 of Chapter 21 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

33690.5. (a) (1) (A) For the 2010–11 fiscal year a redevelopment agency shall remit, as determined by the Director of Finance, prior to May 10, 2011, an amount equal to the amount determined for that agency pursuant to paragraph (2) to the county auditor for deposit in the county Supplemental Educational Revenue Augmentation Fund.

(B) On or before May 25, 2011, the county auditor shall report to the Department of Finance each amount transferred to the Supplemental Educational Revenue Augmentation Fund for the 2010–11 fiscal year.

(2) On or before November 15, 2010, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(C) Determine a percentage factor by dividing three hundred fifty million dollars ($350,000,000) by two and then by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(G) Determine a percentage factor by dividing three hundred fifty million dollars ($350,000,000) by two and then by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency, each legislative body, and each county auditor of each agency's amount. The county auditor shall deposit these amounts in the county Supplemental Educational Revenue Augmentation Fund pursuant to paragraph (1).

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including, without limitation, bonds secured by a pledge of taxes allocated to the agency pursuant to Section 33670. Agencies shall factor in the fiscal obligations created by this subdivision when issuing bonded indebtedness.

(b) To make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income.

(c) (1) Notwithstanding any other law, to make the full allocation required by this section, an agency may borrow the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, unless, in a given fiscal year, executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full on or before June 30, 2016. An agency that fails to repay funds borrowed pursuant to this subdivision shall be required to allocate an additional 5 percent of all taxes that are allocated to that agency pursuant to Section 33670 for low- and moderate-income housing for the remainder of the time the agency receives tax revenue pursuant to Section 33670.

(d) The legislative body shall by March 1, 2011, report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33692.

(e) The allocation obligations imposed by this section, including amounts owed, if any, created under this section, are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670, and shall constitute an indebtedness of the agency with respect to the redevelopment project until paid in full.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment project pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the determination required by subdivision (a), the Director of Finance shall use those amounts reported in "Table 7, Assessed Valuation, Tax Increment Distribution and Statement of Indebtedness" for all agencies and for each agency in the 2006–07 edition of the Controller's Community Redevelopment Agencies Annual Report made pursuant to Section 12463.3 of the Government Code, *subject to any adjustments required by subdivision (h). Alternatively, the director may use the equivalent amounts reported in the 2007–08 edition of the Controller's Community Redevelopment Agencies Annual Report for the determinations required by subdivision (a) if that edition is available at the time the determinations are made, provided that the director also used the 2007–08 edition for the purposes of Section 33390*.

(h) *With respect to the use of amounts reported in the 2006–07 edition of the Controller's Community Redevelopment Agencies Annual Report for purposes of subdivision (a), both of the following shall apply:*

(1) If revised reports were accepted by the Controller on or before September 1, 2008, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

(2) The director shall adjust the reported amounts of net and total tax increment revenue to exclude amounts apportioned to any redevelopment agency from any territory that has been deleted from any project area, as reported to the State Board of Equalization in accordance with Section 33375 prior to August 1, 2009, and that deletion is not reflected in the Controller's 2006–07 published report or in the revised reports described in paragraph (1).

(i) Except as provided in Section 33331.5, nothing in this section shall be construed as extending the time limits on the ability of agencies to do both of the following:

(1) Establish loans, advances, or indebtedness.

(2) Exercise eminent domain powers.

(j) (1) Notwithstanding Sections 97.2 and 97.3 of Revenue and Taxation Code, the county auditor-controller shall distribute the funds that are remitted to the county Supplemental Educational Revenue Augmentation Fund by a redevelopment agency pursuant to this section only to a K-12 school district or county office of education that is located partially or entirely within any project area of that redevelopment agency in an amount proportional to the average daily attendance of each school district.

(2) The county auditor-controller shall notify each K-12 school district, and the State Department of Education, of the amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives pursuant to this section from each redevelopment agency. The county auditor-controller shall also notify each K-12 school district receiving funds pursuant to paragraph (1) of the project area boundaries of each redevelopment agency from which the K-12 school district received funds.

(3) (A) The county superintendent of schools shall provide the average daily attendance reported for each school district as of the Second Principal Apportionment for the 2009–10 fiscal year to the county auditor-controller.

(B) The county auditor-controller shall, based on information provided by the county superintendent of schools pursuant to subparagraph (A), allocate the funding pursuant to this subdivision to those districts within the county.

(4) The county auditor-controller shall notify, on or before May 25, 2011, the Department of Finance of the amount of funding apportioned to each district or county office of education pursuant to this subdivision.

(5) School districts and county offices of education shall use the funds received under this section to serve pupils living in the redevelopment areas or in housing supported by redevelopment agency funds. Redevelopment agencies shall provide whatever information school districts need to accomplish this purpose.

(k) (1) For the 2010–11 fiscal year, the amount of property tax revenues apportioned to each school district, pursuant to Article 2 (commencing with Section 96.1) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code, shall be reduced by the total amount of Supplemental Educational Revenue

Augmentation Fund moneys the district receives. The amount of property tax revenues that is the product of this reduction shall be deposited in the county Supplemental Revenue Augmentation Fund established pursuant to Section 100.06 of the Revenue and Taxation Code.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the total amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives, regardless of the actual date the funds are received, pursuant to this section from each redevelopment agency shall be deemed to be "allocated local proceeds of taxes," as defined in subdivisions (g) and (h) of Section 41202 and for purposes of Section 42238 of the Education Code, for the 2010–11 fiscal year.

(*l*) For purposes of this section, "K-12 school district" has the same meaning as a school district, as defined in Section 80 of the Education Code.

(m) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

SEC. 3. 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 make the necessary adjustments to effectively implement the Budget Act of 2009, it is necessary for this act to take effect immediately.

~~SECTION 1. It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.~~

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