

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:

- 1 SECTION 1. Section 33690 of the Health and Safety Code, as
- 2 added by Section 6 of Chapter 21 of the Fourth Extraordinary
- 3 Session of the Statutes of 2009, is amended to read:
- 4 33690. (a) (1) (A) For the 2009–10 fiscal year, a
- 5 redevelopment agency shall remit, as determined by the Director
- 6 of Finance, prior to May 10, 2010, an amount equal to the amount
- 7 determined for that agency pursuant to paragraph (2) to the county
- 8 auditor for deposit in the county Supplemental Educational
- 9 Revenue Augmentation Fund that is established in the county

1 treasury. Notwithstanding any other law, any funds deposited in
2 the Supplemental Educational Revenue Augmentation Fund shall
3 not be distributed to a community college district.

4 (B) On or before May 25, 2010, the county auditor shall report
5 to the Department of Finance each amount transferred to the
6 Supplemental Educational Revenue Augmentation Fund for the
7 2009–10 fiscal year.

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

10 (A) Determine the net tax increment apportioned to each agency
11 pursuant to Section 33670, excluding any amounts apportioned to
12 affected taxing entities pursuant to Section 33401, 33607.5, or
13 33676.

14 (B) Determine the net tax increment apportioned to all agencies
15 pursuant to Section 33670, excluding any amounts allocated to
16 affected taxing entities pursuant to Section 33401, 33607.5, or
17 33676.

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

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

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

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

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

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

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

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

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

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

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

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

37 (d) The legislative body shall by March 1, 2010, report to the
38 county auditor as to how the agency intends to fund the allocation
39 required by this section, or that the legislative body intends to remit
40 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).*

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

4 (1) Establish loans, advances, or indebtedness.

5 (2) Exercise eminent domain powers.

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

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

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

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

30 (4) The county auditor-controller shall notify, on or before May
31 25, 2010, the Department of Finance of the amount of funding
32 apportioned to each district or county office of education pursuant
33 to this subdivision.

34 (5) School districts and county offices of education shall use
35 the funds received under this section to serve pupils living in the
36 redevelopment areas or in housing supported by redevelopment
37 agency funds. Redevelopment agencies shall provide whatever
38 information school districts and county offices of education need
39 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.

1 (B) On or before May 25, 2011, the county auditor shall report
2 to the Department of Finance each amount transferred to the
3 Supplemental Educational Revenue Augmentation Fund for the
4 2010–11 fiscal year.

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

7 (A) Determine the net tax increment apportioned to each agency
8 pursuant to Section 33670, excluding any amounts apportioned to
9 affected taxing entities pursuant to Section 33401, 33607.5, or
10 33676.

11 (B) Determine the net tax increment apportioned to all agencies
12 pursuant to Section 33670, excluding any amounts allocated to
13 affected taxing entities pursuant to Section 33401, 33607.5, or
14 33676.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (e) The allocation obligations imposed by this section, including
37 amounts owed, if any, created under this section, are hereby
38 declared to be an indebtedness of the redevelopment project to
39 which they relate, payable from taxes allocated to the agency
40 pursuant to Section 33670, and shall constitute an indebtedness of

1 the agency with respect to the redevelopment project until paid in
2 full.

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

8 (g) In making the determination required by subdivision (a),
9 the Director of Finance shall use those amounts reported in "Table
10 7, Assessed Valuation, Tax Increment Distribution and Statement
11 of Indebtedness" for all agencies and for each agency in the
12 2006–07 edition of the Controller's Community Redevelopment
13 Agencies Annual Report made pursuant to Section 12463.3 of the
14 Government Code, *subject to any adjustments required by*
15 *subdivision (h). Alternatively, the director may use the equivalent*
16 *amounts reported in the 2007–08 edition of the Controller's*
17 *Community Redevelopment Agencies Annual Report for the*
18 *determinations required by subdivision (a) if that edition is*
19 *available at the time the determinations are made, provided that*
20 *the director also used the 2007–08 edition for the purposes of*
21 *Section 33390.*

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

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

30 (2) *The director shall adjust the reported amounts of net and*
31 *total tax increment revenue to exclude amounts apportioned to*
32 *any redevelopment agency from any territory that has been deleted*
33 *from any project area, as reported to the State Board of*
34 *Equalization in accordance with Section 33375 prior to August 1,*
35 *2009, and that deletion is not reflected in the Controller's 2006–07*
36 *published report or in the revised reports described in paragraph*
37 *(1).*

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

1 (1) Establish loans, advances, or indebtedness.

2 (2) Exercise eminent domain powers.

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

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

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

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

27 (4) The county auditor-controller shall notify, on or before May
28 25, 2011, the Department of Finance of the amount of funding
29 apportioned to each district or county office of education pursuant
30 to this subdivision.

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

36 (k) (1) For the 2010–11 fiscal year, the amount of property tax
37 revenues apportioned to each school district, pursuant to Article
38 2 (commencing with Section 96.1) of Chapter 6 of Part 0.5 of
39 Division 1 of the Revenue and Taxation Code, shall be reduced
40 by the total amount of Supplemental Educational Revenue

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

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

15 (l) For purposes of this section, “K-12 school district” has the
16 same meaning as a school district, as defined in Section 80 of the
17 Education Code.

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

27 *SEC. 3. This act is an urgency statute necessary for the*
28 *immediate preservation of the public peace, health, or safety within*
29 *the meaning of Article IV of the Constitution and shall go into*
30 *immediate effect. The facts constituting the necessity are:*

31 *In order to make the necessary adjustments to effectively*
32 *implement the Budget Act of 2009, it is necessary for this act to*
33 *take effect immediately.*

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