

AMENDED IN SENATE MARCH 22, 2010

SENATE BILL

No. 1112

Introduced by Senator Oropeza

February 17, 2010

~~An act to amend Section 36501 of the Government Code, relating to local government.~~ *An act to amend Sections 33333.8 and 33333.11 of, and to add Section 33333.9 to, the Health and Safety Code, relating to redevelopment.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1112, as amended, Oropeza. ~~Local government: general law cities.~~ *Redevelopment: plan amendment: brownfield sites.*

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight in those communities. Existing law requires each agency to prepare or cause to be prepared, and approve, a redevelopment plan for each project area. Existing law requires that a redevelopment plan contain specified time limitations and authorizes the extension of time limitations under specified circumstances.

This bill would authorize an agency to extend the time limitation on the effectiveness of a redevelopment plan and on the payment of indebtedness and receipt of property taxes for not more than 10 years if the agency determines, based on substantial evidence that, among other conditions, at least 25% of the project area is a brownfield site, as defined. The bill would require the agency to include in certain reports specified information relating to the brownfield site.

~~Existing law specifies that the government of a general law city is vested in a city council, a city clerk, a city treasurer, a chief of police, a fire chief, and any subordinate officers or employees provided by law.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 33333.8 of the Health and Safety Code
2 is amended to read:

3 33333.8. (a) Every redevelopment agency shall comply with
4 and fulfill its obligations with regard to the provision of affordable
5 housing as required by this part prior to the time limit on the
6 effectiveness of the redevelopment plan established pursuant to
7 Sections 33333.2, 33333.6, 33333.9, and 33333.10, and before the
8 agency exceeds a limit on the number of dollars of taxes that may
9 be divided and allocated to the redevelopment agency if required
10 by Section 33333.4 or the limit on the number of dollars of taxes
11 in a redevelopment plan. A legislative body may not adopt an
12 ordinance terminating a redevelopment project area if the agency
13 has not complied with its affordable housing obligations.
14 Notwithstanding any other provision of law, this section shall apply
15 to each redevelopment agency and each redevelopment project
16 area established or merged pursuant to this part and Part 1.5
17 (commencing with Section 34000), including project areas
18 authorized pursuant to this chapter and each individual project
19 area that is authorized pursuant to any other provision of law.

20 (1) The affordable housing obligations specified in subdivision
21 (a) shall include all of the following:

22 (A) The obligation to make deposits to and expenditures from
23 the Low and Moderate Income Housing Fund pursuant to Sections
24 33334.2, 33334.3, 33334.4, 33334.6, 33487, 33492.16, and other
25 similar and related statutes.

26 (B) The obligation to eliminate project deficits pursuant to
27 Sections 33334.6, 33487, 33492.16, and other similar and related
28 statutes.

29 (C) The obligation to expend or transfer excess surplus funds
30 pursuant to Section 33334.12 and other similar and related statutes.

31 (D) The obligation to provide relocation assistance pursuant to
32 Article 9 (commencing with Section 33410), Section 7260 of the
33 Government Code, or other applicable relocation laws.

1 (E) The obligation to provide replacement housing pursuant to
2 subdivision (a) of Section 33413, Article 9 (commencing with
3 Section 33410), and other similar and related statutes.

4 (F) The obligation to provide inclusionary housing pursuant to
5 Section 33413 and other similar and related statutes and ordinances.

6 (2) A redevelopment agency shall not adopt an ordinance
7 terminating a redevelopment project area if the agency has not
8 complied with these obligations.

9 (b) If, on the date of the time limit on the effectiveness of the
10 redevelopment plan, a redevelopment agency has not complied
11 with subdivision (a), the time limit on the effectiveness of the
12 redevelopment plan, and, if necessary, the time limit for repayment
13 of indebtedness, shall be suspended until the agency has complied
14 with subdivision (a). In addition, the agency shall receive and use
15 all tax increment funds that are not pledged to repay indebtedness
16 until the agency has fully complied with its obligations.

17 (c) If, on the date of the time limit on the repayment of
18 indebtedness, the agency has not complied with subdivision (a),
19 the time limit on the repayment of indebtedness shall be suspended
20 until the agency has complied with subdivision (a). In addition,
21 the agency shall receive and use tax increment funds until the
22 agency has fully complied with its obligations.

23 (d) If, on the date of the time limit on the repayment of
24 indebtedness, the agency has complied with its obligations under
25 subdivision (a) and has moneys remaining in the Low and Moderate
26 Income Housing Fund, the agency shall transfer the remaining
27 moneys to a low and moderate income housing fund or account
28 for a different project area within the agency's jurisdiction, if one
29 exists, or if a different project area does not exist, the agency shall
30 either transfer the remaining moneys to a special fund of the
31 community or to the community or county housing authority. The
32 community, community housing authority, or county housing
33 authority to which the remaining moneys are transferred shall
34 utilize the moneys for the purposes of, and subject to the same
35 restrictions that are applicable to, the redevelopment agency under
36 this part.

37 (e) If a redevelopment plan provides a limit on the total amount
38 of tax increment funds that may be received by a redevelopment
39 agency for any project area, and if that limit is reached prior to the
40 agency complying with its obligations pursuant to subdivision (a),

1 that limit is suspended until the agency has complied with
2 subdivision (a) and the agency shall receive and use tax increment
3 funds until the agency has fully complied with its obligations.

4 (f) If an agency fails to comply with its obligations pursuant to
5 this section, any person may seek judicial relief. The court shall
6 require the agency to take all steps necessary to comply with those
7 obligations, including, as necessary, the adoption of ordinances,
8 to incur debt, to obtain tax increments, to expend tax increments,
9 and to enter into contracts as necessary to meet its housing
10 obligations under this part.

11 *SEC. 2. Section 33333.9 is added to the Health and Safety*
12 *Code, to read:*

13 *33333.9. (a) (1) Notwithstanding the time limits in*
14 *subdivisions (a) and (b) of Section 33333.6, an agency that adopted*
15 *a redevelopment plan on or before December 31, 1993, may,*
16 *pursuant to this section, amend the plan to extend the time limit*
17 *on the effectiveness of the plan for up to 10 additional years beyond*
18 *the limit allowed by subdivision (a) of Section 33333.6.*

19 *(2) In addition, the agency may, pursuant to this section, amend*
20 *the plan to extend the time limit on the payment of indebtedness*
21 *and receipt of property taxes to be not more than 10 years from*
22 *the termination of the effectiveness of the redevelopment plan as*
23 *that time limit has been amended pursuant to paragraph (1).*

24 *(b) A redevelopment plan for a project area may be amended*
25 *pursuant to subdivision (a) only after the agency determines, based*
26 *on substantial evidence, that all of the following conditions exist:*

27 *(1) At least 25 percent of the property within the project area*
28 *is a brownfield site.*

29 *(2) The redevelopment plan for the project area will expire*
30 *within five years of the date of the determination.*

31 *(3) The presence of the brownfield site adds significant costs*
32 *and time to the ability of the agency to eliminate blight according*
33 *to the redevelopment plan.*

34 *(4) Significant blight will remain in the project area at the time*
35 *of the redevelopment plan effectiveness date limit unless that*
36 *effectiveness date limit is extended.*

37 *(5) None of the brownfield sites included in the calculation for*
38 *paragraph (1) of this section was contaminated through actions*
39 *of the agency.*

1 (c) As used in this section the following terms shall have the
2 following meanings:

3 (1) “Blight” has the same meaning as that term is given in
4 Section 33030.

5 (2) “Brownfield site” means real property, the expansion,
6 redevelopment, or reuse of which may be complicated by the
7 presence or potential presence of a hazardous substance, pollutant,
8 or contaminant.

9 (3) (A) “Project area” may mean any independently adopted
10 subarea with its own time effectiveness limits where a
11 redevelopment plan has been amended over time to add new
12 territory.

13 (B) For purposes of this section, significant blight can exist in
14 a project area even though it is not prevalent in a project area.
15 The report submitted to the legislative body pursuant to Section
16 33352 shall identify on a map the portion of the project area in
17 which significant blight remains and the locations of the brownfield
18 site.

19 (4) “Significant” means important and of a magnitude to
20 warrant agency assistance.

21 SEC. 3. Section 33333.11 of the Health and Safety Code is
22 amended to read:

23 33333.11. (a) In order to adopt an amendment pursuant to
24 Section 33333.9 or Section 33333.10, the redevelopment agency
25 shall also comply with the procedures in this section.

26 (b) Before adopting an amendment of the plan, the agency shall
27 hold a public hearing on the proposed amendment. The notice of
28 the public hearing shall comply with Section 33452.

29 (c) Prior to the publication of the notice of the public hearing
30 on the proposed amendment, the agency shall consult with each
31 affected taxing agency with respect to the proposed amendment.
32 At a minimum, the agency shall give each affected taxing agency
33 the opportunity to meet with representatives of the agency for the
34 purpose of discussing the effect of the proposed amendment upon
35 the affected taxing agency and shall notify each affected taxing
36 agency that any written comments from the affected taxing agency
37 will be included in the report to the legislative body.

38 (d) Prior to the publication of the notice of the public hearing
39 on the proposed amendment, the agency shall consult with and
40 obtain the advice of members of a project area committee, if a

1 project area committee exists, and residents and community
2 organizations and provide to those persons and organizations,
3 including the project area committee, if any, the amendment prior
4 to the agency's submitting the amendment to the legislative body.
5 In addition, the preliminary report prepared pursuant to subdivision
6 (e) shall be made available at no cost to the project area committee,
7 if one exists, and residents and community organizations not later
8 than 120 days prior to holding a public hearing on the proposed
9 amendment.

10 (e) No later than 120 days prior to holding a public hearing on
11 the proposed amendment, the agency shall send to each affected
12 taxing entity, as defined in Section 33353.2, the Department of
13 Finance, and the Department of Housing and Community
14 Development, a preliminary report that contains all of the
15 following:

16 (1) A map of the project area that identifies the portion, if any,
17 of the project area that is no longer blighted and the portion of the
18 project area that is blighted and the portion of the project area that
19 contains necessary and essential parcels for the elimination of the
20 remaining blight.

21 (2) A description of the remaining blight.

22 (3) A description of the projects or programs proposed to
23 eliminate the remaining blight.

24 (4) A description of how the project or programs will improve
25 the conditions of blight.

26 (5) The reasons why the projects or programs cannot be
27 completed without extending the time limits on the effectiveness
28 of the plan and receipt of tax increment revenues.

29 (6) The proposed method of financing these programs or
30 projects. This description shall include the amount of tax increment
31 revenues that is projected to be generated during the period of the
32 extension, including amounts projected to be deposited into the
33 Low and Moderate Income Housing Fund and amounts to be paid
34 to affected taxing entities. This description shall also include
35 sources and amounts of moneys other than tax increment revenues
36 that are available to finance these projects or programs. This
37 description shall also include the reasons that the remaining blight
38 cannot reasonably be expected to be reversed or alleviated by
39 private enterprise or governmental action, or both, without the use

1 of the tax increment revenues available to the agency because of
2 the proposed amendment.

3 (7) ~~An~~ *If the redevelopment plan is amended pursuant to Section*
4 *33333.10, an amendment to the agency's implementation plan that*
5 *includes, but is not limited to, the agency's housing responsibilities*
6 *pursuant to Section 33490. However, the agency shall not be*
7 *required to hold a separate public hearing on the implementation*
8 *plan pursuant to subdivision (d) of Section 33490 in addition to*
9 *the public hearing on the amendment to the redevelopment plan.*

10 (8) A new neighborhood impact report if required by subdivision
11 (m) of Section 33352.

12 (9) A description of each bond sold by the agency to finance or
13 refinance the redevelopment project prior to six months before the
14 date of adoption of the proposed amendment, and listing for each
15 bond the amount of remaining principal, the annual payments, and
16 the date that the bond will be paid in full.

17 (10) *If the redevelopment plan is amended pursuant to Section*
18 *33333.9, a study documenting the presence of the brownfield sites*
19 *and the locations of the sites identified on the map of the project*
20 *area required in paragraph (1).*

21 (f) No later than 120 days prior to holding a public hearing on
22 the proposed amendment, the agency shall send the proposed
23 amendment to the planning commission. If the planning
24 commission does not report upon the amendment within 30 days
25 after its submission by the agency, the planning commission shall
26 be deemed to have waived its report and recommendations
27 concerning the amendment.

28 (g) No later than 45 days prior to the public hearing on the
29 proposed amendment by the agency or the joint public hearing of
30 the agency and the legislative body, the agency shall notify each
31 affected taxing entity, the Department of Finance, the Department
32 of Housing and Community Development, and each individual
33 and organization that submitted comments on the preliminary
34 report by certified mail of the public hearing, the date of the public
35 hearing, and the proposed amendment. This notice shall be
36 accompanied by the report required to be prepared pursuant to
37 subdivision (h).

38 (h) No later than 45 days prior to the public hearing on the
39 proposed amendment by the agency or the joint public hearing by

1 the agency and the legislative body, the agency shall adopt a report
2 to the legislative body containing all of the following:

3 (1) All of the information required to be contained in the
4 preliminary report prepared pursuant to subdivision (e).

5 (2) The report and recommendation of the planning commission.

6 (3) A negative declaration, environmental impact report, or
7 other document that is required in order to comply with the
8 California Environmental Quality Act (Division 13 (commencing
9 with Section 21000) of the Public Resources Code.

10 (4) A summary of the consultations with the affected taxing
11 entities. If any of the affected taxing entities, a project area
12 committee, if any, residents, or community organizations have
13 expressed written objections or concerns with the proposed
14 amendment as part of these consultations, the agency shall include
15 a response to these concerns.

16 (5) A summary of the consultation with residents and community
17 organizations, including the project area committee, if any.

18 (i) After receiving the recommendation of the agency on the
19 proposed amendment, and not sooner than 30 days after the
20 submission of changes to the planning commission, the legislative
21 body shall hold a public hearing on the proposed amendment. The
22 notice of the public hearing shall comply with Section 33452.

23 (j) As an alternative to the separate public hearing required by
24 subdivision (i), the agency and the legislative body, with the
25 consent of both, may hold a joint public hearing on the proposed
26 amendment. Notice of this public hearing shall comply with Section
27 33452. When a joint public hearing is held and the legislative body
28 is also the agency, the legislative body may adopt the amended
29 plan with no actions required of the agency. If, after the public
30 hearing, the legislative body determines that the amendment to the
31 plan is necessary or desirable, the legislative body shall adopt an
32 ordinance amending the ordinance adopting the plan thus amended.
33 The ordinance adopting the amendment shall contain findings that
34 both (1) significant blight remains within the project area, and (2)
35 the blight cannot be eliminated without the extension of the
36 effectiveness of the plan and receipt of tax increment revenues.

37 (k) If an affected taxing entity, the Department of Finance, or
38 the Department of Housing and Community Development believes
39 that significant remaining blight does not exist within the portion
40 of the project area designated as blighted in the report to the

1 legislative body regarding a proposed amendment to be adopted
2 pursuant to Section 33333.10, the affected taxing entity, the
3 Department of Finance, or the Department of Housing and
4 Community Development may request the Attorney General to
5 participate in the amendment process. The affected taxing entity,
6 the Department of Finance, or the Department of Housing and
7 Community Development shall request this participation within
8 21 days after receipt of the notice of the public hearing sent
9 pursuant to subdivision (g). The Attorney General shall determine
10 whether or not to participate in the amendment process. The
11 Attorney General may consult with and request the assistance of
12 departments of the state and any other persons or groups that are
13 interested or that have expertise in redevelopment. The Attorney
14 General may participate in the amendment process by requesting
15 additional information from the agency, conducting his or her own
16 review of the project area, meeting with the agency and any
17 affected taxing entity, submitting evidence for consideration at the
18 public hearing, or presenting oral evidence at the public hearing.
19 No later than five days prior to the public hearing on the proposed
20 amendment, the Attorney General shall notify each affected taxing
21 agency, each department that has requested the Attorney General
22 to review the proposed amendment, and the redevelopment agency
23 with regard to whether the Attorney General will participate in the
24 amendment process and, if so, how he or she will participate, on
25 their behalf.

26 (l) The Attorney General may bring a civil action pursuant to
27 Section 33501 to determine the validity of an amendment adopted
28 pursuant to Section 33333.10. The Department of Finance and the
29 Department of Housing and Community Development shall be
30 considered interested persons for the purposes of protecting the
31 interests of the state pursuant to Section 863 of the Code of Civil
32 Procedure in any action brought with regard to the validity of an
33 ordinance adopting a proposed amendment pursuant to Section
34 33333.10. Either department may request the Attorney General to
35 bring an action pursuant to Section 33501 to determine the validity
36 of an amendment adopted pursuant to Section 33333.10. Actions
37 brought pursuant to this subdivision are in addition to any other
38 actions that may be brought by the Attorney General or other
39 persons.

1 ~~SECTION 1. Section 36501 of the Government Code is~~
2 ~~amended to read:~~
3 ~~36501. The government of a general law city is vested in:~~
4 ~~(a) A city council of at least five members.~~
5 ~~(b) A city clerk.~~
6 ~~(c) A city treasurer.~~
7 ~~(d) A chief of police.~~
8 ~~(e) A fire chief.~~
9 ~~(f) Any subordinate officers or employees as provided by law.~~