AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL No. 654

Introduced by Senator Steinberg

February 18, 2011

An act ~~relating to taxation~~ *to amend Sections 34171, 34176, and 34177 of the Health and Safety Code, relating to redevelopment*.

LEGISLATIVE COUNSEL'S DIGEST

SB 654, as amended, Steinberg. ~~Income taxes: federal conformity: Patient Protection and Affordable Care Act.~~ *Redevelopment.*

Existing law suspends various activities of redevelopment agencies and prohibits the agencies from incurring indebtedness for a specified period. Existing law also dissolves redevelopment agencies and community development agencies, as of October 1, 2011, and designates successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, repay enforceable obligations, as defined, and to remit unencumbered balances of redevelopment agency funds, including housing funds, to the county auditor-controller for distribution to taxing entities.

Existing law authorizes the city, county, or city and county that authorized the creation of a redevelopment agency to retain the housing assets, functions, and powers previously performed by the redevelopment agency, excluding amounts on deposit in the Low and Moderate Income Housing Fund.

This bill would revise the definition of the term "enforceable obligation" and modify provisions relating to the transfer of housing funds and responsibilities associated with dissolved redevelopment agencies. The bill would provide that any amounts on deposit in the

Low and Moderate Income Housing Fund of a dissolved redevelopment agency be transferred to specified entities. The bill would make conforming changes.

~~The Personal Income Tax Law, in specified conformity with federal income tax law, provides certain gross income exclusions, imposes specified tax rates, and allows various deductions and credits in computing the income that is subject to the taxes imposed by that law, as specified.~~

~~This bill would state the intent of the Legislature to enact legislation to conform the Personal Income Tax Law to provisions of the Patient Protection and Affordable Care Act.~~

Vote: majority. 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 34171 of the Health and Safety Code is amended to read:

34171. The following terms shall have the following meanings:

(a) "Administrative budget" means the budget for administrative costs of the successor agencies as provided in Section 34177.

(b) "Administrative cost allowance" means an amount that, subject to the approval of the oversight board, is payable from property tax revenues of up to 5 percent of the property tax allocated to the successor agency for the 2011–12 fiscal year and up to 3 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the successor agency for each fiscal year thereafter; provided, however, that the amount shall not be less than two hundred fifty thousand dollars ($250,000) for any fiscal year or such lesser amount as agreed to by the successor agency. However, the allowance amount shall exclude any administrative costs that can be paid from bond proceeds or from sources other than property tax.

(c) "Designated local authority" shall mean a public entity formed pursuant to subdivision (d) of Section 34173.

(d) (1) "Enforceable obligation" means any of the following:

(A) Bonds, as defined by Section 33602 and bonds issued pursuant to Section 58383 of the Government Code, including the required debt service, reserve set-asides, and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the former redevelopment agency.

(B) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(C) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, unemployment payments, or other obligations conferred through a collective bargaining agreement.

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

(E) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy. However, nothing in this act shall prohibit either the successor agency, with the approval or at the direction of the oversight board, or the oversight board itself from terminating any existing agreements or contracts and providing any necessary and required compensation or remediation for such termination.

(F) Contracts or agreements necessary for the administration or operation of the successor agency, in accordance with this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(G) Amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund of a redevelopment agency, which had been deferred as of the effective date of the act adding this part; provided, however, that the repayment schedule is approved by the oversight board.

(2) For purposes of this part, "enforceable obligation" does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency. However, written agreements entered into (A) at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and (B) solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations for purposes of this part. Notwithstanding this paragraph, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it, within two years of the date of creation of the redevelopment agency, *or within two years of the date of the creation of a project area if the loan is specific to that project area, and any obligations imposed by paragraph (1) of subdivision (d) of Section 33691* may be deemed to be enforceable obligations.

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

(e) "Indebtedness obligations" means bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the redevelopment agency, or by a joint exercise of powers authority created by the redevelopment agency, to third-party investors or bondholders to finance or refinance redevelopment projects undertaken by the redevelopment agency in compliance with the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(f) "Oversight board" shall mean each entity established pursuant to Section 34179.

(g) "Recognized obligation" means an obligation listed in the Recognized Obligation Payment Schedule.

(h) "Recognized Obligation Payment Schedule" means the document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period as provided in subdivision (m) of Section 34177.

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

(j) "Successor agency" means the county, city, or city and county that authorized the creation of each redevelopment agency or another entity as provided in Section 34173.

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

SEC. 2. Section 34176 of the Health and Safety Code is amended to read:

34176. (a) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city, county, or city and county elects to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, duties, and obligations~~, excluding~~ *associated with the housing activities of the agency, including* any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the city, county, or city and county. *Any funds transferred to the city, county, or city and county pursuant to this subdivision shall be maintained in a separate Low and Moderate Income Housing Fund and expended pursuant to the provisions of the Community Redevelopment Law relating to the Low and Moderate Income Housing Fund.*

(b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the agency~~, excluding~~ *including* any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:

~~(1) Where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.~~

~~(2)~~

(1) Where there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

~~(3)~~

(2) Where there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.

(3) Where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency or where the local housing authority selected does not accept the responsibility for performing housing functions previously performed by the former redevelopment agency, to the Department of Housing and Community Development.

(c) Commencing on the operative date of this part, the entity assuming the housing functions formerly performed by the redevelopment agency ~~may~~ *shall* enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)*)*, including, but not limited to, Section 33418.

SEC. 3. Section 34177 of the Health and Safety Code is amended to read:

34177. Successor agencies are required to do all of the following:

(a) Continue to make payments due for enforceable obligations.

(1) On and after October 1, 2011, and until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligations payment schedule shall be made. The initial enforceable obligation payment schedule shall be the last schedule adopted by the redevelopment agency under Section 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision ~~(e)~~ *(d)* of Section 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under Section 34169 prior to the successor agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision. The enforceable obligation payment schedule may be amended by the successor agency at any public meeting and

shall be subject to the approval of the oversight board as soon as the board has sufficient members to form a quorum.

(2) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(3) Commencing on January 1, 2012, only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency from the funds specified in the Recognized Obligation Payment Schedule. In addition, commencing January 1, 2012, the Recognized Obligation Payment Schedule shall supersede the Statement of Indebtedness, which shall no longer be prepared nor have any effect under the Community Redevelopment Law.

(4) Nothing in the act adding this part is to be construed as preventing a successor agency, with the prior approval of the oversight board, as described in Section 34179, from making payments for enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

(5) From October 1, 2011, to July 1, 2012, a successor agency shall have no authority and is hereby prohibited from accelerating payment or making any lump-sum payments that are intended to prepay loans unless such accelerated repayments were required prior to the effective date of this part.

(b) Maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(c) Perform obligations required pursuant to any enforceable obligation.

(d) Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities~~, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency~~. In making the distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(e) Dispose of assets and properties of the former redevelopment agency as directed by the oversight board; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Section 34181. The disposal is to be done expeditiously and in a manner aimed at maximizing value. Proceeds from asset sales and related funds that are no longer needed for approved development projects or to otherwise wind down the affairs of the agency, each as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under Section 34188.

(f) Enforce all former redevelopment agency rights for the benefit of the taxing entities, including, but not limited to, continuing to collect loans, rents, and other revenues that were due to the redevelopment agency.

(g) Effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.

(h) Expeditiously wind down the affairs of the redevelopment agency pursuant to the provisions of this part and in accordance with the direction of the oversight board.

(i) Continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the former redevelopment agency can be transferred to other parties. Bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to defease the bonds.

(j) Prepare a proposed administrative budget and submit it to the oversight board for its approval. The proposed administrative budget shall include all of the following:

(1) Estimated amounts for successor agency administrative costs for the upcoming six-month fiscal period.

(2) Proposed sources of payment for the costs identified in paragraph (1).

(3) Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.

(k) Provide administrative cost estimates, from its approved administrative budget that are to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund, to the county auditor-controller for each six-month fiscal period.

(*l*) (1) Before each six-month fiscal period, prepare a Recognized Obligation Payment Schedule in accordance with the requirements of this paragraph. For each recognized obligation, the Recognized Obligation Payment Schedule shall identify one or more of the following sources of payment:

(A) Low and Moderate Income Housing Fund.

(B) Bond proceeds.

(C) Reserve balances.

(D) Administrative cost allowance.

(E) The Redevelopment Property Tax Trust Fund, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of this part.

(F) Other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the former redevelopment agency, as approved by the oversight board in accordance with this part.

(2) A Recognized Obligation Payment Schedule shall not be deemed valid unless all of the following conditions have been met:

(A) A draft Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency by November 1, 2011. From October 1, 2011, to July 1, 2012, the initial draft of that schedule shall project the dates and amounts of scheduled payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had such a redevelopment agency not been dissolved, and shall be reviewed and certified, as to its accuracy, by an external auditor designated pursuant to Section 34182.

(B) The certified Recognized Obligation Payment Schedule is submitted to and duly approved by the oversight board.

(C) A copy of the approved Recognized Obligation Payment Schedule is submitted to the county auditor-controller and both the Controller's office and the Department of Finance and be posted on the successor agency's Internet Web site.

(3) The Recognized Obligation Payment Schedule shall be forward looking to the next six months. The first Recognized Obligation Payment Schedule shall be submitted to the Controller's office and the Department of Finance by December 15, 2011, for

the period of January 1, 2012, to June 30, 2012, inclusive. Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred, prior to January 1, 2012, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the successor agency.

~~SECTION 1. It is the intent of the Legislature to enact legislation to conform the Personal Income Tax Law to provisions of the federal Patient Protection and Affordable Care Act.~~

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