

AMENDED IN SENATE MAY 29, 2012

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SENATE BILL

No. 1151

Introduced by Senator Steinberg

February 21, 2012

An act to amend Section 34177 of, and to add Sections 34177.1 and 34177.2 to, the Health and Safety Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 1151, as amended, Steinberg. Sustainable Economic Development and Housing Trust Fund: long-range asset management plan.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law imposes various requirements on successor agencies and subjects successor agency actions to the review of oversight boards. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, dispose of assets and properties of the former redevelopment agencies, as directed by the oversight board. Proceeds from the sale of assets are transferred to the county auditor-controller for distribution as property tax proceeds to taxing entities, as prescribed.

~~This bill would provide that the asset disposition and transfer provisions do not apply to a jurisdiction in which a Community Development and Housing Authority (authority) has been formed by August 1, 2012. The bill would establish a Sustainable Economic Development and Housing Trust Fund, to be administered by an authority a Sustainable Communities Investment Authority (authority),~~

to serve as a repository of the unencumbered balances and assets of the former redevelopment agency. The bill would authorize moneys from the fund to be expended for specified purposes relating to economic development and affordable housing. The bill would require an authority to prepare a long-range asset management plan that governs the disposition and ongoing use of the fund. The bill would require an authority to submit the plan to the Department of Finance by December 1, 2012, and would require the department to approve or return the plan for revision to the authority prior to final approval by December 31, 2012.

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

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

1 SECTION 1. The Legislature finds and declares that the assets,
2 properties, contracts, leases, books and records, buildings, and
3 equipment of former redevelopment agencies constitute a valuable
4 resource that should be maintained for the purpose of economic
5 development and housing within the communities served by the
6 former redevelopment agency.

7 SEC. 2. Section 34177 of the Health and Safety Code is
8 amended to read:

9 34177. Successor agencies are required to do all of the
10 following:

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

12 (1) On and after February 1, 2012, and until a Recognized
13 Obligation Payment Schedule becomes operative, only payments
14 required pursuant to an enforceable obligations payment schedule
15 shall be made. The initial enforceable obligation payment schedule
16 shall be the last schedule adopted by the redevelopment agency
17 under Section 34169. However, payments associated with
18 obligations excluded from the definition of enforceable obligations
19 by paragraph (2) of subdivision (e) of Section 34171 shall be
20 excluded from the enforceable obligations payment schedule and
21 be removed from the last schedule adopted by the redevelopment
22 agency under Section 34169 prior to the successor agency adopting
23 it as its enforceable obligations payment schedule pursuant to this
24 subdivision. The enforceable obligation payment schedule may
25 be amended by the successor agency at any public meeting and

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

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

10 (3) Commencing on May 1, 2012, only those payments listed
11 in the Recognized Obligation Payment Schedule may be made by
12 the successor agency from the funds specified in the Recognized
13 Obligation Payment Schedule. In addition, commencing May 1,
14 2012, the Recognized Obligation Payment Schedule shall supersede
15 the Statement of Indebtedness, which shall no longer be prepared
16 nor have any effect under the Community Redevelopment Law.

17 ~~(4) Nothing in the act adding this part is to be construed as~~
18 ~~preventing Chapter 5 of the First Extraordinary Session of the~~
19 ~~Statutes of 2011 does not prevent~~ a successor agency, with the
20 prior approval of the oversight board, as described in Section
21 34179, from making payments for enforceable obligations from
22 sources other than those listed in the Recognized Obligation
23 Payment Schedule.

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

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

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

34 (d) (1) Remit unencumbered balances of redevelopment agency
35 funds to the county auditor-controller for distribution to the taxing
36 entities, including, but not limited to, the unencumbered balance
37 of the Low and Moderate Income Housing Fund of a former
38 redevelopment agency. In making the distribution, the county
39 auditor-controller shall utilize the same methodology for allocation

1 and distribution of property tax revenues provided in Section
2 34188.

3 (2) This subdivision shall not apply to a jurisdiction where a
4 Community Development and Housing Joint Powers Authority
5 has been formed pursuant to Part 1.86 (commencing with Section
6 34191.1) by August 1, 2012.

7 (e) ~~(1)~~ Dispose of assets and properties of the former
8 redevelopment agency as directed by the oversight board, provided,
9 however, that the oversight board may instead direct the successor
10 agency to transfer ownership of certain assets pursuant to
11 subdivision (a) of Section 34181. The disposal shall be done
12 expeditiously, in a manner aimed at maximizing value. Proceeds
13 from asset sales and related funds that are no longer needed for
14 approved development projects or to otherwise wind down the
15 affairs of the agency, each as determined by the oversight board,
16 shall be transferred to the ~~county auditor-controller for distribution~~
17 ~~as property tax proceeds under Section 34188~~ *Sustainable*
18 *Economic Development and Housing Trust Fund, regardless of*
19 *whether a Sustainable Communities Investment Authority has been*
20 *formed pursuant to Part 1.86 (commencing with Section 34191.1).*

21 ~~(2) This subdivision shall not apply to a jurisdiction where a~~
22 ~~Community Development and Housing Joint Powers Authority~~
23 ~~has been formed pursuant to Part 1.86 (commencing with Section~~
24 ~~34191.1) by August 1, 2012.~~

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

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

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

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

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

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

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

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

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

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

19 (A) Low and Moderate Income Housing Fund.

20 (B) Bond proceeds.

21 (C) Reserve balances.

22 (D) Administrative cost allowance.

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

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

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

33 (A) A draft Recognized Obligation Payment Schedule is
34 prepared by the successor agency for the enforceable obligations
35 of the former redevelopment agency by March 1, 2012. From
36 October 1, 2011, to July 1, 2012, the initial draft of that schedule
37 shall project the dates and amounts of scheduled payments for
38 each enforceable obligation for the remainder of the time period
39 during which the redevelopment agency would have been
40 authorized to obligate property tax increment had such a

1 redevelopment agency not been dissolved, and shall be reviewed
2 and certified, as to its accuracy, by an external auditor designated
3 pursuant to Section 34182.

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

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

10 (3) The Recognized Obligation Payment Schedule shall be
11 forward looking to the next six months. The first Recognized
12 Obligation Payment Schedule shall be submitted to the Controller's
13 office and the Department of Finance by April 15, 2012, for the
14 period of January 1, 2012, to June 30, 2012, inclusive. Former
15 redevelopment agency enforceable obligation payments due, and
16 reasonable or necessary administrative costs due or incurred, prior
17 to January 1, 2012, shall be made from property tax revenues
18 received in the spring of 2011 property tax distribution, and from
19 other revenues and balances transferred to the successor agency.

20 SEC. 3. Section 34177.1 is added to the Health and Safety
21 Code, to read:

22 34177.1. (a) ~~(1) A Community Development and Housing~~
23 *Sustainable Communities Investment* Authority established
24 pursuant to Part 1.86 (commencing with Section 34191.1) shall
25 prepare a long-range asset management plan that shall govern the
26 disposition and ongoing use of the Sustainable Economic
27 Development and Housing Trust Fund.

28 *(2) If a Sustainable Communities Investment Authority has been*
29 *formed pursuant to a joint powers agreement between a city and*
30 *county, or by the county alone in the case of an unincorporated*
31 *area, the authority shall develop the long-range asset management*
32 *plan.*

33 *(3) If a Sustainable Communities Investment Authority has not*
34 *been formed, the oversight board shall develop the long-range*
35 *asset management plan.*

36 (b) (1) The long-range asset management plan shall be
37 submitted to the Department of Finance for approval by December
38 1, 2012. The department shall approve the plan or return the plan
39 to the authority for revisions prior to final approval, by December
40 31, 2012. The plan shall be updated annually and submitted to the

1 department for approval by December 1 of each year. *No assets*
2 *shall be liquidated until the plan is approved by the department.*

3 (2) The department, as a condition of granting approval to the
4 long-range asset management plan submitted by the authority, may
5 choose to establish a minimum asset distribution requirement, to
6 ensure that K–14 schools and local agencies receive a minimal
7 amount of funding from the dissolution of assets of the trust
8 pursuant to Section 34188.

9 (c) The long-range asset management plan shall outline a
10 strategy for maximizing the long-term social and monetary value
11 of the real property and assets in the trust for the purpose of
12 sustainable economic development consistent with Part 1.86
13 (commencing with Section 34191.1) and creating high wage, high
14 skill jobs, and affordable housing.

15 (d) The long-range asset management plan shall do both of the
16 following:

17 (1) Include an inventory of all assets in the trust, including, but
18 not limited to, all assets identified by the auditor-controller in the
19 audit conducted pursuant to subdivision (a) of Section 34182. The
20 inventory shall consist of the following:

21 (A) The date of the acquisition of the asset and the value of the
22 asset at that time, and an estimate of the current value of the asset.

23 (B) The purpose for which the asset was acquired.

24 (C) For real property assets:

25 (i) Parcel data, including address, lot size, and current zoning
26 in the former agency redevelopment plan or specific, community,
27 or general plan.

28 (ii) An estimate of the current value of the parcel, including, if
29 available, any appraisal information.

30 (iii) A history of environmental contamination, including
31 designation as a brownfield, and any related environmental studies
32 and history of any remediation efforts.

33 (iv) A description of the strategic value of the property with
34 respect to its potential for transit-oriented development and
35 advancing the planning objectives of the member agencies of the
36 ~~Community Development and Housing~~ *Sustainable Communities*
37 *Investment Authority.*

38 (v) A brief history of previous development proposals and
39 activity, including rental or lease of property.

(2) Address the use or disposition of all of the assets in the trust. Permissible uses include the retention of the asset for governmental use pursuant to subdivision (a) of Section 34181, the sale of the asset, and the retention of the asset in the trust for future use. It shall not be necessary to maximize the monetary value of the asset if an alternative deployment of the asset furthers social and community objectives determined by the authority and consistent with this article. Property disposed of by the authority shall not be the subject of real estate speculation.

(e) All entities receiving financial support from or authorized by this article shall incorporate into any and all agreements a jobs plan, which shall describe how the project will create construction careers that pay prevailing wages, living wage permanent jobs, and a program for community outreach, local hire, and job training. This plan shall also describe the project developer's commitment to offer jobs to disadvantaged California residents, including veterans of the Iraq and Afghanistan wars, people with a history in the criminal justice system, and single parent families.

SEC. 4. Section 34177.2 is added to the Health and Safety Code, to read:

34177.2. (a) The Sustainable Economic Development and Housing Trust Fund is hereby established to serve as the repository of the unencumbered balances for each former redevelopment agency's funds, assets, and properties. For purposes of this section, "assets" shall include, but are not limited to, real and personal property holdings, tax revenues, former redevelopment project revenues, other revenues, and investment accounts, deeds of trust and mortgages held by the former agency, rents, fees, charges, moneys, accounts receivable, contracts rights, and other rights to payment of whatever kind or other real or personal property. *The trust fund shall be in existence regardless of whether a Sustainable Communities Investment Authority has been formed.*

(b) In addition to the assets of the former redevelopment agencies, the trust fund may accept revenues from any source, including tax revenues, grants, and loans. Notwithstanding paragraph (1) of subdivision (e) of Section 34177, the proceeds of asset sales may be retained for ongoing sustainable economic development and affordable housing activities of the joint powers authority specified in and consistent with Part 1.86 (commencing

with Section 34191.1), and shall not be distributed as property tax pursuant to Section 34188.

(c) The Sustainable Economic Development and Housing Trust Fund shall be administered by the ~~Community Development and Housing Joint Powers~~ *Sustainable Communities Investment* Authority established pursuant to Part 1.86 (commencing with Section 34191.1).

(d) Moneys in the Sustainable Economic Development and Housing Trust Fund may be used for any of the following purposes:

(1) The purchase, acquisition, financing, or maintenance of public or private infrastructure needed for infill development consistent with Chapter 728 of the Statutes of 2008.

(2) Affordable housing.

(3) Transitional housing needed for former inmate populations transferred to the jurisdiction of the counties pursuant to the 2011 criminal justice realignment.

(4) Loans to public or private entities for development activities defined in Section 34191.2.

(5) Environmental mitigation, including, but not limited to, brownfield site remediation.

(6) Payment of liabilities of the former redevelopment agency.

(7) Land acquisition.

(8) Clean energy and energy efficiency investments.

(9) Educational, labor-management, and job training programs leading to careers in high-need, high-growth, or emerging regional economic sectors.

~~(e) This section shall apply to a jurisdiction where a Community Development and Housing Authority has been formed pursuant to Part 1.86 (commencing with Section 34191.1) by August 1, 2012.~~