

SOLANO COUNTY BOARD OF SUPERVISORS
Legislative Committee Meeting

Committee
Supervisor Linda J. Seifert (Chair)
Supervisor Michael J. Reagan

Staff
Nancy Huston
Michelle Heppner

April 30, 2012
1:30 p.m. – 3:30 p.m.

Solano County Administration Center
Sixth Floor Conference Center, Room 6003
675 Texas Street
Fairfield, CA 94533

AGENDA

- I. Public Comment** (Items not on the agenda)
- II. Report on State Budget and Legislation and consider making a recommendation for a position on legislation (Paul Yoder)**

Redevelopment

- 1. Legislative Guiding Principles
- 2. AB 1555 (Norby) - Redevelopment: debt forgiveness agreements.
Bill (3/06/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1555_bill_20120306_amended_asm_v98.pdf
Analysis (4/23/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1555_cfa_20120423_162927_asm_comm.html
- 3. AB 1585 (Perez) - Redevelopment.
Bill (3/21/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1585_bill_20120321_amended_asm_v96.pdf
Analysis (3/26/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1551-1600/ab_1585_cfa_20120326_142326_asm_floor.html
- 4. SB 654 (Steinberg) - Redevelopment.
Bill (1/31/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0651-0700/sb_654_bill_20120131_amended_sen_v96.pdf
Analysis (1/31/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0651-0700/sb_654_cfa_20120131_124517_sen_floor.html
- 5. SB 986 (Dutton) - Redevelopment: bond proceeds.
Bill (4/11/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0951-1000/sb_986_bill_20120411_amended_sen_v98.pdf
Analysis (4/12/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0951-1000/sb_986_cfa_20120412_133132_sen_comm.html
- 6. SB 1151 (Steinberg) - Sustainable Economic Development and Housing Trust Fund: long-range asset management plan.
Bill (3/29/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1151_bill_20120329_amended_sen_v98.pdf
Analysis (4/19/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1151_cfa_20120419_164952_sen_comm.html

7. SB 1156 (Steinberg) - Community Development and Housing Joint Powers Authority.
Bill (3/29/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1156_bill_20120329_amended_sen_v98.pdf
Analysis (4/19/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1156_cfa_20120419_165015_sen_comm.html

Delta Bills

8. AB 1813 (Buchanan) - Sacramento-San Joaquin Delta Reform Act of 2009.
Bill (3/29/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1801-1850/ab_1813_bill_20120329_amended_asm_v98.pdf
9. AB 1884 (Buchanan) - Sacramento-San Joaquin Delta Reform Act of 2009: covered actions.
Bill (3/29/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1851-1900/ab_1884_bill_20120329_amended_asm_v98.pdf
10. AB 2000 (Huber) - Sacramento-San Joaquin Delta.
Bill (4/16/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1951-2000/ab_2000_bill_20120416_amended_asm_v97.pdf
Analysis (4/23/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1951-2000/ab_2000_cfa_20120423_121156_asm_comm.html
11. AB 2421 (Berryhill) - Bay Delta Conservation Plan: Delta Plan project: costs and benefits.
Bill (4/12/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2401-2450/ab_2421_bill_20120412_amended_asm_v98.pdf
Analysis (4/23/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2401-2450/ab_2421_cfa_20120423_121217_asm_comm.html
12. AB 2422 (Berryhill) - Sacramento-San Joaquin Delta: Western Delta Intakes Concept: feasibility study.
Bill (3/29/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2401-2450/ab_2422_bill_20120329_amended_asm_v98.pdf
Analysis (4/23/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2401-2450/ab_2422_cfa_20120423_121121_asm_comm.html
13. AB 2423 (Berryhill) - Comprehensive Sacramento-San Joaquin Delta planning.
Bill (2/24/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2401-2450/ab_2423_bill_20120224_introduced.pdf
14. SB 1278 (Wolk) - Planning and zoning: flood protection: Sacramento-San Joaquin Valley.
Bill (4/19/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1251-1300/sb_1278_bill_20120419_amended_sen_v97.pdf
Analysis (4/19/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1251-1300/sb_1278_cfa_20120419_151708_sen_comm.html
15. SB 1495(Wolk) - Sacramento-San Joaquin Delta Reform Act of 2009.
Bill (4/16/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1451-1500/sb_1495_bill_20120416_amended_sen_v98.pdf
Analysis (4/06/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1451-1500/sb_1495_cfa_20120406_121705_sen_comm.html

Miscellaneous

16. AB 1626 (Yamada) - Election materials: public examination: writ of mandate: elections official.
Bill (2/09/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1601-1650/ab_1626_bill_20120209_introduced.pdf
17. AB 2231 (Fuentes) – Sidewalks: repairs.
Bill (4/23/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2201-2250/ab_2231_bill_20120423_amended_asm_v98.pdf
Analysis (4/17/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2201-2250/ab_2231_cfa_20120417_124618_asm_comm.html
18. AB 2062 (Davis) - Political Reform Act of 1974: Statements of economic interests: electronic filing.
Bill (2/23/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2051-2100/ab_2062_bill_20120223_introduced.pdf
Analysis (4/16/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2051-2100/ab_2062_cfa_20120416_134529_asm_comm.html
19. AB 2031 (Fuentes) - Probation: community corrections program.
Bill (3/20/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2001-2050/ab_2031_bill_20120320_amended_asm_v98.pdf
Analysis (4/20/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2001-2050/ab_2031_cfa_20120420_151950_asm_floor.html
20. ACA 18 (Swanson) – First Responders Initiative.
Bill (2/18/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0001-0050/aca_18_bill_20110218_introduced.pdf
21. AB 1627 (Dickinson) – Energy: Vehicle Miles Traveled.
Bill (4/10/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1601-1650/ab_1627_bill_20120410_amended_asm_v98.pdf
Analysis (4/16/2012) - http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1601-1650/ab_1627_cfa_20120416_100607_asm_comm.html

III. Discussion of Federal Bills and consider making a recommendation (Ron Waterman)

22. 2012 Farm Bill – Authorizes a variety of agricultural and food programs. Current bill expires September 20, 2012. Expected cuts to the Supplemental Nutrition Assistance Program (SNAP; formally known as food stamps).

IV. Schedule of Legislative Committee Meetings

23. Staff suggestion - Second Monday of each month at 1:30 p.m.

V. Items from the Public

ADJOURNMENT

Concepts for Board consideration and discussion for developing legislative guiding principles when considering amendments to AB1x 26 and/or alternative legislative solutions

Background

Recognize that there continues an underlying land use principle since the 1970's of generally supporting city centered growth- which focuses economic growth, job creation, and commercial, industrial, and residential development into cities; and

Recognize that prior to January 2012 the State Legislature's adoption of redevelopment law dating back to 1950's was one of the most powerful and flexible tools available to local governments for economic development, used in and for a variety of business transactions including acquisition of real property, the rehabilitation and reuse of infrastructure, facilities, and land; the rehabilitation and creation of affordable housing and the creation of jobs. *As a consequence, local governments will need time to identify and develop alternatives; and*

Recognize that the current economic downturn in Solano County with an unemployment rate of 11% , has increased the number of individuals receiving of public assistance, and increased the number of uninsured and homeless, placing a greater demand on local, state, and federal governments; and

Recognize that the economic downturn in Solano County has been fueled by the collapse of the housing market, resulting in record numbers of residential real estate foreclosures and short-sales, resetting the property tax base for all local government agencies including cities, special districts, and the County, all of whom receive and rely on property tax revenues as a significant source of revenue for their respective General Fund to provide public services; and

Recognize that the property tax represents the greatest portion of local government general fund revenue and is a key source of financing local government public services, and recognize that the reduction in property values and the reduced property tax revenues impacted the General Fund Revenues for the County as well as the cities, creating further uncertainty in all their abilities to deliver services; and

Recognize that the State of California's unbalanced budget and lack of revenues to sustain its programs and services has resulted in a perpetual rearranging or remix between the state, counties, and cities of revenue streams, as well as program and service responsibilities, the most recent examples of which are the dissolution of redevelopment agencies and the realignment of public safety and prison populations; and

Recognize that there is a desire for all local governments to be responsive to their communities and residents which is ever more difficult when revenues are declining and nearly impossible when revenues are redirected or repurposed; and

Recognize that where services are delivered locally the government agencies within the County should work in a spirit of cooperation including working through the requirements and impacts

of AB1x 26 to insure financial obligations and commitments are addressed and the impacts to general funds and public services managed; and

Support clarifications in the decision process

Recognize that AB 26X was statewide legislation written and approved with a sense of urgency and maybe incomplete and missing clarity in terms of definitions, timelines, and processes, and support efforts to seek clarification and direction from the California Department of Finance as well as extensive legal review prior to seeking legislative fixes or amendments; and

Recognize that the redevelopment law evolved over time, and that for over 40 years Solano County redevelopment agencies entered into business transactions consistent with the laws in effect at some point in time, and that the review of those business transactions and associated decisions as required by AB1x 26 will require transparency, independent audits, and state overview, all of which takes time and may require seeking legislative fixes or amendments; and

Recognize that six cities in Solano County created 19 RDA Project Areas and used different financial tools (bonds, loans, agreements,) for redevelopment in their communities and that the full extent of those obligations, including loans between cities and RDA's, should be clearly understood and defined before expanding the legislative definition of what are deemed legitimate loans and debts for the recognized obligation payment schedules (ROPS); and

Support informed decisions and seek expertise and take time

Recognize that the determination of bonded indebtedness, long term liabilities, property valuation and disposition, can be complex and difficult and may require independent review by qualified individuals and technical assistance from subject matter experts before decisions are made by Oversight Boards, and that it is desirable and necessary to make informed decisions despite legislation that details actions by specific dates to address a state budget need, so there may be need to seek time extensions; and

Support decisions that protect County revenues that were received from RDA's prior to the dissolution of RDA's

Recognize there was a cap on Redevelopment Agency Tax Increment and an expiration of Project Areas prior to dissolution that has been eliminated with the dissolution of RDA's and encourage Successor Agencies and Oversight Boards to consider and make informed decisions that increase neither the amount nor duration of the obligations beyond what an RDA project area could have approved prior to dissolution; and

Recognize that County general fund revenues are critical to the provision of governmental services delivered countywide and that redevelopment pass-through funds for FY2011/12 represent roughly \$16 million or approximately 9% of the county's general fund revenues and that there is a stated desire to insure that decisions made by Oversight Boards in the review of Successor Agency statements of obligations not adversely impact this revenue source so as to further restrict the county's ability to provide public services; and

Support cost recovery/administration/provision for ongoing services and informed decisions

Recognize that AB1x 26 establishes new legal entities and new mandates with specific duties and actions; and while the legislation contains some provisions for reimbursement of indirect and direct administrative costs, the legislation did not have fully anticipated the extent of the short term or ongoing indirect or direct costs attributed to the management or disposition of former redevelopment agency agreements, assets, and other obligations, so there may be a need to further clarify necessary and eligible direct or indirect labor and administrative costs for successor agencies; and

Recognize that the State Department of Finance and the Auditor-Controller can serve as resources because the legislation includes duties and responsibilities for them to review and audit financial information, but with the recent assumption of these new responsibilities, they will need time to fulfill their duties and responsibilities; and

Support affordable housing solutions

Recognize that sustaining and creating affordable housing typically requires infrastructure support, including public water, public sewer, access to public services and public transportation, and there remains a state mandate and an identified need to address affordable housing by local government; and

Recognize that the continuing need for affordable housing is best accomplished in a municipal setting, with support tools that continue the local government's ability to facilitate and fund such programs, including the potential use of tax increments for this purpose; and finally

Support economic development tools

Recognize that there remains a public need in many communities to have the ability to rehabilitate, refurbish and reuse facilities, infrastructure, and land, the cost of which is often beyond the ability of a private investor to accomplish on its own, and to support legislation that provides local jurisdictions with the tools and ability to secure sources for financing these needs in public or public-private partnerships.

AMENDED IN ASSEMBLY MARCH 6, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1555

Introduced by Assembly Member Norby

January 26, 2012

An act to add ~~Section 33601.5 to, and to repeal Article 4.4 (commencing with Section 33354.7) of Chapter 4 of Part 1 of Division 24 of, Section 34181.5 to~~ the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1555, as amended, Norby. Redevelopment: debt forgiveness agreements.

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 each oversight board to direct the successor agency to, among other things, cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations, as defined.

This bill would, in directing the successor agency to take a specified action, prohibit the oversight board from requiring the successor agency to take any action that results in the forgiveness, wholly or partially, of a loan, advance, or indebtedness that is owed by a public body to the dissolved redevelopment agency. The bill would authorize the oversight board, consistent with a specified provision of law, to set aside any agreements relating to the forgiveness of indebtedness, loans,

or advances owed by the dissolved redevelopment agency dating back to January 1, 2011.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in specified communities to address the effects of blight, as defined. Existing law imposes notice requirements on a redevelopment agency with respect to the forgiveness of debts and loans owed to an agency by a public body.

This bill would repeal the provisions of law with respect to redevelopment agency forgiveness of debts and loans. The bill would prohibit an agency from forgiving the repayment of a loan, advance, or indebtedness that is owed by a public body to the agency.

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 34181.5 is added to the Health and Safety
2 Code, to read:

3 34181.5. (a) In directing the successor agency to take any
4 action specified in Section 34181 or any provision of this part, the
5 oversight board shall not require the successor agency to take any
6 action that results in the forgiveness, wholly or partially, of a loan,
7 advance, or indebtedness that is owed by a public body to the
8 dissolved redevelopment agency.

9 (b) The oversight board may, consistent with subdivision (b) of
10 Section 34181, set aside any agreements relating to the forgiveness
11 of indebtedness, loans, or advances owed by the dissolved
12 redevelopment agency dating back to January 1, 2011.

13 SECTION 1. Article 4.4 (commencing with Section 33354.7)
14 of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code
15 is repealed.

16 SEC. 2. Section 33601.5 is added to the Health and Safety
17 Code, to read:

18 33601.5. Notwithstanding any other law, an agency shall not
19 forgive the repayment, wholly or partially, of a loan, advance, or
20 indebtedness that is owed by a public body to the agency.

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AMENDED IN ASSEMBLY MARCH 21, 2012

AMENDED IN ASSEMBLY MARCH 15, 2012

AMENDED IN ASSEMBLY MARCH 8, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1585

**Introduced by Assembly Members John A. Pérez, Atkins, Dickinson,
Hill, Mitchell, Perea, and Torres**

February 2, 2012

An act to amend Sections 34171, 34173, 34176, 34177, 34179, 34180, 34181, 34182, 34183, 34187, and 34189 of the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1585, as amended, John A. Pérez. Redevelopment.

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 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 modify the scope 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.

Existing law provides that, upon a specified date, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid. Notwithstanding this provision, an agreement that provided loans or other startup funds for the agency that was entered into within 2 years of the formation of the agency is valid and binds the successor agency.

The bill would expand this exception to include an agreement involving a loan specific to a project area and other specified obligations. The bill would provide that other loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it are deemed to be enforceable obligations, except as specified. The bill would further expand upon, and clarify, the scope of the successor agency’s and the oversight board’s responsibilities.

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 34171 of the Health and Safety Code is
- 2 amended to read:
- 3 34171. The following terms shall have the following meanings:
- 4 (a) “Administrative budget” means the budget for administrative
- 5 costs of the successor agencies as provided in Section 34177.
- 6 (b) “Administrative cost allowance” means an amount that,
- 7 subject to the approval of the oversight board, is payable from
- 8 property tax revenues of up to 5 percent of the property tax
- 9 allocated to the former redevelopment agency and successor agency
- 10 for the 2011–12 fiscal year and up to 3 percent of the property tax
- 11 allocated to the Redevelopment Obligation Retirement Fund money
- 12 that is allocated to the successor agency for each fiscal year

1 thereafter, except as provided by subdivision (l) of Section 34180;
2 provided, however, that the amount shall not be less than two
3 hundred fifty thousand dollars (\$250,000) for any fiscal year or
4 such lesser amount as agreed to by the successor agency. However,
5 the allowance amount shall exclude any administrative costs that
6 can be paid from bond proceeds or from sources other than property
7 tax. Employee costs associated with work on specific project
8 implementation activities, including, but not limited to, construction
9 inspection, project management, or actual construction, shall be
10 considered project-specific costs and are not administrative costs.

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

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

14 (A) Bonds, as defined by Section 33602 and bonds issued
15 pursuant to Section 5850 of the Government Code, including the
16 required annual debt service, reserve set-asides, and any other
17 payments required under the indenture or similar documents
18 governing the issuance of the outstanding bonds of the former
19 redevelopment agency.

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

24 (C) Payments required by the federal government, preexisting
25 obligations to the state or obligations imposed by state law, other
26 than passthrough payments that are made by the county
27 auditor-controller pursuant to Section 34183, or legally enforceable
28 payments required in connection with the agencies' employees,
29 including, but not limited to, pension payments, pension obligation
30 debt service, unemployment payments, or other obligations
31 conferred through a collective bargaining agreement. Costs incurred
32 to fulfill collective bargaining agreements for layoffs or
33 terminations of city employees who performed work directly on
34 behalf of the former redevelopment agency shall be considered
35 enforceable obligations payable from property tax funds. The
36 obligations to employees specified in this subparagraph shall
37 remain enforceable obligations payable from property tax funds
38 for any employee to whom those obligations apply if that employee
39 is transferred to the entity assuming the housing functions of the
40 former redevelopment agency pursuant to Section 34176. The

1 successor agency or designated local authority shall enter into an
2 agreement with the housing entity to reimburse it for any costs of
3 the employee obligations.

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

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

18 (F) Contracts or agreements necessary for the administration or
19 operation of the successor agency, in accordance with this part,
20 including, but not limited to, agreements to purchase or rent office
21 space, equipment and supplies, and pay-related expenses pursuant
22 to Section 33127 and for carrying insurance pursuant to Section
23 33134.

24 (G) Amounts borrowed from or payments owing to the Low
25 and Moderate Income Housing Fund of a redevelopment agency,
26 which had been deferred as of the effective date of the act adding
27 this part; provided, however, that the repayment schedule is
28 approved by the oversight board. Repayments shall be made to
29 the Low and Moderate Income Housing Fund maintained by the
30 entity assuming the housing functions formerly performed by the
31 redevelopment agency, as described in Section 34176.

32 (2) (A) Except as specifically provided in this part, “enforceable
33 obligation” does not include any agreements, contracts, or
34 arrangements between the city, county, or city and county that
35 created the redevelopment agency and the former redevelopment
36 agency. However, written agreements entered into (i) at the time
37 of issuance, but in no event later than December 31, 2010, of
38 indebtedness obligations, and (ii) solely for the purpose of securing
39 or repaying those indebtedness obligations may be deemed
40 enforceable obligations for purposes of this part.

1 (B) Loan agreements entered into between the redevelopment
2 agency and the city, county, or city and county that created it,
3 within two years of the date of creation of the redevelopment
4 agency, or within two years of the date of the creation of a project
5 area if the loan is specific to that project area, and any obligations
6 imposed by paragraph (1) of subdivision (d) of Section 33691 may
7 be deemed to be enforceable obligations.

8 (C) Other loan agreements entered into between the
9 redevelopment agency and the city, county, or city and county that
10 created it shall be deemed to be enforceable obligations, if the
11 conditions of subdivision (k) of Section 34180 are met.

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

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

30 (f) “Oversight board” shall mean each entity established pursuant
31 to Section 34179.

32 (g) “Recognized obligation” means an obligation listed in the
33 Recognized Obligation Payment Schedule.

34 (h) “Recognized Obligation Payment Schedule” means the
35 document setting forth the minimum payment amounts and due
36 dates of payments required by enforceable obligations for each
37 six-month fiscal period or annual period as provided in subdivision
38 (l) of Section 34177.

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

1 (j) “Successor agency” means the county, city, or city and county
2 that authorized the creation of each redevelopment agency acting
3 in its separate capacity as a successor agency or another entity as
4 provided in Section 34173.

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

10 SEC. 2. Section 34173 of the Health and Safety Code is
11 amended to read:

12 34173. (a) Successor agencies, as defined in this part, are
13 hereby designated as successor entities to the former redevelopment
14 agencies. ~~A successor agency shall constitute a legally distinct and~~
15 ~~separate body~~ *For purposes of this part, a successor agency is a*
16 *public entity separate from the entity or entities that authorized*
17 *the creation of each redevelopment agency that acts, by resolution,*
18 *on its own behalf and shall have all the powers and duties set forth*
19 *herein, the power to sue and be sued, and such additional powers*
20 *as may be conferred upon it. Each successor agency shall be*
21 *deemed to be a local entity for purposes of the Ralph M. Brown*
22 *Act (Chapter 9 (commencing with Section 54950) of Part 1 of*
23 *Division 2 of Title 5 of the Government Code).*

24 (b) Except for those provisions of the Community
25 Redevelopment Law that are repealed, restricted, or revised
26 pursuant to the act adding this part, all authority, rights, powers,
27 duties, and obligations previously vested with the former
28 redevelopment agencies, under the Community Redevelopment
29 Law, are hereby vested in the successor agencies.

30 (c) (1) Where the redevelopment agency was in the form of a
31 joint powers authority, and where the joint powers agreement
32 governing the formation of the joint powers authority addresses
33 the allocation of assets and liabilities upon dissolution of the joint
34 powers authority, then each of the entities that created the former
35 redevelopment agency may be a successor agency within the
36 meaning of this part and each shall have a share of assets and
37 liabilities based on the provisions of the joint powers agreement.

38 (2) Where the redevelopment agency was in the form of a joint
39 powers authority, and where the joint powers agreement governing
40 the formation of the joint powers authority does not address the

1 allocation of assets and liabilities upon dissolution of the joint
2 powers authority, then each of the entities that created the former
3 redevelopment agency may be a successor agency within the
4 meaning of this part, a proportionate share of the assets and
5 liabilities shall be based on the assessed value in the project areas
6 within each entity’s jurisdiction, as determined by the county
7 assessor, in its jurisdiction as compared to the assessed value of
8 land within the boundaries of the project areas of the former
9 redevelopment agency.

10 (d) (1) A city, county, city and county, or the entities forming
11 the joint powers authority that authorized the creation of each
12 redevelopment agency may elect not to serve as a successor agency
13 under this part. A city, county, city and county, or any member of
14 a joint powers authority that elects not to serve as a successor
15 agency under this part must file a copy of a duly authorized
16 resolution of its governing board to that effect with the county
17 auditor-controller no later than January 13, 2012.

18 (2) The determination of the first local agency that elects to
19 become the successor agency shall be made by the county
20 auditor-controller based on the earliest receipt by the county
21 auditor-controller of a copy of a duly adopted resolution of the
22 local agency’s governing board authorizing such an election. As
23 used in this section, “local agency” means any city, county, city
24 and county, or special district in the county of the former
25 redevelopment agency.

26 (3) If no local agency elects to serve as a successor agency for
27 a dissolved redevelopment agency, a public body, referred to herein
28 as a “designated local authority” shall be immediately formed,
29 pursuant to this part, in the county and shall be vested with all the
30 powers and duties of a successor agency as described in this part.
31 The Governor shall appoint three residents of the county to serve
32 as the governing board of the authority. The designated local
33 authority shall serve as successor agency until a local agency elects
34 to become the successor agency in accordance with this section.

35 (4) A city, county, or city and county, or the entities forming
36 the joint powers authority that authorized the creation of a
37 redevelopment agency and that elected not to serve as the successor
38 agency under this part, may subsequently reverse this decision and
39 agree to serve as the successor agency pursuant to this section.
40 *Any reversal of this decision shall not become effective for 60 days*

1 *after notice has been given to the current successor agency and*
 2 *the oversight board and shall not invalidate any action of the*
 3 *successor agency or oversight board taken prior to the effective*
 4 *date of the transfer of responsibility.*

5 (e) The liability of any successor agency, acting pursuant to the
 6 powers granted under the act adding this part, shall be limited to
 7 the extent of the total sum of property tax revenues it receives
 8 pursuant to this part and the value of assets transferred to it as a
 9 successor agency for a dissolved redevelopment agency.

10 SEC. 3. Section 34176 of the Health and Safety Code is
 11 amended to read:

12 34176. (a) The city, county, or city and county that authorized
 13 the creation of a redevelopment agency may elect to retain the
 14 housing assets and functions previously performed by the
 15 redevelopment agency. If a city, county, or city and county elects
 16 to retain the responsibility for performing housing functions
 17 previously performed by a redevelopment agency, all rights,
 18 powers, ~~duties, and obligations~~ *assets, liabilities, duties, and*
 19 *obligations, excluding enforceable obligations of the successor*
 20 *agency, associated with the housing activities of the agency,*
 21 *including any amounts on deposit in the Low and Moderate Income*
 22 *Housing Fund, shall be transferred to the city, county, or city and*
 23 *county. Any funds transferred to the city, county, or city and county*
 24 *pursuant to this subdivision shall be maintained in a separate Low*
 25 *and Moderate Income Housing Fund and expended pursuant to*
 26 *the provisions of the Community Redevelopment Law relating to*
 27 *the Low and Moderate Income Housing Fund.*

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

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

38 (2) Where there is more than one local housing authority in the
 39 territorial jurisdiction of the former redevelopment agency, to the

1 local housing authority selected by the city, county, or city and
2 county that authorized the creation of the redevelopment agency.

3 (3) Where there is no local housing authority in the territorial
4 jurisdiction of the former redevelopment agency or where the local
5 housing authority selected does not accept the responsibility for
6 performing housing functions previously performed by the former
7 redevelopment agency, to the Department of Housing and
8 Community Development. Funds shall be deposited into the State
9 Low and Moderate Income Housing Trust Fund and awarded on
10 a competitive basis to projects within the counties in which the
11 funds were collected. Priority shall be given to eligible projects
12 for extremely low, very low, and low-income projects.

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

19 (d) The succeeding housing entity shall contract to expend at
20 least 80 percent of the moneys in the Low and Moderate Income
21 Housing Fund within two years of the date of receipt of those
22 moneys. If within four years of the date of receipt of those moneys
23 the succeeding housing entity has not spent the money in the Low
24 and Moderate Income Housing Fund, then the excess amount,
25 minus the amount necessarily reserved for the ongoing monitoring
26 and maintenance of affordable housing projects, shall be transferred
27 to the State Low and Moderate Income Housing Trust Fund, which
28 is hereby created, for expenditure by the Department of Housing
29 and Community Development for the purpose of increasing the
30 supply of low- and moderate-income housing in the county with
31 priority given to extremely low, very low, and low-income projects.
32 Excess funds shall not be transferred to the department if the
33 succeeding housing entity applies for, and receives, a waiver from
34 the department. If a waiver is granted, funds shall remain with the
35 entity for an additional two years from the date of waiver approval.
36 In approving a waiver, the department shall consider, among other
37 factors, whether the city, county, or city and county, or housing
38 authority has a site specific project plan with local approvals,
39 including the issuance of building permits, whether the project has
40 secured financing, and evidence that some funds have been

1 expended from the Low and Moderate Income Housing Fund. A
2 succeeding housing entity may reapply at the end of the two-year
3 period for a renewal of the previously granted waiver.

4 (e) A succeeding housing entity may transfer all or a portion of
5 the moneys in the Low and Moderate Income Housing Fund to
6 another succeeding housing entity within the county where the
7 moneys were collected, to be spent on affordable housing if all of
8 the following conditions are met:

9 (1) The funds shall be spent on projects that primarily benefit
10 low-income families or families that are below low income.

11 (2) Both succeeding housing entities involved in the transfer
12 adopt a resolution detailing the need for the transfer of funds and
13 the intended use of the funds by the receiving jurisdiction.

14 (3) The funds shall be spent in compliance with subdivision (d).

15 (f) The succeeding housing entity shall, within 45 days of the
16 date the act amending this section takes effect or 45 days from
17 receipt of moneys for the Low and Moderate Income Housing
18 Fund, whichever date is later, notify the department of the amount
19 of moneys on deposit in the Low and Moderate Income Housing
20 Fund and that entity's plan for spending the funds. Two years from
21 this date, the succeeding housing entity shall report to the
22 department the percentage of funds that it has entered into contract
23 to spend. Within four years of receipt of the funds, the succeeding
24 housing entity shall report to the department if there are remaining
25 moneys in the Low and Moderate Income Housing Fund and if it
26 will apply for a waiver specified in subdivision (d) or whether the
27 excess amount will be transferred to the department.

28 (g) For purposes of this section, "succeeding housing entity"
29 means the entity that assumes responsibility for retaining the
30 housing assets and functions previously performed by a
31 redevelopment agency, as described in subdivisions (a) and (b).

32 SEC. 4. Section 34177 of the Health and Safety Code is
33 amended to read:

34 34177. Successor agencies are required to do all of the
35 following:

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

37 (1) On and after February 1, 2012, and until a Recognized
38 Obligation Payment Schedule becomes operative, only payments
39 required pursuant to an enforceable obligations payment schedule
40 shall be made. The initial enforceable obligation payment schedule

1 shall be the last schedule adopted by the redevelopment agency
2 under Section 34169. However, payments associated with
3 obligations excluded from the definition of enforceable obligations
4 by paragraph (2) of subdivision (e) of Section 34171 shall be
5 excluded from the enforceable obligations payment schedule and
6 be removed from the last schedule adopted by the redevelopment
7 agency under Section 34169 prior to the successor agency adopting
8 it as its enforceable obligations payment schedule pursuant to this
9 subdivision. The enforceable obligation payment schedule may
10 be amended by the successor agency at any public meeting and
11 shall be subject to the approval of the oversight board as soon as
12 the board has sufficient members to form a quorum.

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

20 (3) Commencing on the date the Recognized Obligation Payment
21 Schedule is valid pursuant to subdivision (l), only those payments
22 listed in the Recognized Obligation Payment Schedule may be
23 made by the successor agency from the funds specified in the
24 Recognized Obligation Payment Schedule. In addition,
25 commencing on the date the Recognized Obligation Payment
26 Schedule is valid pursuant to subdivision (l), the Recognized
27 Obligation Payment Schedule shall supersede the Statement of
28 Indebtedness, which shall no longer be prepared nor have any
29 effect under the Community Redevelopment Law.

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

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

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

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

6 (d) Remit unencumbered balances of redevelopment agency
7 funds to the county auditor-controller for distribution to the taxing
8 entities. In making the distribution, the county auditor-controller
9 shall utilize the same methodology for allocation and distribution
10 of property tax revenues provided in Section 34188.

11 (e) Dispose of assets and properties of the former redevelopment
12 agency as directed by the oversight board; provided, however, that
13 the oversight board may instead direct the successor agency to
14 transfer ownership of certain assets pursuant to subdivision (a) of
15 Section 34181. The disposal is to be done in an expeditious but
16 orderly manner that preserves the value of the asset. Proceeds from
17 asset sales and related funds that are no longer needed for approved
18 development projects or to otherwise wind down the affairs of the
19 agency, each as determined by the oversight board, shall be
20 transferred to the county auditor-controller for distribution as
21 property tax proceeds under Section 34188.

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

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

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

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

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

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

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

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

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

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

16 (A) Low and Moderate Income Housing Fund.

17 (B) Bond proceeds.

18 (C) Reserve balances.

19 (D) Administrative cost allowance.

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

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

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

30 (A) A draft Recognized Obligation Payment Schedule is
31 prepared by the successor agency for the enforceable obligations
32 of the former redevelopment agency by March 1, 2012. From
33 January 1, 2012, to June 30, 2012, inclusive, the initial draft of
34 that schedule shall project the dates and amounts of scheduled
35 payments for each enforceable obligation, and shall be reviewed
36 and certified, as to its accuracy, by an external auditor designated
37 pursuant to Section 34182.

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

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

5 (3) The Recognized Obligation Payment Schedule shall be
6 forward looking to the next six months. The first Recognized
7 Obligation Payment Schedule shall be submitted to the Controller's
8 office and the Department of Finance by April 15, 2012, for the
9 period of January 1, 2012, to June 30, 2012, inclusive. However,
10 the first Recognized Obligation Payment Schedule submitted for
11 the year may, if necessary, include the total amount of payments
12 required for an enforceable obligation for the next two six-month
13 periods and, in the case of debt obligations, may include, if
14 necessary, the amount of the annual debt service, reserve set-asides,
15 and any other amounts required under indenture or similar
16 documents. Former redevelopment agency enforceable obligation
17 payments due, and reasonable or necessary administrative costs
18 due or incurred, prior to January 1, 2012, shall be made from
19 property tax revenues received in the spring of 2011 property tax
20 distribution, and from other revenues and balances transferred to
21 the successor agency.

22 (m) *Cause a postaudit of the financial transactions and records*
23 *of the successor agency to be made at least annually by a certified*
24 *public accountant.*

25 SEC. 5. Section 34179 of the Health and Safety Code is
26 amended to read:

27 34179. (a) Each successor agency shall have an oversight
28 board composed of seven members. The members shall elect one
29 of their members as the chairperson and shall report the name of
30 the chairperson and other members to the Department of Finance
31 on or before May 1, 2012. Members shall be selected as follows:

32 (1) One member appointed by the county board of supervisors.

33 (2) One member appointed by the mayor for the city that formed
34 the redevelopment agency.

35 (3) One member appointed by the special district having the
36 largest property tax share within the redevelopment project areas
37 of the former redevelopment agency, which is of the type of special
38 district that is eligible to receive property tax revenues pursuant
39 to Section 34188.

1 (4) One member appointed by the county superintendent of
2 education to represent schools if the superintendent is elected. If
3 the county superintendent of education is appointed, then the
4 appointment made pursuant to this paragraph shall be made by the
5 county board of education.

6 (5) One member appointed by the Chancellor of the California
7 Community Colleges to represent community college districts in
8 the county.

9 (6) One member of the public appointed by the county board
10 of supervisors.

11 (7) One member representing the employees of the former
12 redevelopment agency appointed by the mayor or chair of the
13 board of supervisors, as the case may be, from the recognized
14 employee organization representing the largest number of former
15 redevelopment agency employees employed by the successor
16 agency at that time. In the case where city or county employees
17 performed administrative duties of the former redevelopment
18 agency, the appointment shall be made from the recognized
19 employee organization representing those employees. If a
20 recognized employee organization does not exist for either the
21 employees of the former redevelopment agency or the city or
22 county employees performing administrative duties of the former
23 redevelopment agency, the appointment shall be made from among
24 the employees of the successor agency. In voting to approve a
25 contract as an enforceable obligation, a member appointed pursuant
26 to this paragraph shall not be deemed to be interested in the contract
27 by virtue of being an employee of the successor agency or
28 community for purposes of Section 1090 of the Government Code.

29 (8) If the county or a joint powers agency formed the
30 redevelopment agency, then the largest city by acreage in the
31 territorial jurisdiction of the former redevelopment agency may
32 select one member. If there are no cities with territory in a project
33 area of the redevelopment agency, the county superintendent of
34 education may appoint an additional member to represent the
35 public.

36 (9) If there are no special districts of the type that are eligible
37 to receive property tax pursuant to Section 34188, within the
38 territorial jurisdiction of the former redevelopment agency, then
39 the county may appoint one member to represent the public.

1 (10) Where a redevelopment agency was formed by an entity
2 that is both a charter city and a county, the oversight board shall
3 be composed of seven members selected as follows: three members
4 appointed by the mayor of the city, where such appointment is
5 subject to confirmation by the county board of supervisors, one
6 member appointed by the largest special district, by property tax
7 share, with territory in the territorial jurisdiction of the former
8 redevelopment agency, which is the type of special district that is
9 eligible to receive property tax revenues pursuant to Section 34188,
10 one member appointed by the county superintendent of education
11 to represent schools, one member appointed by the Chancellor of
12 the California Community Colleges to represent community college
13 districts, and one member representing employees of the former
14 redevelopment agency appointed by the mayor of the city where
15 such an appointment is subject to confirmation by the county board
16 of supervisors, to represent the largest number of former
17 redevelopment agency employees employed by the successor
18 agency at that time.

19 (b) The Governor may appoint individuals to fill any oversight
20 board member position described in subdivision (a) that has not
21 been filled by May 15, 2012, or any member position that remains
22 vacant for more than 60 days.

23 (c) The oversight board may direct the staff of the successor
24 agency to perform work in furtherance of the oversight board's
25 duties and responsibilities under this part. The successor agency
26 shall pay for all of the costs of meetings of the oversight board
27 and may include such costs in its administrative budget. Oversight
28 board members shall serve without compensation or reimbursement
29 for expenses.

30 (d) Oversight board members shall have personal immunity
31 from suit for their actions taken within the scope of their
32 responsibilities as oversight board members.

33 (e) A majority of the total membership of the oversight board
34 shall constitute a quorum for the transaction of business. A majority
35 vote of the total membership of the oversight board is required for
36 the oversight board to take action. The oversight board shall be
37 deemed to be a local entity for purposes of the Ralph M. Brown
38 Act, the California Public Records Act, and the Political Reform
39 Act of 1974. All actions taken by the oversight board shall be
40 adopted by resolution.

1 (f) All notices required by law for proposed oversight board
2 actions shall also be posted on the successor agency's Internet
3 Web site or the oversight board's Internet Web site.

4 (g) Each member of an oversight board shall serve at the
5 pleasure of the entity that appointed such member.

6 (h) The Department of Finance may review an oversight board
7 action taken pursuant to this part. As such, all oversight board
8 actions shall not be effective for three business days, pending a
9 request for review by the department. Each oversight board shall
10 designate an official to whom the department may make such
11 requests and who shall provide the department with the telephone
12 number and email contact information for the purpose of
13 communicating with the department pursuant to this subdivision.
14 In the event that the department requests a review of a given
15 oversight board action, it shall have 10 days from the date of its
16 request to approve the oversight board action or return it to the
17 oversight board for reconsideration and such oversight board action
18 shall not be effective until approved by the department. In the
19 event that the department returns the oversight board action to the
20 oversight board for reconsideration, the oversight board shall
21 resubmit the modified action for department approval and the
22 modified oversight board action shall not become effective until
23 approved by the department.

24 (i) Oversight boards shall have fiduciary responsibilities to
25 holders of enforceable obligations and the taxing entities that
26 benefit from distributions of property tax and other revenues
27 pursuant to Section 34188. Further, the provisions of Division 4
28 (commencing with Section 1000) of the Government Code shall
29 apply to oversight boards. Notwithstanding Section 1099 of the
30 Government Code, or any other law, any individual may
31 simultaneously be appointed to up to five oversight boards and
32 may hold an office in a city, county, city and county, special
33 district, school district, or community college district.

34 (j) Commencing on and after July 1, 2016, in each county where
35 more than one oversight board was created by operation of the act
36 adding this part, there shall be only one oversight board appointed
37 as follows:

38 (1) One member may be appointed by the county board of
39 supervisors.

1 (2) One member may be appointed by the city selection
2 committee established pursuant to Section 50270 of the
3 Government Code. In a city and county, the mayor may appoint
4 one member.

5 (3) One member may be appointed by the independent special
6 district selection committee established pursuant to Section 56332
7 of the Government Code, for the types of special districts that are
8 eligible to receive property tax revenues pursuant to Section 34188.

9 (4) One member may be appointed by the county superintendent
10 of education to represent schools if the superintendent is elected.
11 If the county superintendent of education is appointed, then the
12 appointment made pursuant to this paragraph shall be made by the
13 county board of education.

14 (5) One member may be appointed by the Chancellor of the
15 California Community Colleges to represent community college
16 districts in the county.

17 (6) One member of the public may be appointed by the county
18 board of supervisors.

19 (7) One member may be appointed by the recognized employee
20 organization representing the largest number of successor agency
21 employees in the county.

22 (k) The Governor may appoint individuals to fill any oversight
23 board member position described in subdivision (j) that has not
24 been filled by July 15, 2016, or any member position that remains
25 vacant for more than 60 days.

26 (l) Commencing on and after July 1, 2016, in each county where
27 only one oversight board was created by operation of the act adding
28 this part, then there will be no change to the composition of that
29 oversight board as a result of the operation of subdivision (b).

30 (m) Any oversight board for a given successor agency shall
31 cease to exist when all of the indebtedness of the dissolved
32 redevelopment agency has been repaid.

33 SEC. 6. Section 34180 of the Health and Safety Code is
34 amended to read:

35 34180. All of the following successor agency actions shall first
36 be approved by the oversight board:

37 (a) The establishment of new repayment terms for outstanding
38 loans where the terms have not been specified prior to the date of
39 this part.

1 (b) Refunding of outstanding bonds or other debt of the former
2 redevelopment agency by successor agencies in order to provide
3 for savings or to finance debt service spikes; provided, however,
4 that no additional debt is created and debt service is not accelerated.

5 (c) Entering into a financing agreement, including the issuance
6 of bonds, to fund required payments under an enforceable
7 obligation that exceed the amount of property tax revenue available
8 to the successor agency during the payment period. This
9 subdivision shall not be deemed to authorize a successor agency
10 to create an additional enforceable obligation, as defined by this
11 part, other than for necessary financing costs.

12 (d) Setting aside of amounts in reserves as required by
13 indentures, trust indentures, or similar documents governing the
14 issuance of outstanding redevelopment agency bonds.

15 (e) Merging of project areas.

16 (f) Continuing the acceptance of federal or state grants, or other
17 forms of financial assistance from either public or private sources,
18 where assistance is conditioned upon the provision of matching
19 funds, by the successor entity as successor to the former
20 redevelopment agency, in an amount greater than 5 percent of the
21 total grant amount.

22 (g) (1) If a city, county, or city and county wishes to retain any
23 properties or other assets for future redevelopment activities,
24 funded from its own funds and under its own auspices, it must
25 reach a compensation agreement with the other taxing entities to
26 provide payments to them in proportion to their shares of the base
27 property tax, as determined pursuant to Section 34188, for the
28 value of the property retained.

29 (2) If no other agreement is reached on valuation of the retained
30 assets, the value will be the fair market value as of the 2011
31 property tax lien date as determined by the county assessor.

32 (h) Establishment of the Recognized Obligation Payment
33 Schedule.

34 (i) A request by the successor agency to enter into an agreement
35 with the city, county, or city and county that formed the
36 redevelopment agency that it is succeeding.

37 (j) A request by a successor agency or taxing entity to pledge,
38 or to enter into an agreement for the pledge of, property tax
39 revenues pursuant to subdivision (b) of Section 34178.

1 (k) A loan between a city, county, or city and county and a
2 redevelopment agency as an enforceable obligation pursuant to
3 subparagraph (C) of paragraph (2) of subdivision (d) of Section
4 34171, provided that the oversight board makes a finding that the
5 loan was for legitimate redevelopment purposes and conditions
6 its approval on the loan being repaid to the city, county, or city
7 and county in accordance with a defined schedule over a reasonable
8 term of years at an interest rate not to exceed the interest rate earned
9 by funds deposited into the Local Agency Investment Fund.

10 (l) The approval of temporary increases in the administrative
11 cost allowance to carry out the requirements of an enforceable
12 obligation, to cover litigation costs, or to maintain and preserve
13 the value of assets while in the possession of the successor agency.

14 SEC. 7. Section 34181 of the Health and Safety Code is
15 amended to read:

16 34181. The oversight board shall direct the successor agency
17 to do all of the following:

18 (a) Compile a complete inventory of existing real property assets
19 of the former redevelopment agency, by project area. The inventory
20 shall include general categories of real property assets, the purpose
21 for which they were originally acquired, the original purchase price
22 of each asset and the estimated current market value. Prior to the
23 disposal of any real property asset, the oversight board shall receive
24 and review the inventory compiled by the successor agency, and
25 adopt a policy or strategy for the disposal or transfer of such assets
26 consistent with the requirements of subdivision (b).

27 (b) Dispose of all assets and properties of the former
28 redevelopment agency that were funded by tax increment revenues
29 of the dissolved redevelopment agency, *other than those*
30 *transferred pursuant to subdivision (d)*; provided, however, that
31 the oversight board may instead direct the successor agency to
32 transfer ownership of those assets that were constructed and used
33 for a governmental purpose, such as roads, school buildings, parks,
34 and fire stations, or are integral to the operation of a governmental
35 purpose asset, such as a parking facility, to the appropriate public
36 jurisdiction pursuant to existing agreements, if any, relating to the
37 construction or use of such an asset. Any compensation to be
38 provided to the successor agency for the transfer of the asset shall
39 be governed by agreements, if any, relating to the construction or

1 use of that asset. Disposal shall be done in an expeditious but
2 orderly manner that preserves the value of the asset.

3 (c) Cease performance in connection with and terminate all
4 existing agreements that do not qualify as enforceable obligations.

5 (d) Transfer housing responsibilities and all rights, powers,
6 *assets, liabilities*, duties, and obligations, *excluding enforceable*
7 *obligations of the successor agency*, but including any amounts
8 on deposit in the Low and Moderate Income Housing Fund to the
9 appropriate entity pursuant to Section 34176.

10 (e) Terminate any agreement, between the dissolved
11 redevelopment agency and any public entity located in the same
12 county, obligating the redevelopment agency to provide funding
13 for any debt service obligations of the public entity or for the
14 construction or operation of facilities owned or operated by such
15 public entity, in any instance where the oversight board has found
16 that early termination would be in the best interests of the taxing
17 entities.

18 (f) Determine whether any contracts, agreements, or other
19 arrangements between the dissolved redevelopment agency and
20 any private parties should be terminated or renegotiated to reduce
21 liabilities and increase net revenues to the taxing entities, and
22 present proposed termination or amendment agreements to the
23 oversight board for its approval. The board may approve any
24 amendments to or early termination of such agreements where it
25 finds that amendments or early termination would be in the best
26 interests of the taxing entities.

27 SEC. 8. Section 34182 of the Health and Safety Code is
28 amended to read:

29 34182. (a) (1) The county auditor-controller shall conduct or
30 cause to be conducted an agreed-upon procedures audit of each
31 redevelopment agency in the county that is subject to this part, to
32 be completed by July 1, 2012.

33 (2) The purpose of the audits shall be to establish each
34 redevelopment agency's assets and liabilities, to document and
35 determine each redevelopment agency's passthrough payment
36 obligations to other taxing agencies, and to document and
37 determine both the amount and the terms of any indebtedness
38 incurred by the redevelopment agency and certify the initial
39 Recognized Obligation Payment Schedule.

1 (3) The county auditor-controller may charge the Redevelopment
2 Property Tax Trust Fund for any costs incurred by the county
3 auditor-controller pursuant to this part.

4 (b) By July 15, 2012, the county auditor-controller shall provide
5 the Controller’s office a copy of all audits performed pursuant to
6 this section. The county auditor-controller shall maintain a copy
7 of all documentation and working papers for use by the Controller.

8 (c) (1) The county auditor-controller shall determine the amount
9 of property taxes that would have been allocated to each
10 redevelopment agency in the county had the redevelopment agency
11 not been dissolved pursuant to the operation of the act adding this
12 part. These amounts are deemed property tax revenues within the
13 meaning of subdivision (a) of Section 1 of Article XIII A of the
14 California Constitution and are available for allocation and
15 distribution in accordance with the provisions of the act adding
16 this part. The county auditor-controller shall calculate the property
17 tax revenues using current assessed values on the last equalized
18 roll on August 20, pursuant to Section 2052 of the Revenue and
19 Taxation Code, and pursuant to statutory formulas or contractual
20 agreements with other taxing agencies, as of the effective date of
21 this section, and shall deposit that amount along with unitary and
22 supplemental tax increment due to the former redevelopment
23 agency in the Redevelopment Property Tax Trust Fund.

24 (2) Each county auditor-controller shall administer the
25 Redevelopment Property Tax Trust Fund for the benefit of the
26 holders of former redevelopment agency enforceable obligations
27 and the taxing entities that receive passthrough payments and
28 distributions of property taxes pursuant to this part.

29 (3) In connection with the allocation and distribution by the
30 county auditor-controller of property tax revenues deposited in the
31 Redevelopment Property Tax Trust Fund, in compliance with this
32 part, the county auditor-controller shall prepare estimates of
33 amounts to be allocated and distributed, and provide those estimates
34 to both the entities receiving the distributions and the Department
35 of Finance, no later than November 1 and May 1 of each year.

36 (4) Each county auditor-controller shall disburse proceeds of
37 asset sales or reserve balances, which have been received from the
38 successor entities pursuant to Sections 34177 and 34187, to the
39 taxing entities. In making such a distribution, the county
40 auditor-controller shall utilize the same methodology for allocation

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

3 (d) By October 1, 2012, the county auditor-controller shall report
4 the following information to the Controller's office and the Director
5 of Finance:

6 (1) The sums of property tax revenues remitted to the
7 Redevelopment Property Tax Trust Fund related to each former
8 redevelopment agency.

9 (2) The sums of property tax revenues remitted to each agency
10 under paragraph (1) of subdivision (a) of Section 34183.

11 (3) The sums of property tax revenues remitted to each successor
12 agency pursuant to paragraph (2) of subdivision (a) of Section
13 34183.

14 (4) The sums of property tax revenues paid to each successor
15 agency pursuant to paragraph (3) of subdivision (a) of Section
16 34183.

17 (5) The sums paid to each city, county, and special district, and
18 the total amount allocated for schools pursuant to paragraph (4)
19 of subdivision (a) of Section 34183.

20 (6) Any amounts deducted from other distributions pursuant to
21 subdivision (b) of Section 34183.

22 (e) A county auditor-controller may charge the Redevelopment
23 Property Tax Trust Fund for the costs of administering the
24 provisions of this part.

25 (f) The Controller may audit and review any county
26 auditor-controller action taken pursuant to the act adding this part.
27 As such, all county auditor-controller actions shall not be effective
28 for three business days, pending a request for review by the
29 Controller. In the event that the Controller requests a review of a
30 given county auditor-controller action, he or she shall have 10 days
31 from the date of his or her request to approve the county
32 auditor-controller's action or return it to the county
33 auditor-controller for reconsideration and such county
34 auditor-controller action shall not be effective until approved by
35 the Controller. In the event that the Controller returns the county
36 auditor-controller's action to the county auditor-controller for
37 reconsideration, the county auditor-controller must resubmit the
38 modified action for Controller approval and such modified county
39 auditor-controller action shall not become effective until approved
40 by the Controller.

1 SEC. 9. Section 34183 of the Health and Safety Code is
2 amended to read:

3 34183. (a) Notwithstanding any other law, from February 1,
4 2012, to July 1, 2012, and for each fiscal year thereafter, the county
5 auditor-controller shall, after deducting administrative costs
6 allowed under Section 34182 and Section 95.3 of the Revenue and
7 Taxation Code, allocate moneys in each Redevelopment Property
8 Tax Trust Fund as follows:

9 (1) Subject to any prior deductions required by subdivision (b),
10 first, the county auditor-controller shall remit from the
11 Redevelopment Property Tax Trust Fund to each local agency and
12 school entity an amount of property tax revenues in an amount
13 equal to that which would have been received under Section 33401,
14 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections
15 read on January 1, 2011, or pursuant to any passthrough agreement
16 between a redevelopment agency and a taxing jurisdiction that
17 was entered into prior to January 1, 1994, that would be in force
18 during that fiscal year, had the redevelopment agency existed at
19 that time. The amount of the payments made pursuant to this
20 paragraph shall be calculated solely on the basis of passthrough
21 payment obligations, existing prior to the effective date of this part
22 and continuing as obligations of successor entities, shall occur no
23 later than May 16, 2012, and no later than June 1, 2012, and each
24 January 16 and June 1 thereafter. Notwithstanding subdivision (e)
25 of Section 33670, that portion of the taxes in excess of the amount
26 identified in subdivision (a) of Section 33670, which are
27 attributable to a tax rate levied by a taxing agency for the purpose
28 of producing revenues in an amount sufficient to make annual
29 repayments of the principal of, and the interest on, any bonded
30 indebtedness for the acquisition or improvement of real property
31 shall be allocated to, and when collected shall be paid into, the
32 fund of that taxing agency.

33 (2) (A) Second, on May 16, 2012, and June 1, 2012, and each
34 January 16 and June 1 thereafter, to each successor agency for
35 payments listed in its Recognized Obligation Payment Schedule
36 for the six-month fiscal period beginning January 1, 2012, or July
37 1, 2012, and each January 16 and June 1 thereafter, in the following
38 order of priority:

39 (i) Debt service payments scheduled to be made for tax
40 allocation bonds.

1 (ii) Payments scheduled to be made on revenue bonds, but only
2 to the extent the revenues pledged for them are insufficient to make
3 the payments and only where the agency's tax increment revenues
4 were also pledged for the repayment of the bonds.

5 (iii) Payments scheduled for other debts and obligations listed
6 in the Recognized Obligation Payment Schedule that are required
7 to be paid from former tax increment revenue.

8 (B) For purposes of allocations made pursuant to this paragraph,
9 the auditor-controller shall reserve additional funds in the
10 Redevelopment Property Tax Trust Fund at the time of the January
11 16 allocation, if necessary, to cover payments made in the second
12 half of the calendar year, as described in the Recognized Obligation
13 Payment Schedule, that are in excess of the amounts anticipated
14 to be deposited in the Redevelopment Property Tax Trust Fund
15 from the allocation that is received in May or June.

16 (3) Third, on May 16, 2012, and June 1, 2012, and each January
17 16 and June 1 thereafter, to each successor agency for the
18 administrative cost allowance, as defined in Section 34171, for
19 administrative costs set forth in an approved administrative budget
20 for those payments required to be paid from former tax increment
21 revenues.

22 (4) Fourth, on May 16, 2012, and June 1, 2012, and each January
23 16 and June 1 thereafter, any moneys remaining in the
24 Redevelopment Property Tax Trust Fund after the payments and
25 transfers authorized by paragraphs (1) to (3), inclusive, shall be
26 distributed to local agencies and school entities in accordance with
27 Section 34188.

28 (b) If the successor agency reports, no later than April 1, 2012,
29 and May 1, 2012, and each December 1 and May 1 thereafter, to
30 the county auditor-controller that the total amount available to the
31 successor agency from the Redevelopment Property Tax Trust
32 Fund allocation to that successor agency's Redevelopment
33 Obligation Retirement Fund, from other funds transferred from
34 each redevelopment agency, and from funds that have or will
35 become available through asset sales and all redevelopment
36 operations, are insufficient to fund the payments required by
37 paragraphs (1) to (3), inclusive, of subdivision (a) in the next
38 six-month fiscal period, the county auditor-controller shall notify
39 the Controller and the Department of Finance no later than 10 days
40 from the date of that notification. The county auditor-controller

1 shall verify whether the successor agency will have sufficient funds
 2 from which to service debts according to the Recognized
 3 Obligation Payment Schedule and shall report the findings to the
 4 Controller. If the Controller concurs that there are insufficient
 5 funds to pay required debt service, the amount of the deficiency
 6 shall be deducted first from the amount remaining to be distributed
 7 to taxing entities pursuant to paragraph (4), and if that amount is
 8 exhausted, from amounts available for distribution for
 9 administrative costs in paragraph (3). If an agency, pursuant to the
 10 provisions of Section 33492.15, 33492.72, 33607.5, 33671.5,
 11 33681.15, or 33688, made passthrough payment obligations
 12 subordinate to debt service payments required for enforceable
 13 obligations, funds for servicing bond debt may be deducted from
 14 the amounts for passthrough payments under paragraph (1), as
 15 provided in those sections, but only to the extent that the amounts
 16 remaining to be distributed to taxing entities pursuant to paragraph
 17 (4) and the amounts available for distribution for administrative
 18 costs in paragraph (3) have all been exhausted.

19 (c) The county treasurer may loan any funds from the county
 20 treasury that are necessary to ensure prompt payments of
 21 redevelopment agency debts.

22 (d) The Controller may recover the costs of audit and oversight
 23 required under this part from the Redevelopment Property Tax
 24 Trust Fund by presenting an invoice therefor to the county
 25 auditor-controller who shall set aside sufficient funds for and
 26 disburse the claimed amounts prior to making the next distributions
 27 to the taxing jurisdictions pursuant to Section 34188. Subject to
 28 the approval of the Director of Finance, the budget of the Controller
 29 may be augmented to reflect the reimbursement, pursuant to
 30 Section 28.00 of the Budget Act.

31 SEC. 10. Section 34187 of the Health and Safety Code is
 32 amended to read:

33 34187. Commencing May 1, 2012, whenever a recognized
 34 obligation that had been identified in the Recognized Payment
 35 Obligation Schedule is paid off or retired, either through early
 36 payment or payment at maturity, the county auditor-controller
 37 shall distribute to the taxing entities, in accordance with the
 38 provisions of the Revenue and Taxation Code, all property tax
 39 revenues that were associated with the payment of the recognized

1 obligation to the extent not currently required for the payment of
2 other recognized obligations.

3 SEC. 11. Section 34189 of the Health and Safety Code is
4 amended to read:

5 34189. (a) Commencing on the effective date of this part, all
6 provisions of the Community Redevelopment Law that depend on
7 the allocation of tax increment to redevelopment agencies,
8 including, but not limited to, Sections 33445, 33640, 33641, 33645,
9 and subdivision (b) of Section 33670, shall be inoperative.

10 (b) To the extent that a provision of Part 1 (commencing with
11 Section 33000), Part 1.5 (commencing with Section 34000), Part
12 1.6 (commencing with Section 34050), and Part 1.7 (commencing
13 with Section 34100) conflicts with this part, the provisions of this
14 part shall control. Further, if a provision of Part 1 (commencing
15 with Section 33000), Part 1.5 (commencing with Section 34000),
16 Part 1.6 (commencing with Section 34050), or Part 1.7
17 (commencing with Section 34100) provides an authority that the
18 act adding this part is restricting or eliminating, the restriction and
19 elimination provisions of the act adding this part shall control.

20 (c) It is intended that the provisions of this part shall be read in
21 a manner as to avoid duplication of payments.

22 SEC. 12. This act is an urgency statute necessary for the
23 immediate preservation of the public peace, health, or safety within
24 the meaning of Article IV of the Constitution and shall go into
25 immediate effect. The facts constituting the necessity are:

26 In order to effectuate the orderly implementation of
27 responsibilities associated with dissolved redevelopment agencies,
28 it is necessary that this act take immediate effect.

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AMENDED IN SENATE JANUARY 31, 2012

AMENDED IN SENATE JANUARY 11, 2012

AMENDED IN SENATE JANUARY 4, 2012

SENATE BILL

No. 654

Introduced by Senator Steinberg

February 18, 2011

An act to amend Sections 34171, 34176, 34177, and 34178 of the Health and Safety Code, relating to redevelopment, ~~and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 654, as amended, Steinberg. 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.

Existing law provides that upon a specified date, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid. Notwithstanding this provision, an agreement that provided loans or other startup funds for the agency that was entered into within 2 years of the formation of the agency is valid and binds the successor agency.

The bill would expand this exception to include an agreement involving a loan specific to a project area and other specified obligations.

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

Vote: $\frac{2}{3}$ -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. Section 34171 of the Health and Safety Code is
 2 amended to read:
 3 34171. The following terms shall have the following meanings:
 4 (a) “Administrative budget” means the budget for administrative
 5 costs of the successor agencies as provided in Section 34177.
 6 (b) “Administrative cost allowance” means an amount that,
 7 subject to the approval of the oversight board, is payable from
 8 property tax revenues of up to 5 percent of the property tax
 9 allocated to the successor agency for the 2011–12 fiscal year and
 10 up to 3 percent of the property tax allocated to the Redevelopment
 11 Obligation Retirement Fund money that is allocated to the
 12 successor agency for each fiscal year thereafter; provided, however,
 13 that the amount shall not be less than two hundred fifty thousand
 14 dollars (\$250,000) for any fiscal year or such lesser amount as
 15 agreed to by the successor agency. However, the allowance amount
 16 shall exclude any administrative costs that can be paid from bond
 17 proceeds or from sources other than property tax.

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

3 (d) (1) “Enforceable obligation” means any of the following:

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

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

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

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

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

36 (F) Contracts or agreements necessary for the administration or
37 operation of the successor agency, in accordance with this part,
38 including, but not limited to, agreements to purchase or rent office
39 space, equipment and supplies, and pay-related expenses pursuant

1 to Section 33127 and for carrying insurance pursuant to Section
2 33134.

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

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

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

34 (e) “Indebtedness obligations” means bonds, notes, certificates
35 of participation, or other evidence of indebtedness, issued or
36 delivered by the redevelopment agency, or by a joint exercise of
37 powers authority created by the redevelopment agency, to
38 third-party investors or bondholders to finance or refinance
39 redevelopment projects undertaken by the redevelopment agency

1 in compliance with the Community Redevelopment Law (Part 1
2 (commencing with Section 33000)).

3 (f) “Oversight board” shall mean each entity established pursuant
4 to Section 34179.

5 (g) “Recognized obligation” means an obligation listed in the
6 Recognized Obligation Payment Schedule.

7 (h) “Recognized Obligation Payment Schedule” means the
8 document setting forth the minimum payment amounts and due
9 dates of payments required by enforceable obligations for each
10 six-month fiscal period as provided in subdivision (m) of Section
11 34177.

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

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

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

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

24 34176. (a) The city, county, or city and county that authorized
25 the creation of a redevelopment agency may elect to retain the
26 housing assets and functions previously performed by the
27 redevelopment agency. If a city, county, or city and county elects
28 to retain the responsibility for performing housing functions
29 previously performed by a redevelopment agency, all rights,
30 powers, duties, and obligations associated with the housing
31 activities of the agency, including any amounts on deposit in the
32 Low and Moderate Income Housing Fund, shall be transferred to
33 the city, county, or city and county. Any funds transferred to the
34 city, county, or city and county pursuant to this subdivision shall
35 be maintained in a separate Low and Moderate Income Housing
36 Fund and expended pursuant to the provisions of the Community
37 Redevelopment Law relating to the Low and Moderate Income
38 Housing Fund.

39 (b) If a city, county, or city and county does not elect to retain
40 the responsibility for performing housing functions previously

1 performed by a redevelopment agency, all rights, powers, assets,
2 liabilities, duties, and obligations associated with the housing
3 activities of the agency, including any amounts in the Low and
4 Moderate Income Housing Fund, shall be transferred as follows:

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

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

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

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

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

26 34177. Successor agencies are required to do all of the
27 following:

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

29 (1) On and after October 1, 2011, and until a Recognized
30 Obligation Payment Schedule becomes operative, only payments
31 required pursuant to an enforceable obligations payment schedule
32 shall be made. The initial enforceable obligation payment schedule
33 shall be the last schedule adopted by the redevelopment agency
34 under Section 34169. However, payments associated with
35 obligations excluded from the definition of enforceable obligations
36 by paragraph (2) of subdivision (d) of Section 34171 shall be
37 excluded from the enforceable obligations payment schedule and
38 be removed from the last schedule adopted by the redevelopment
39 agency under Section 34169 prior to the successor agency adopting
40 it as its enforceable obligations payment schedule pursuant to this

1 subdivision. The enforceable obligation payment schedule may
2 be amended by the successor agency at any public meeting and
3 shall be subject to the approval of the oversight board as soon as
4 the board has sufficient members to form a quorum.

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

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

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

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

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

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

35 (d) Remit unencumbered balances of redevelopment agency
36 funds to the county auditor-controller for distribution to the taxing
37 entities. In making the distribution, the county auditor-controller
38 shall utilize the same methodology for allocation and distribution
39 of property tax revenues provided in Section 34188.

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

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

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

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

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

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

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

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

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

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

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

6 (A) Low and Moderate Income Housing Fund.

7 (B) Bond proceeds.

8 (C) Reserve balances.

9 (D) Administrative cost allowance.

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

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

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

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

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

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

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

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

7 SEC. 4. Section 34178 of the Health and Safety Code is
8 amended to read:

9 34178. (a) Commencing on the operative date of this part,
10 agreements, contracts, or arrangements between the city or county,
11 or city and county that created the redevelopment agency and the
12 redevelopment agency are invalid and shall not be binding on the
13 successor agency; provided, however, that a successor entity
14 wishing to enter or reenter into agreements with the city, county,
15 or city and county that formed the redevelopment agency that it
16 is succeeding may do so upon obtaining the approval of its
17 oversight board.

18 (b) Notwithstanding subdivision (a), any of the following
19 agreements are not invalid and may bind the successor agency:

20 (1) A duly authorized written agreement entered into at the time
21 of issuance, but in no event later than December 31, 2010, of
22 indebtedness obligations, and solely for the purpose of securing
23 or repaying those indebtedness obligations.

24 (2) A written agreement between a redevelopment agency and
25 the city, county, or city and county that created it that provided
26 loans or other startup funds for the redevelopment agency that
27 were entered into within two years of the formation of the
28 redevelopment agency, or within two years of the date of the
29 creation of a project area if the loan is specific to that project area,
30 and any obligations imposed by paragraph (1) of subdivision (d)
31 of Section 33691.

32 (3) A joint exercise of powers agreement in which the
33 redevelopment agency is a member of the joint powers authority.
34 However, upon assignment to the successor agency by operation
35 of the act adding this part, the successor agency's rights, duties,
36 and performance obligations under that joint exercise of powers
37 agreement shall be limited by the constraints imposed on successor
38 agencies by the act adding this part.

39 ~~SEC. 5. This act is an urgency statute necessary for the~~
40 ~~immediate preservation of the public peace, health, or safety within~~

1 ~~the meaning of Article IV of the Constitution and shall go into~~
2 ~~immediate effect. The facts constituting the necessity are:~~
3 ~~In order to effectuate the transfer of housing funds and~~
4 ~~responsibilities associated with dissolved redevelopment agencies,~~
5 ~~it is necessary that this act take immediate effect.~~

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AMENDED IN SENATE APRIL 11, 2012

SENATE BILL

No. 986

Introduced by Senator Dutton

January 31, 2012

An act to amend Sections 34177 and 34180 of the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 986, as amended, Dutton. Redevelopment: bond proceeds.

Existing law ~~dissolves~~ *dissolved* redevelopment agencies and community development agencies, as of February 1, 2012, and ~~designates~~ *provides for the designation of* successor agencies, as defined. Existing law requires that successor entities perform certain duties, including, among others, remitting unencumbered funds of that agency to the county auditor-controller, and overseeing the use of bond proceeds. Existing law requires each successor agency to have an oversight board that is composed of 7 members who meet certain qualifications. Existing law requires the oversight board to approve certain actions of the successor agency.

This bill would ~~provide that all bond proceeds that were generated by the former redevelopment agency shall be deemed to be encumbered and would prohibit a successor agency from remitting these proceeds to the county auditor-controller~~ *require that unencumbered balances of funds that are derived from tax exempt bond proceeds be used in accordance with the requirements of this bill.* This bill would also require that the proceeds of bonds issued by a former redevelopment agency ~~must on or before December 31, 2010,~~ be used by the successor agency for the purposes for which the bonds were sold pursuant to an

enforceable obligation, as defined, that was entered into either by the former redevelopment agency prior to its dissolution, or is entered into by the successor agency by December 31, 2014. This bill would also provide that if an enforceable obligation is not entered into by that time the bond proceeds are not subject to an enforceable obligation, or if the purpose for which the bonds were sold can no longer be achieved, then the bond proceeds shall be used to defease the bonds or to purchase outstanding bonds on the open market for cancellation.

This bill would also ~~require~~ *authorize* the oversight board to approve of the establishment of an enforceable obligation with respect to bond proceeds. ~~This bill would prohibit the oversight board from disapproving the establishment of an enforceable obligation with respect to bond proceeds if certain requirements are met, including, among others, if that obligation is reasonably in furtherance of the purposes for which the bonds were sold.~~

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

1 SECTION 1. Section 34177 of the Health and Safety Code is
 2 amended to read:
 3 34177. Successor agencies are required to do all of the
 4 following:
 5 (a) Continue to make payments due for enforceable obligations.
 6 (1) On and after ~~October 1, 2011~~, *February 1, 2012*, and until
 7 a Recognized Obligation Payment Schedule becomes operative,
 8 only payments required pursuant to an enforceable obligations
 9 payment schedule shall be made. The initial enforceable obligation
 10 payment schedule shall be the last schedule adopted by the
 11 redevelopment agency under Section 34169. However, payments
 12 associated with obligations excluded from the definition of
 13 enforceable obligations by paragraph (2) of subdivision (e) of
 14 Section 34171 shall be excluded from the enforceable obligations
 15 payment schedule and be removed from the last schedule adopted
 16 by the redevelopment agency under Section 34169 prior to the
 17 successor agency adopting it as its enforceable obligations payment
 18 schedule pursuant to this subdivision. The enforceable obligation

1 payment schedule may be amended by the successor agency at
2 any public meeting and shall be subject to the approval of the
3 oversight board as soon as the board has sufficient members to
4 form a quorum.

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

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

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

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

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

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

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

1 and distribution of property tax revenues provided in Section
2 34188. ~~For purposes of this subdivision, bond proceeds of the~~
3 ~~redevelopment agency shall be deemed to be encumbered, and~~
4 ~~therefore the successor agency shall not remit those funds to the~~
5 ~~county auditor-controller.~~ *Notwithstanding the requirements of*
6 *this subdivision, if the unencumbered balance of funds is derived*
7 *from tax exempt bond proceeds, those balances shall be used in*
8 *accordance with the requirements of subdivision (i).*

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

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

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

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

29 (i) Continue to oversee development of properties until the
30 contracted work has been completed or the contractual obligations
31 of the former redevelopment agency can be transferred to other
32 parties. Bond proceeds *derived from bonds sold on or before*
33 *December 31, 2010*, shall be used for the purposes for which the
34 bonds were sold, if and to the extent that the successor agency is
35 either performing an obligation required pursuant to any
36 enforceable obligation entered into by the former redevelopment
37 agency, or is performing an enforceable obligation entered into by
38 the successor agency on or before December 31, 2014, to fulfill
39 the purposes for which the bonds were sold by the dissolved
40 redevelopment agency; *provided, however, that this section shall*

1 *not be interpreted to grant to a successor agency the power of*
2 *eminent domain. Any amount of bond proceeds derived from bonds*
3 *sold on or before December 31, 2010, not subject to an enforceable*
4 *obligation as of January 1, 2015, shall be used to defease the bonds*
5 *or to purchase outstanding bonds on the open market for*
6 *cancellation. If the purposes for which the bonds that were sold*
7 *by the dissolved redevelopment agency on or before December*
8 *31, 2010, can no longer be achieved, then the proceeds shall be*
9 *used to defease the bonds or to purchase outstanding bonds on the*
10 *open market for cancellation.*

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

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

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

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

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

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

29 (A) Low and Moderate Income Housing Fund.

30 (B) Bond proceeds.

31 (C) Reserve balances.

32 (D) Administrative cost allowance.

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

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

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

3 (A) A draft Recognized Obligation Payment Schedule is
4 prepared by the successor agency for the enforceable obligations
5 of the former redevelopment agency by ~~November 1, 2011~~ *March*
6 *1, 2012*. From October 1, 2011, to July 1, 2012, the initial draft of
7 that schedule shall project the dates and amounts of scheduled
8 payments for each enforceable obligation for the remainder of the
9 time period during which the redevelopment agency would have
10 been authorized to obligate property tax increment had that
11 redevelopment agency not been dissolved, and shall be reviewed
12 and certified, as to its accuracy, by an external auditor designated
13 pursuant to Section 34182.

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

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

20 (3) The Recognized Obligation Payment Schedule shall be
21 forward looking to the next six months. The first Recognized
22 Obligation Payment Schedule shall be submitted to the Controller's
23 office and the Department of Finance by ~~December 15, 2011~~, *April*
24 *15, 2012*, for the period of January 1, 2012, to June 30, 2012,
25 inclusive. Former redevelopment agency enforceable obligation
26 payments due, and reasonable or necessary administrative costs
27 due or incurred, prior to January 1, 2012, shall be made from
28 property tax revenues received in the spring of 2011 property tax
29 distribution, and from other revenues and balances transferred to
30 the successor agency.

31 SEC. 2. Section 34180 of the Health and Safety Code is
32 amended to read:

33 34180. All of the following successor agency actions shall first
34 be approved by the oversight board:

35 (a) The establishment of new repayment terms for outstanding
36 loans where the terms have not been specified prior to the date of
37 this part.

38 (b) Refunding of outstanding bonds or other debt of the former
39 redevelopment agency by successor agencies in order to provide

1 for savings or to finance debt service spikes; provided, however,
2 that no additional debt is created and debt service is not accelerated.

3 (c) Setting aside of amounts in reserves as required by
4 indentures, trust indentures, or similar documents governing the
5 issuance of outstanding redevelopment agency bonds.

6 (d) Merging of project areas.

7 (e) Continuing the acceptance of federal or state grants, or other
8 forms of financial assistance from either public or private sources,
9 where assistance is conditioned upon the provision of matching
10 funds, by the successor entity as successor to the former
11 redevelopment agency, in an amount greater than 5 percent.

12 (f) (1) If a city, county, or city and county wishes to retain any
13 properties or other assets for future redevelopment activities,
14 funded from its own funds and under its own auspices, it must
15 reach a compensation agreement with the other taxing entities to
16 provide payments to them in proportion to their shares of the base
17 property tax, as determined pursuant to Section 34188, for the
18 value of the property retained.

19 (2) If no other agreement is reached on valuation of the retained
20 assets, the value will be the fair market value as of the 2011
21 property tax lien date as determined by the county assessor.

22 (g) Establishment of the Recognized Obligation Payment
23 Schedule.

24 (h) A request by the successor agency to enter into an agreement
25 with the city, county, or city and county that formed the
26 redevelopment agency that it is succeeding.

27 (i) A request by a successor agency or taxing entity to pledge,
28 or to enter into an agreement for the pledge of, property tax
29 revenues pursuant to subdivision (b) of Section 34178.

30 (j) The establishment of an enforceable obligation with respect
31 to bond proceeds *from bonds sold on or before December 31, 2010,*
32 pursuant to subdivision (i) of Section 34177. ~~However, the~~ *The*
33 ~~oversight board shall not disapprove~~ *may approve* the establishment
34 of an enforceable obligation with respect to bond proceeds if ~~that~~
35 *both of the following conditions are met:*

36 (1) *The obligation is reasonably in furtherance of the purposes*
37 *for which the bonds were sold.*

38 (2) *The obligation is consistent with one or more of the*
39 *following:*

1 (A) *The obligation is required in order to meet a federal or state*
2 *matching funds requirement in which federal or state funds have*
3 *already been committed, and is specific to the project requiring*
4 *the obligation.*

5 (B) *The obligation is required in order to meet the requirements*
6 *for the expenditure of a local general obligation bond approved*
7 *by the voters.*

8 (C) (i) *The obligation is required to complete a project specific*
9 *to critical public infrastructure that is in, or provides benefit to,*
10 *the project area of the former redevelopment agency and the*
11 *evidence of the benefit to the community in proceeding with the*
12 *obligation substantially outweighs the resulting delay in the*
13 *distribution of tax increment to the impacted taxing entities.*

14 (ii) *For purposes of this subparagraph, “critical public*
15 *infrastructure” does not include any of the following:*

16 (I) *An automobile dealership that will be or is on a parcel of*
17 *land that has not previously been developed for urban use.*

18 (II) *A development project or business that, either directly or*
19 *indirectly, acquires, constructs, improves, rehabilitates, or replaces*
20 *property that is or would be used for a golf course or for a*
21 *racetrack, speedway or other racing venue.*

22 (III) *A development project or business that acquires, constructs,*
23 *improves, rehabilitates, or replaces property that is or would be*
24 *used for a stadium, coliseum, arena, ballpark or other sports*
25 *facility that is intended for use by a professional sports franchise.*

26 (IV) *A development project or business that, either directly or*
27 *indirectly, acquires, constructs, improves, rehabilitates, or replaces*
28 *property that is or would be used for gambling or gaming of any*
29 *kind whatsoever, including, but not limited to, casinos, gaming*
30 *clubs, bingo operations, or any facility in which banked or*
31 *percentage games, any form of gambling device, or lotteries, other*
32 *than the California State Lottery, are or will be played.*

33 (V) *A development project or business, either directly or*
34 *indirectly, acquires, constructs, improves, rehabilitates, or replaces*
35 *property that is or would be used for retail, entertainment, or other*
36 *private purpose unrelated to public works, such as bridges, parks,*
37 *roads, municipal buildings, dams, railroads, schools, hospitals,*
38 *and other long-term, public physical assets and facilities.*

39 SEC. 3. *This act is an urgency statute necessary for the*
40 *immediate preservation of the public peace, health, or safety within*

1 the meaning of Article IV of the Constitution and shall go into
2 immediate effect. The facts constituting the necessity are:
3 In order to provide guidance to the successor agencies on the
4 use of bond proceeds, it is necessary for this act to take effect
5 immediately.

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AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1151

Introduced by Senator Steinberg

February 21, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1151, as amended, Steinberg. ~~Redevelopment: long-range~~ *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, 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 the successor agency an authority to prepare a long-range long-range asset management plan that outlines a strategy for maximizing the long-term value of the real property and assets of the former redevelopment agency for ongoing economic development and housing functions governs the disposition and ongoing use of the fund. The bill would require the successor agency an authority to submit the plan to the Department of Finance and the oversight board by December 1, 2012, and would require the approval of the plan by the department and oversight board by December 31, 2012 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

1 agency under Section 34169 prior to the successor agency adopting
2 it as its enforceable obligations payment schedule pursuant to this
3 subdivision. The enforceable obligation payment schedule may
4 be amended by the successor agency at any public meeting and
5 shall be subject to the approval of the oversight board as soon as
6 the board has sufficient members to form a quorum.

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

14 (3) Commencing on May 1, 2012, only those payments listed
15 in the Recognized Obligation Payment Schedule may be made by
16 the successor agency from the funds specified in the Recognized
17 Obligation Payment Schedule. In addition, commencing May 1,
18 2012, the Recognized Obligation Payment Schedule shall supersede
19 the Statement of Indebtedness, which shall no longer be prepared
20 nor have any effect under the Community Redevelopment Law.

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

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

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

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

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

1 auditor-controller shall utilize the same methodology for allocation
2 and distribution of property tax revenues provided in Section
3 34188.

4 *(2) This subdivision shall not apply to a jurisdiction where a*
5 *Community Development and Housing Joint Powers Authority has*
6 *been formed pursuant to Part 1.86 (commencing with Section*
7 *34191.1) by August 1, 2012.*

8 (e) (1) Dispose of assets and properties of the former
9 redevelopment agency as directed by the oversight board, provided,
10 however, that the oversight board may instead direct the successor
11 agency to transfer ownership of certain assets pursuant to
12 subdivision (a) of Section 34181, ~~and in accordance with the long~~
13 ~~range asset management plan specified in Section 34177.1.~~ The
14 disposal shall be done expeditiously, in a manner aimed at
15 maximizing value, ~~but shall not be done until the long range asset~~
16 ~~management plan is approved.~~ Proceeds from asset sales and
17 related funds that are no longer needed for approved development
18 projects or to otherwise wind down the affairs of the agency, each
19 as determined by the oversight board, shall be transferred to the
20 county auditor-controller for distribution as property tax proceeds
21 under Section 34188.

22 ~~(2) Prior to the disposal of any real property pursuant to this~~
23 ~~subdivision, the successor agency shall comply with all relevant~~
24 ~~provisions of the Government Code, Public Contract Code, and~~
25 ~~other codes, relating to the rules and disclosure requirements for~~
26 ~~the fair market valuation of assets, competitive bidding, and~~
27 ~~conflicts of interest.~~

28 *(2) This subdivision shall not apply to a jurisdiction where a*
29 *Community Development and Housing Joint Powers Authority has*
30 *been formed pursuant to Part 1.86 (commencing with Section*
31 *34191.1) by August 1, 2012.*

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

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

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

- 1 (i) Continue to oversee development of properties until the
2 contracted work has been completed or the contractual obligations
3 of the former redevelopment agency can be transferred to other
4 parties. Bond proceeds shall be used for the purposes for which
5 bonds were sold unless the purposes can no longer be achieved,
6 in which case, the proceeds may be used to defease the bonds.
- 7 (j) Prepare a proposed administrative budget and submit it to
8 the oversight board for its approval. The proposed administrative
9 budget shall include all of the following:
- 10 (1) Estimated amounts for successor agency administrative costs
11 for the upcoming six-month fiscal period.
- 12 (2) Proposed sources of payment for the costs identified in
13 paragraph (1).
- 14 (3) Proposals for arrangements for administrative and operations
15 services provided by a city, county, city and county, or other entity.
- 16 (k) Provide administrative cost estimates, from its approved
17 administrative budget that are to be paid from property tax revenues
18 deposited in the Redevelopment Property Tax Trust Fund, to the
19 county auditor-controller for each six-month fiscal period.
- 20 (l) (1) Before each six-month fiscal period, prepare a
21 Recognized Obligation Payment Schedule in accordance with the
22 requirements of this paragraph. For each recognized obligation,
23 the Recognized Obligation Payment Schedule shall identify one
24 or more of the following sources of payment:
- 25 (A) Low and Moderate Income Housing Fund.
- 26 (B) Bond proceeds.
- 27 (C) Reserve balances.
- 28 (D) Administrative cost allowance.
- 29 (E) The Redevelopment Property Tax Trust Fund, but only to
30 the extent no other funding source is available or when payment
31 from property tax revenues is required by an enforceable obligation
32 or by the provisions of this part.
- 33 (F) Other revenue sources, including rents, concessions, asset
34 sale proceeds, interest earnings, and any other revenues derived
35 from the former redevelopment agency, as approved by the
36 oversight board in accordance with this part.
- 37 (2) A Recognized Obligation Payment Schedule shall not be
38 deemed valid unless all of the following conditions have been met:
- 39 (A) A draft Recognized Obligation Payment Schedule is
40 prepared by the successor agency for the enforceable obligations

1 of the former redevelopment agency by March 1, 2012. From
 2 October 1, 2011, to July 1, 2012, the initial draft of that schedule
 3 shall project the dates and amounts of scheduled payments for
 4 each enforceable obligation for the remainder of the time period
 5 during which the redevelopment agency would have been
 6 authorized to obligate property tax increment had such a
 7 redevelopment agency not been dissolved, and shall be reviewed
 8 and certified, as to its accuracy, by an external auditor designated
 9 pursuant to Section 34182.

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

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

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

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

28 ~~34177.1. (a) The successor agency shall prepare a long range~~
 29 ~~asset management plan that outlines a strategy for maximizing the~~
 30 ~~long-term value of the real property and assets of the former~~
 31 ~~redevelopment agency for ongoing economic development and~~
 32 ~~housing functions.~~

33 ~~(b) The plan shall do all of the following:~~

34 ~~(1) Address the use or disposition of all of the assets of the~~
 35 ~~former redevelopment agency identified by the county~~
 36 ~~auditor-controller in the audit conducted pursuant to subdivision~~
 37 ~~(a) of Section 34182.~~

38 ~~(2) Include an inventory of all assets identified by the~~
 39 ~~auditor-controller consisting of an estimate of the market value of~~
 40 ~~the asset and a description of the highest and best use of the asset~~

1 for the community. Permissible uses include the retention of the
2 asset for governmental use pursuant to subdivision (a) of Section
3 34181, the sale of the asset, and the retention of the asset in a
4 governmental trust for the purpose of maximizing the value of the
5 asset for ongoing economic development activity.

6 ~~(e) The successor agency shall submit the plan to the department
7 and the oversight board by December 1, 2012. The plan shall be
8 approved by both the oversight board and the department by
9 December 31, 2012. The department, in consultation with the
10 oversight board, may object to and modify any provision of the
11 plan.~~

12 *34177.1. (a) A Community Development and Housing
13 Authority established pursuant to Part 1.86 (commencing with
14 Section 34191.1) shall prepare a long-range asset management
15 plan that shall govern the disposition and ongoing use of the
16 Sustainable Economic Development and Housing Trust Fund.*

17 *(b) (1) The long-range asset management plan shall be
18 submitted to the Department of Finance for approval by December
19 1, 2012. The department shall approve the plan or return the plan
20 to the authority for revisions prior to final approval, by December
21 31, 2012. The plan shall be updated annually and submitted to the
22 department for approval by December 1 of each year.*

23 *(2) The department, as a condition of granting approval to the
24 long-range asset management plan submitted by the authority,
25 may choose to establish a minimum asset distribution requirement,
26 to ensure that K-14 schools and local agencies receive a minimal
27 amount of funding from the dissolution of assets of the trust
28 pursuant to Section 34188.*

29 *(c) The long-range asset management plan shall outline a
30 strategy for maximizing the long-term social and monetary value
31 of the real property and assets in the trust for the purpose of
32 sustainable economic development consistent with Part 1.86
33 (commencing with Section 34191.1) and creating high wage, high
34 skill jobs, and affordable housing.*

35 *(d) The long-range asset management plan shall do both of the
36 following:*

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

- 1 (A) *The date of the acquisition of the asset and the value of the*
2 *asset at that time, and an estimate of the current value of the asset.*
3 (B) *The purpose for which the asset was acquired.*
4 (C) *For real property assets:*
5 (i) *Parcel data, including address, lot size, and current zoning*
6 *in the former agency redevelopment plan or specific, community,*
7 *or general plan.*
8 (ii) *An estimate of the current value of the parcel, including, if*
9 *available, any appraisal information.*
10 (iii) *A history of environmental contamination, including*
11 *designation as a brownfield, and any related environmental studies*
12 *and history of any remediation efforts.*
13 (iv) *A description of the strategic value of the property with*
14 *respect to its potential for transit-oriented development and*
15 *advancing the planning objectives of the member agencies of the*
16 *Community Development and Housing Authority.*
17 (v) *A brief history of previous development proposals and*
18 *activity, including rental or lease of property.*
19 (2) *Address the use or disposition of all of the assets in the trust.*
20 *Permissible uses include the retention of the asset for governmental*
21 *use pursuant to subdivision (a) of Section 34181, the sale of the*
22 *asset, and the retention of the asset in the trust for future use. It*
23 *shall not be necessary to maximize the monetary value of the asset*
24 *if an alternative deployment of the asset furthers social and*
25 *community objectives determined by the authority and consistent*
26 *with this article. Property disposed of by the authority shall not*
27 *be the subject of real estate speculation.*
28 (e) *All entities receiving financial support from or authorized*
29 *by this article shall incorporate into any and all agreements a jobs*
30 *plan, which shall describe how the project will create construction*
31 *careers that pay prevailing wages, living wage permanent jobs,*
32 *and a program for community outreach, local hire, and job*
33 *training. This plan shall also describe the project developer's*
34 *commitment to offer jobs to disadvantaged California residents,*
35 *including veterans of the Iraq and Afghanistan wars, people with*
36 *a history in the criminal justice system, and single parent families.*
37 SEC. 4. *Section 34177.2 is added to the Health and Safety*
38 *Code, to read:*
39 *34177.2. (a) The Sustainable Economic Development and*
40 *Housing Trust Fund is hereby established to serve as the repository*

1 of the unencumbered balances for each former redevelopment
2 agency's funds, assets, and properties. For purposes of this section,
3 "assets" shall include, but are not limited to, real and personal
4 property holdings, tax revenues, former redevelopment project
5 revenues, other revenues, and investment accounts, deeds of trust
6 and mortgages held by the former agency, rents, fees, charges,
7 moneys, accounts receivable, contracts rights, and other rights to
8 payment of whatever kind or other real or personal property.

9 (b) In addition to the assets of the former redevelopment
10 agencies, the trust fund may accept revenues from any source,
11 including tax revenues, grants, and loans. Notwithstanding
12 paragraph (1) of subdivision (e) of Section 34177, the proceeds
13 of asset sales may be retained for ongoing sustainable economic
14 development and affordable housing activities of the joint powers
15 authority specified in and consistent with Part 1.86 (commencing
16 with Section 34191.1), and shall not be distributed as property tax
17 pursuant to Section 34188.

18 (c) The Sustainable Economic Development and Housing Trust
19 Fund shall be administered by the Community Development and
20 Housing Joint Powers Authority established pursuant to Part 1.86
21 (commencing with Section 34191.1).

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

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

27 (2) Affordable housing.

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

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

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

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

36 (7) Land acquisition.

37 (8) Clean energy and energy efficiency investments.

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

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

O

AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1156

Introduced by Senator Steinberg

February 22, 2012

An act to add Part 1.86 (commencing with Section 34191.1) to Division 24 of the Health and Safety Code, *and to amend Section 21094.5 of the Public Resources Code*, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 1156, as amended, Steinberg. Community Development and Housing Joint Powers Authority.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies. Existing law requires that the successor agency, among other things, wind down the affairs of the former redevelopment agency and dispose of assets and properties of the former redevelopment agency, as directed by an oversight board.

Existing law provides for various economic development programs that foster community sustainability and community and economic development initiatives throughout the state.

~~This bill would declare the intent of the Legislature to establish and authorize the use of new joint powers authorities and a new financing option for cities and counties throughout the state to develop sustainable economic development and affordable housing. The bill would authorize the legislative body of the city and county representing the geographic territory covering the area served by a former redevelopment agency~~

to elect to form a Community Development and Housing Joint Powers Authority (authority) *after July 1, 2012, and to carry out the provisions of the Community Redevelopment Law.* The bill would ~~require the authority to assume from a successor agency the responsibility for managing the assets and property of the former redevelopment agency~~ *authorize the authority to adopt a redevelopment plan for a project area covering specified areas and sites and to include a provision in the plan to provide for tax increment financing, provided that certain mitigation and land use plans have been adopted.* The bill would *retain the Low and Moderate Income Housing Fund of a former redevelopment agency in another fund and authorize the authority to exercise specified powers enumerated in the Community Redevelopment Law, to enter into agreements to facilitate articulated career technical education pathways, and to exercise certain other powers relating to the financing of its activities.*

Vote: majority. 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. Part 1.86 (commencing with Section 34191.1) is
 2 added to Division 24 of the Health and Safety Code, to read:

3
 4 PART 1.86. ECONOMIC DEVELOPMENT AND HOUSING
 5 PROGRAM

6
 7 CHAPTER 1. GENERAL PROVISIONS

8
 9 ~~34191.1. (a) It is the intent of the Legislature to establish and~~
 10 ~~authorize the use of new joint powers authorities and a new~~
 11 ~~financing option for cities and counties throughout the state to~~
 12 ~~develop sustainable economic development and affordable housing.~~
 13 ~~It is further the intent of the Legislature that the economic~~
 14 ~~development activities undertaken pursuant to this part encourage~~
 15 ~~planning and development that reduce greenhouse gas emissions~~
 16 ~~and facilitate infill and transit-oriented development.~~

17 *34191.1. (a) The Legislature finds and declares that better*
 18 *economic development patterns in California can contribute to*
 19 *greater economic growth by reducing commuter times for*
 20 *employees, reducing the costs of public infrastructure, and*

1 *reducing energy consumption. Better development patterns may*
2 *also result in increased options in the type of housing available,*
3 *more affordable housing, and a reduction in a household's*
4 *combined housing and transportation costs.*

5 *(b) The construction industry has been one of the sectors hardest*
6 *hit by the economic downturn of recent years. Creating incentives*
7 *for construction can help restore construction jobs, which are*
8 *essential for a restoration of prosperity.*

9 *(c) Economic development patterns can also help California*
10 *attain some of its long-term strategic environmental objectives*
11 *including reduced air pollution, greater water conservation,*
12 *reduced energy consumption, and increased farmland and habitat*
13 *preservation.*

14 *(d) Implementation of the growth plans identified by the*
15 *metropolitan planning organizations in their sustainable*
16 *communities strategies, and in particular the development of areas*
17 *identified for transit priority projects, is essential if California is*
18 *to achieve the multiple benefits that would result from economic*
19 *development.*

20 *(e) In addition to the economic problems of the current*
21 *recession, development of transit priority projects remains*
22 *challenging. Infrastructure is often old and inadequate. Sites may*
23 *suffer from contamination that is expensive to remediate. The high*
24 *construction costs in urban areas, particularly for multifamily*
25 *dwelling, create an additional challenge. For these reasons, it is*
26 *critical to restructure and refocus redevelopment in California to*
27 *assist in achievement of these multiple benefits.*

28 *(f) At the same time, California cannot afford a redevelopment*
29 *program that causes schools to lose revenue at a time when*
30 *investing in education is also key to the state's economic*
31 *prosperity. A growth plan for the state consistent with regional*
32 *sustainable communities strategies must also provide that schools*
33 *are able to play their full role in achieving the future of California.*

34 *(g) The elimination of redevelopment agencies has resulted in*
35 *the loss of approximately \$1 billion annually in low- and*
36 *moderate-income housing funds for communities throughout the*
37 *state. Communities need alternative, permanent sources of revenue*
38 *to support the continued production of affordable housing units.*

39 *(h)*

1 (h) The Legislature finds that a comprehensive strategy for the
 2 long-term economic development of the state must encourage the
 3 creation of workforce skills needed to attract and retain a high-wage
 4 workforce, in addition to public infrastructure requirements. Public
 5 investments in human capital are as vital to the long-term growth
 6 of the state’s economy as investments in physical capital.

7 34191.2. For purposes of this part, “authority” or “Community
 8 Development and Housing Joint Powers Authority” means the
 9 joint exercise of powers agency formed under Chapter 5
 10 (commencing with Section 6500) of Division 7 of Title 1 of the
 11 Government Code.

12
 13 CHAPTER 2. COMMUNITY DEVELOPMENT AND HOUSING JOINT
 14 POWERS AUTHORITY
 15

16 ~~34191.10. (a) The legislative body of the city and county~~
 17 ~~representing the geographic territory covering the area served by~~
 18 ~~a former redevelopment agency may elect to form a Community~~
 19 ~~Development and Housing Joint Powers Authority pursuant to this~~
 20 ~~part.~~

21 ~~(b) The authority may exercise the powers enumerated in the~~
 22 ~~Community Redevelopment Law (Part 1 (commencing with~~
 23 ~~Section 33000)) with respect to assembling, purchasing, and selling~~
 24 ~~property and remediating environmental damage to further housing,~~
 25 ~~commercial, and industrial development.~~

26 *34191.10. (a) The legislative body of the city and county*
 27 *representing the geographic territory covering the area served by*
 28 *a former redevelopment agency may elect to form a Community*
 29 *Development and Housing Joint Powers Authority pursuant to this*
 30 *part after July 1, 2012, to carry out the provisions of the*
 31 *Community Redevelopment Law (Part 1.8 (commencing with*
 32 *Section 33000)). If the former redevelopment agency was formed*
 33 *solely by a county, the county may exercise the powers authorized*
 34 *by this part.*

35 (e)

36 (b) The authority may enter into financial and other agreements
 37 with community colleges, K-12 school districts, and private
 38 businesses to facilitate the development and operation of articulated
 39 career technical education pathways, as specified in Section 88532
 40 of the Education Code.

CHAPTER 3. FINANCING

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~~34191.15. An authority formed pursuant to this part shall assume from a successor agency the operational and fiduciary responsibility for managing the assets, properties, contracts, leases, books and records, buildings, and equipment of former redevelopment transferred to the successor agency pursuant to Chapter 5 of the First Extraordinary Session of the Statutes of 2011. The authority shall maximize the economic value of the assets in furtherance of the goals and objectives authorized in this part. To the extent that any conflict occurs, this part shall supersede the asset disposition procedures set forth in subdivision (c) of Section 34177 and subdivision (a) of Section 34181.~~

34191.15. An authority formed pursuant to this part may adopt a redevelopment plan for a project area pursuant to this section. Notwithstanding any other provision of this division, a determination shall not be required to be made regarding blight within the project area, and an action shall not be required to be taken for the elimination of blight in connection with the creation of a redevelopment plan for a project area. The redevelopment plan shall terminate on a specified date not to exceed 30 years from the date of the first issuance of bond indebtedness by the agency. A project area shall include only the following areas:

(a) For areas within the geographic boundaries of a metropolitan planning organization where a sustainable communities strategy has been adopted by the metropolitan planning organization, and the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted the metropolitan planning organization’s determination that the sustainable communities strategy would, if implemented, achieve the greenhouse gas emission reduction targets:

(1) Transit priority areas where a transit priority project, as defined in Section 21155 of the Public Resources Code, may be constructed, provided that if the project area is based on proximity to a planned major transit stop or a high-quality transit corridor, the stop or the corridor must be scheduled to be completed within the planning horizon established by Section 450.322 of Title 23 of the Code of Federal Regulations. For purposes of this paragraph, a transit priority area may include a military base reuse plan that

1 *meets the definition of a transit priority area and a contaminated*
2 *site within a transit priority area.*

3 *(2) Areas that are small walkable communities, as defined in*
4 *paragraph (4) of subdivision (e) of Section 21094.5 of the Public*
5 *Resources Code. No more than one small walkable community*
6 *project area shall be designated within a city.*

7 *(b) Sites that have land use approvals, covenants, conditions*
8 *and restrictions, or other effective controls restricting the sites to*
9 *clean energy manufacturing, and sites that are consistent with the*
10 *sustainable communities strategy, if those sites are within the*
11 *geographic boundaries of a metropolitan planning organization.*
12 *Clean energy manufacturing consists of the manufacture of*
13 *components, parts, or materials for the generation of renewable*
14 *energy resources or for alternative fuel vehicles.*

15 *34191.16. Solely for purposes of Section 16 of Article XVI of*
16 *the California Constitution, a redevelopment plan adopted pursuant*
17 *to Section 34191.11 may include a provision for the receipt of tax*
18 *increment funds according to Section 33670, provided that the*
19 *local government with land use jurisdiction has adopted all of the*
20 *following:*

21 *(a) A school mitigation plan to offset losses of property tax*
22 *revenue to schools serving the project area as a result of the*
23 *imposition of a provision for the receipt of tax increment funds.*
24 *The plan may include assessment districts, provisions of covenants,*
25 *conditions and restrictions, or other mechanisms. Except as*
26 *otherwise specified, the plan shall be approved by the fiscally*
27 *affected school districts. If the plan is not approved by the school*
28 *districts, it may be submitted by the authority established under*
29 *this part to the Department of Finance for approval. The*
30 *department shall approve the plan if there is no impact on the state*
31 *budget because of the provisions of subdivision (b) of Section 8 of*
32 *Article XVI of the California Constitution or if the impacts on the*
33 *state budget are not unacceptable.*

34 *(b) An analysis of the public service costs and*
35 *revenue-generating impact of new development with respect to the*
36 *provision of basic public services, including police, fire, and rescue*
37 *services. The plan shall include a strategy for mitigating unfunded*
38 *service impacts.*

39 *(c) A sustainable parking standards ordinance that restricts*
40 *parking in transit priority project areas.*

1 (d) A provision requiring that 20 percent of the housing in the
2 project area be affordable to persons of low- and moderate-income.

3 (e) For transit priority areas and small walkable communities
4 within a metropolitan planning organization, a plan consistent
5 with the use designation, density, building intensity, and applicable
6 policies specified for the project area in the sustainable
7 communities strategy and that, for new residential construction,
8 provides a density of at least 20 dwelling units per net acre and
9 for nonresidential uses, provides a minimum floor area ratio of
10 0.75.

11 (f) Within small walkable communities outside a metropolitan
12 planning organization, a plan for new residential construction
13 that provides a density of at least 20 dwelling units per acre and,
14 for nonresidential uses, provides a minimum floor area ratio of
15 0.75.

16 (g) For areas referred to in subdivision (e), the authority shall
17 obtain the metropolitan planning organization's concurrence that
18 the plan is consistent with the use designation, density, building
19 intensity, and applicable policies for the project area in the
20 sustainable communities strategy.

21 34191.17. The authority shall approve any bond financing
22 under this division.

23 34191.18. The Low and Moderate Income Fund shall be
24 retained in the Sustainable Economic Development and Housing
25 Trust Fund for uses authorized under Section 33334.2. If the funds
26 are not contracted for use within 60 months from the effective date
27 of this section, the balance shall be transferred to an agency
28 designated by the Governor for use as grants to the authority for
29 the provision of affordable housing to low- and moderate-income
30 households. Any funds expended by the authority for affordable
31 housing from any of the granted funds shall be credited against
32 the 20-percent set-aside requirement under Section 33334.2.

33 ~~34191.16.~~

34 34191.19. A state or local public pension fund system
35 authorized by state law or local charter, respectively, including,
36 but not limited to, the Public Employees' Retirement System, the
37 State Teachers' Retirement System, a system established under
38 the County Employees Retirement Law of 1937, Chapter 3
39 (commencing with Section 31450) of Part 3 of Division 4 of Title
40 3 of the Government Code, or an independent system, may invest

1 capital in the public infrastructure projects and private commercial
2 and residential developments undertaken by an authority.

3 ~~34191.17.~~

4 34191.20. (a) An authority may exercise the full powers
5 granted under Chapter 2.8 (commencing with Section 53395) of
6 Part 1 of Division 2 of Title 5 of the Government Code and the
7 Marks-Roos Local Bond Pooling Act of 1985 (Article 4
8 (commencing with Section 6584) of Chapter 5 of Division 7 of
9 Title 1 of the Government Code).

10 (b) An authority may implement a local transactions and use
11 tax under Part 1.6 (commencing with Section 7251) of Division 2
12 of the Revenue and Taxation code, except that the resolution
13 authorizing the tax may designate the use of the proceed of the
14 tax.

15 (c) An authority may issue bonds paid for with authority
16 proceeds, which shall be deemed to be special funds to be expended
17 by the authority for the purposes of carrying out this part.

18 *SEC. 2. Section 21094.5 of the Public Resources Code is*
19 *amended to read:*

20 21094.5. (a) (1) If an environmental impact report was
21 certified for a planning level decision of a city or county, the
22 application of this division to the approval of an infill project shall
23 be limited to the effects on the environment that (A) are specific
24 to the project or to the project site and were not addressed as
25 significant effects in the prior environmental impact report or (B)
26 substantial new information shows the effects will be more
27 significant than described in the prior environmental impact report.
28 A lead agency’s determination pursuant to this section shall be
29 supported by substantial evidence.

30 (2) An effect of a project upon the environment shall not be
31 considered a specific effect of the project or a significant effect
32 that was not considered significant in a prior environmental impact
33 report, or an effect that is more significant than was described in
34 the prior environmental impact report if uniformly applicable
35 development policies or standards adopted by the city, county, or
36 the lead agency, would apply to the project and the lead agency
37 makes a finding, based upon substantial evidence, that the
38 development policies or standards will substantially mitigate that
39 effect.

1 (b) If an infill project would result in significant effects that are
2 specific to the project or the project site, or if the significant effects
3 of the infill project were not addressed in the prior environmental
4 impact report, or are more significant than the effects addressed
5 in the prior environmental impact report, and if a mitigated negative
6 declaration or a sustainable communities environmental assessment
7 could not be otherwise adopted, an environmental impact report
8 prepared for the project analyzing those effects shall be limited as
9 follows:

10 (1) Alternative locations, densities, and building intensities to
11 the project need not be considered.

12 (2) Growth inducing impacts of the project need not be
13 considered.

14 (c) This section applies to an infill project that satisfies both of
15 the following:

16 (1) The project satisfies any of the following:

17 (A) Is consistent with the general use designation, density,
18 building intensity, and applicable policies specified for the project
19 area in either a sustainable communities strategy or an alternative
20 planning strategy for which the State Air Resources Board,
21 pursuant to subparagraph (H) of paragraph (2) of subdivision (b)
22 of Section 65080 of the Government Code, has accepted a
23 metropolitan planning organization's determination that the
24 sustainable communities strategy or the alternative planning
25 strategy would, if implemented, achieve the greenhouse gas
26 emission reduction targets.

27 (B) Consists of a small walkable community project located in
28 an area designated by a city for that purpose.

29 (C) Is located within the boundaries of a metropolitan planning
30 organization that has not yet adopted a sustainable communities
31 strategy or alternative planning strategy, and the project has a
32 residential density of at least 20 units per acre or a floor area ratio
33 of at least 0.75.

34 (2) Satisfies all applicable statewide performance standards
35 contained in the guidelines adopted pursuant to Section 21094.5.5.

36 (d) This section applies after the Secretary of the Natural
37 Resources Agency adopts and certifies the guidelines establishing
38 statewide standards pursuant to Section 21094.5.5.

39 (e) For the purposes of this section, the following terms mean
40 the following:

- 1 (1) “Infill project” means a project that meets the following
2 conditions:
- 3 (A) Consists of any one, or combination, of the following uses:
4 (i) Residential.
5 (ii) Retail or commercial, where no more than one-half of the
6 project area is used for parking.
7 (iii) A transit station.
8 (iv) A school.
9 (v) A public office building.
- 10 (B) Is located within an urban area on a site that has been
11 previously developed, or on a vacant site where at least 75 percent
12 of the perimeter of the site adjoins, or is separated only by an
13 improved public right-of-way from, parcels that are developed
14 with qualified urban uses.
- 15 (2) “Planning level decision” means the enactment or
16 amendment of a general plan, community plan, specific plan, or
17 zoning code.
- 18 (3) “Prior environmental impact report” means the
19 environmental impact report certified for a planning level decision,
20 as supplemented by any subsequent or supplemental environmental
21 impact reports, negative declarations, or addenda to those
22 documents.
- 23 ~~(4) “Small walkable community project” means a project that~~
24 ~~is in an incorporated city, which is not within the boundary of a~~
25 ~~metropolitan planning organization and that satisfies the following~~
26 ~~requirements:~~
- 27 ~~(A) Has a project area of approximately one-quarter mile~~
28 ~~diameter of contiguous land completely within the existing~~
29 ~~incorporated boundaries of the city.~~
- 30 ~~(B) Has a project area that includes a residential area adjacent~~
31 ~~to a retail downtown area.~~
- 32 ~~(C) The project has a density of at least eight dwelling units per~~
33 ~~acre or a floor area ratio for retail or commercial use of not less~~
34 ~~than 0.50.~~
- 35 (4) *“Small walkable community project” means a project that*
36 *is located in a small walkable community project area. A small*
37 *walkable community project area means an area within an*
38 *incorporated city that is not within the boundary of a metropolitan*
39 *planning organization and meets all the following requirements:*

1 (A) Has a project area of approximately one-quarter-mile
2 diameter of contiguous land completely within the existing
3 incorporated boundaries of the city.

4 (B) Has a project area that includes a residential area adjacent
5 to a retail downtown area.

6 (C) The project area has an average net density of at least eight
7 dwelling units per acre or a floor area ratio for retail or
8 commercial use of not less than 0.50. For purposes of this
9 subparagraph: (i) “Floor area ratio” means the ratio of gross
10 building area (GBA) of development, exclusive of structured
11 parking areas, proposed for the project divided by the total net lot
12 area (NLA); (ii) “gross building area” means the sum of all
13 finished areas of all floors of a building included within the outside
14 faces of its exterior walls; and (iii) “net lot area” means the area
15 of a lot excluding publicly dedicated land, private streets that meet
16 local standards, and other public use areas as determined by the
17 local land use authority.

18 (5) “Urban area” includes either an incorporated city or an
19 unincorporated area that is completely surrounded by one or more
20 incorporated cities that meets both of the following criteria:

21 (A) The population of the unincorporated area and the
22 population of the surrounding incorporated cities equal a population
23 of 100,000 or more.

24 (B) The population density of the unincorporated area is equal
25 to, or greater than, the population density of the surrounding cities.

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AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1813

Introduced by Assembly Member Buchanan

February 21, 2012

An act to amend Section 85086 of the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 1813, as amended, Buchanan. Sacramento-San Joaquin Delta Reform Act of 2009.

~~Existing law, the~~

The Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council as an independent agency of the state. Existing law The act requires the State Water Resources Control Board to establish an effective system of Delta watershed diversion data and public reporting by December 31, 2010. Existing law The act requires the board to establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010. The act requires the board to develop new flow criteria for the Delta ecosystem, as specified. Existing law requires the board to submit those determinations to the council The act subjects the flow criteria to modification over time based on a science-based adaptive management program that meets specified criteria.

This bill would make a technical, nonsubstantive change to those provisions require the system, for certain diversions, in lieu of requiring reporting, to use data from the consumptive use index modeling used by the Department of Water Resources to determine the Net Delta Outflow Index. The bill would authorize the system to enhance or replace

the consumptive use index modeling with satellite imagery. The bill would require that the system, to the maximum extent practicable, use consumptive use data from consumptive use modeling or satellite imagery in lieu of public reporting.

The bill would require the new flow criteria to ensure that there is no degradation in water quality in Delta channels and to include flows into, within, and out of the Delta to replicate conditions when local and anadromous fish populations were at healthy and self-sustaining levels. The bill would require the flow criteria to include specified flows for anadromous fish, as defined.

The bill would subject flow criteria to modification over time based on measured fish populations in a management program that meets specified criteria. The bill would restrict to prescribed circumstances the use of measures other than flow as a substitute for flow.

Vote: majority. 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 85086 of the Water Code is amended to
2 read:

3 85086. (a) The board shall establish an effective system of
4 Delta watershed diversion data collection and public reporting by
5 December 31, 2010. *The system, for diversions to the Delta*
6 *lowlands as shown on page 4 of the department’s Sacramento-San*
7 *Joaquin Delta Atlas, dated 1993, and for other diversions to Delta*
8 *lands of less than 50 cubic feet per second, in lieu of requiring*
9 *reporting by those diverters, shall use data from the consumptive*
10 *use index modeling currently used by the department to determine*
11 *the Net Delta Outflow Index. The system may enhance or replace*
12 *consumptive use index modeling with satellite imagery. The system,*
13 *to the maximum extent practicable, shall use consumptive use data*
14 *from consumptive use modeling or satellite imagery in lieu of*
15 *public reporting of diversions.*

16 (b) It is the intent of the Legislature to establish an accelerated
17 process to determine instream flow needs of the Delta for the
18 purposes of facilitating the planning decisions that are required to
19 achieve the objectives of the Delta Plan.

20 (c) (1) For the purpose of informing planning decisions for the
21 Delta Plan and the Bay Delta Conservation Plan, the board ~~shall,~~

1 pursuant to ~~the board's~~ *its* public trust obligations, *shall* develop
2 new flow criteria for the Delta ecosystem necessary to protect
3 public trust resources. In carrying out this section, the board shall
4 review existing water quality objectives and use the best available
5 scientific information. The flow criteria for the Delta ecosystem
6 shall include the volume, quality, and timing of water necessary
7 for the Delta ecosystem under different conditions. *That flow*
8 *criteria shall ensure that there is no degradation in water quality*
9 *in Delta channels and shall include flows into, within, and out of*
10 *the Delta to replicate conditions when local and anadromous fish*
11 *populations were at healthy and self-sustaining levels. For*
12 *anadromous fish, the flow criteria shall include, at a minimum,*
13 *those flows necessary to sustain the natural production of*
14 *anadromous fish on a long-term basis at levels not less than twice*
15 *the average levels attained during 1967 to 1991, inclusive. As used*
16 *in this subdivision, "anadromous fish" include salmon, steelhead,*
17 *striped bass, sturgeon, and American shad that ascend the*
18 *Sacramento and San Joaquin rivers and the tributaries of those*
19 *rivers and the Delta to reproduce after maturing in the San*
20 *Francisco Bay or the Pacific Ocean. The flow criteria shall be*
21 developed in a public process by the board within nine months of
22 the enactment of this division. The public process shall be in the
23 form of an informational proceeding conducted pursuant to Article
24 3 (commencing with Section 649) of Chapter 1.5 of Division 3 of
25 Title 23 of the California Code of Regulations, and shall provide
26 an opportunity for all interested persons to participate. The flow
27 criteria shall not be considered predecisional with regard to any
28 subsequent board consideration of a permit, including any permit
29 in connection with a final BDCP.

30 (2) Any order approving a change in the point of diversion of
31 the State Water Project or the federal Central Valley Project from
32 the southern Delta to a point on the Sacramento River shall include
33 appropriate Delta flow criteria and shall be informed by the analysis
34 conducted pursuant to this section. The flow criteria shall be subject
35 to modification over time based on ~~a science-based adaptive~~
36 *measured fish populations in a* management program that
37 integrates scientific and monitoring results, including the
38 contribution of habitat and other conservation measures, into
39 ongoing Delta water management. *Measures other than flow shall*
40 *not be substituted for flow unless science-based measurements of*

1 *fish populations conclusively show increases in those fish*
2 *populations over the levels specified in paragraph (1) that result*
3 *from those other measures, so that adjustment in those flows can*
4 *be made while still sustaining the required fish population levels.*
5 *Any adaptive reduction in flow shall be temporary until*
6 *measurement of fish populations conclusively shows the*
7 *sustainability of the required fish populations. If sustainability is*
8 *not demonstrated within two years from the date of the approval*
9 *of the adaptive adjustment, the flows shall be returned to original*
10 *levels.*

11 (3) Nothing in this section amends or otherwise affects the
12 application of the board's authority under Part 2 (commencing
13 with Section 1200) of Division 2 to include terms and conditions
14 in permits that in its judgment will best develop, conserve, and
15 utilize in the public interest the water sought to be appropriated.

16 (d) The board shall enter into an agreement with the State Water
17 Project contractors and the federal Central Valley Project
18 contractors, who rely on water exported from the Sacramento River
19 watershed, or a joint powers authority comprised of those
20 contractors, for reimbursement of the costs of the analysis
21 conducted pursuant to this section.

22 (e) The board shall submit its flow criteria determinations
23 pursuant to this section to the council for its information within
24 30 days of completing the determinations.

25 (f) *The council shall not consider any Bay Delta Conservation*
26 *Plan before it receives the flow determinations of the board*
27 *pursuant to this section.*

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1884

Introduced by Assembly Member Buchanan

February 22, 2012

An act to amend Section 85057.5 of the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 1884, as amended, Buchanan. Sacramento-San Joaquin Delta Reform Act of 2009: covered actions.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council as an independent agency of the state. Existing law requires a state or local public agency that proposes to undertake a covered action that will occur within the boundaries of the Delta or the Suisun Marsh to prepare, and submit to the council, a specified written certification of consistency with the Delta Plan prior to taking those actions. Existing law defines the term "covered action" to mean a plan, program, or project, as specified.

This bill would ~~make a technical, nonsubstantive change to the section defining covered action~~ *exclude from the definition of "covered action" any anticipated upgrades to existing drinking water, stormwater, or wastewater treatment facilities to meet state water quality requirements.*

Existing law, the Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992, establishes a primary zone in the Delta where further development is barred and a secondary zone surrounding the Delta where development may proceed under certain conditions.

This bill would also exclude from the definition of "covered action" any levee improvements and other flood control projects in the

secondary zone, as specified, and would exclude from the definition the implementation of existing, fully permitted, habitat conservation and agricultural mitigation plans and programs within the primary and secondary zones of the Delta.

Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA exempts housing for agricultural employees, housing affordable to low-income households, and other infill housing projects meeting specified criteria.

This bill would exclude from the definition of “covered action” specified plans, programs, projects, or activities within the secondary zone that have received environmental certification under CEQA or otherwise have vested rights as of the effective date of the Delta Plan, or both, and would exclude all of the categorical CEQA exemptions. This bill would also exclude from the definition agricultural employee housing, low-income housing, infill residential projects, and other infill development projects, as described.

Vote: majority. 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 85057.5 of the Water Code is amended
- 2 to read:
- 3 85057.5. (a) “Covered action” means a plan, program, or
- 4 project as defined pursuant to Section 21065 of the Public
- 5 Resources Code that meets all of the following conditions:
- 6 (1) Will occur, in whole or in part, within the boundaries of the
- 7 Delta or Suisun Marsh.
- 8 (2) Will be carried out, approved, or funded by the state or a
- 9 local public agency.
- 10 (3) Is covered by one or more provisions of the Delta Plan.

1 (4) Will have a significant impact on achievement of one or
2 both of the coequal goals or the implementation of
3 government-sponsored flood control programs to reduce risks to
4 people, property, and state interests in the Delta.

5 (b) “Covered action” does not include any of the following:

6 (1) A regulatory action of a state agency.

7 (2) Routine maintenance and operation of the State Water
8 Project or the federal Central Valley Project.

9 (3) Regional transportation plans prepared pursuant to Section
10 65080 of the Government Code.

11 (4) Any plan, program, project, or activity within the secondary
12 zone of the Delta that the applicable metropolitan planning
13 organization under Section 65080 of the Government Code has
14 determined is consistent with either a sustainable communities
15 strategy or an alternative planning strategy that the State Air
16 Resources Board has determined would, if implemented, achieve
17 the greenhouse gas emission reduction targets established by that
18 board pursuant to subparagraph (A) of paragraph (2) of subdivision
19 (b) of Section 65080 of the Government Code. For purposes of
20 this paragraph, “consistent with” means consistent with the use
21 designation, density, building intensity, transportation plan, and
22 applicable policies specified for the area in the sustainable
23 communities strategy or the alternative planning strategy, as
24 applicable, and any infrastructure necessary to support the plan,
25 program, project, or activity.

26 (5) Routine maintenance and operation of any facility located,
27 in whole or in part, in the Delta, that is owned or operated by a
28 local public agency.

29 (6) Any plan, program, project, or activity that occurs, in whole
30 or in part, in the Delta, if both of the following conditions are met:

31 (A) The plan, program, project, or activity is undertaken by a
32 local public agency that is located, in whole or in part, in the Delta.

33 (B) Either a notice of determination is filed, pursuant to Section
34 21152 of the Public Resources Code, for the plan, program, project,
35 or activity by, or the plan, program, project, or activity is fully
36 permitted by, September 30, 2009.

37 (7) (A) A project within the secondary zone, as defined pursuant
38 to Section 29731 of Public Resources Code as of January 1, 2009,
39 for which a notice of approval or determination pursuant to Section
40 21152 of the Public Resources Code has been filed before the date

1 on which the Delta Plan becomes effective. *This includes, but is*
 2 *not limited to, any plan, program, project, or activity within the*
 3 *secondary zone of the Delta, which is consistent with an adopted*
 4 *general plan, sphere of influence, specific or master plan,*
 5 *development agreement, subdivision map, or other land use*
 6 *entitlement or permit, having received environmental certification*
 7 *under the California Environmental Quality Act (Division 13*
 8 *(commencing with Section 21000) of the Public Resources Code)*
 9 *or which otherwise has vested rights as of the effective date of the*
 10 *Delta Plan, or both.*

11 (B) Any project for which a notice of approval or determination
 12 is filed on or after the date on which the final Bay Delta
 13 Conservation Plan becomes effective, and before the date on which
 14 the Delta Plan becomes effective, is not a covered action but shall
 15 be consistent with the Bay Delta Conservation Plan.

16 (C) Subparagraphs (A) and (B) do not apply to either of the
 17 following:

18 (i) Any project that is within a Restoration Opportunity Area
 19 as shown in Figure 3.1 of Chapter 3: Draft Conservation Strategy
 20 of the Bay Delta Conservation Plan, August 3, 2009, or as shown
 21 in a final Bay Delta Conservation Plan.

22 (ii) Any project that is within the alignment of a conveyance
 23 facility as shown in Figures 1 to 5, inclusive, of the Final Draft
 24 Initial Assessment of Dual Delta Water Conveyance Report, April
 25 23, 2008, and in future revisions of this document by the
 26 department.

27 (8) *Implementation of existing, fully permitted, habitat*
 28 *conservation and agricultural mitigation plans and programs*
 29 *within the primary and secondary zones of the Delta.*

30 (9) *Agricultural employee housing, low-income housing, and*
 31 *infill residential projects, as described in Section 21159.22,*
 32 *21159.23, or 21159.24 of the Public Resources Code, and other*
 33 *infill development projects, as defined in Section 15332 of Title*
 34 *14 of the California Code of Regulations.*

35 (10) *All of the categorical exemptions recognized under the*
 36 *California Environmental Quality Act (Division 13 (commencing*
 37 *with Section 21000) of the Public Resources Code).*

38 (11) *Any anticipated upgrades to existing drinking water,*
 39 *stormwater, or wastewater treatment facilities to meet state water*
 40 *quality requirements.*

1 (12) *Any levee improvements and other flood control projects*
2 *in the secondary zone of the Delta that are consistent with state*
3 *standards or federal standards, or both, and which have complied*
4 *with the California Environmental Quality Act (Division 13*
5 *commencing with Section 21000) of the Public Resources Code*
6 *or the federal National Environmental Policy Act (42 U.S.C. Sec.*
7 *4321 et seq.), or both.*

8 (c) Nothing in the application of this section shall be interpreted
9 to authorize the abrogation of any vested right whether created by
10 statute or by common law.

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AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2000

Introduced by Assembly Member Huber

February 23, 2012

An act to amend Section ~~11460 of, 85200 of, and~~ to add Sections 11108, 11109, 11110, 11111, 11456, 11457, 11458, and 11915.2 139.5 and 85090 to, and to add Article 9.4 (commencing with Section 11259) to Chapter 2 of Part 3 of Division 6 of, the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2000, as amended, Huber. ~~State water facilities: Sacramento-San Joaquin Delta: Delta conveyance facility: Delta.~~

Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Delta Protection Act) creates the Delta Protection Commission and requires the commission to prepare and adopt a comprehensive long-term resource management plan for specified lands within the Sacramento-San Joaquin Delta (Delta). Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, established the Delta Stewardship Council as an independent agency of the state and required the council to consist of 7 members appointed in a specified manner.

This bill would reduce the Governor's appointments to the council to 2 members, and instead provide that the Vice-Chairperson of the

commission and a member of the commission chosen by a majority vote of the commission will serve on the council, as prescribed.

Existing law imposes requirements on the Department of Water Resources in connection with the preparation of a Bay Delta Conservation Plan (BDCP). The Sacramento-San Joaquin Delta Reform Act of 2009 requires the council to consider the BDCP for inclusion in a specified Delta Plan, and requires the incorporation of the BDCP into the Delta Plan if the BDCP meets certain requirements, including a requirement that the BDCP include a comprehensive review and analysis of a range of Delta conveyance alternatives, including through-Delta, dual conveyance, and isolated conveyance alternatives and capacity and design options of specified canals and pipelines.

This bill would require the department to withdraw from a specified Memorandum of Agreement. This bill would permit the department to enter into a new agreement to further efforts to develop a BDCP only if that memorandum of agreement includes prescribed requirements.

Under existing law, various general obligation bond acts have been approved by the voters to provide funds for water projects, facilities, and programs. Existing law, the Disaster Preparedness and Flood Prevention Bond Act of 2006, a bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects, of which \$3,000,000,000 is available, upon appropriation by the Legislature, to the department, for specified purposes including, but not limited to, the evaluation, repair, rehabilitation, reconstruction, or replacement of levees. Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters as Proposition 84 at the November 7, 2006, statewide general election, authorizes the issuance of general obligation bonds in the amount of \$5,388,000,000, of which \$275,000,000 is made available to the department, upon appropriation by the Legislature, for flood control projects in the Delta designed to increase the department's ability to respond to levee breaches and to reduce the potential for levee failures.

This bill, with regard to those bond funds, would appropriate available funds to the department for levee improvements, as prescribed.

~~(1) The United States Bureau of Reclamation operates the federal Central Valley Project and the Department of Water Resources operates~~

~~the State Water Resources Development System, known as the State Water Project, to supply water to persons and entities in the state.~~

~~Existing law provides for the design, construction, operation, and maintenance of water development facilities by the state, including the State Water Project. State Water Project facilities include, among others, the facilities that are specified or authorized as part of the state Central Valley Project.~~

~~This bill would prohibit the construction of a new Delta conveyance facility, as defined, unless specified conditions are met, including (A) the adoption of an agreement by the Department of Water Resources and the Department of Fish and Game that specifies the stages of construction of the new Delta conveyance facility and (B) the establishment of plans and agreements for the construction of specified water facilities and implementation of specified water programs meeting prescribed conditions as part of the state Central Valley Project. The bill would prohibit the transportation of water for the federal Central Valley Project through state project facilities, with specified exceptions, unless certain conditions are met.~~

~~The bill would require the Department of Water Resources to enter into contracts with specified Delta agencies for purposes of recognizing the right of users to make use of the waters of the Delta and establishing criteria for minimum water quality in the Delta. The bill would require differences between the state and the Delta agencies to be resolved by arbitration if contracts have not been executed by January 1, 2013.~~

~~(2) Existing law prohibits the Department of Water Resources, in the construction and operation of the State Water Project facilities, from depriving a watershed or area in which water originates, of the prior right to the water required to supply the beneficial needs of that area, as specified.~~

~~This bill would require the project to be operated in compliance with specified water quality standards, and would require the department, the Attorney General, and other state agencies to take actions to ensure that the federal Central Valley Project is operated in compliance with those standards.~~

~~The bill would require the department to make an allocation of specified costs of the project to compensate for historic upstream depletion and diversions, and would prohibit specified public agencies from being responsible for those allocated costs. The bill would require the costs of benefits in the Delta resulting from project operations, in~~

excess of detriments caused by the project, to be repaid by beneficiaries, to the extent those costs are allocable.

~~(3) Under existing law, the Department of Fish and Game and the Department of Water Resources are responsible for specified reports pertaining to water development projects and the Sacramento-San Joaquin Delta.~~

~~This bill would authorize the Department of Fish and Game to administer a study to determine the interrelationship between Delta outflow and fish and wildlife resources in the San Francisco Bay System and waste discharges into the San Francisco Bay system.~~

~~The bill would require the Department of Water Resources to study the possible interconnection between the State Water Resources Development System and water supply systems serving the Counties of Alameda, Contra Costa, San Joaquin, and San Mateo, and the City and County of San Francisco. The bill would also authorize the department to participate in an investigation of the need to enlarge Shasta Dam and Reservoir or other existing federal reservoirs.~~

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

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

- 1 SECTION 1. Section 139.5 is added to the Water Code, to read:
- 2 139.5. (a) The department shall withdraw from the
- 3 Memorandum of Agreement Regarding Collaboration on the
- 4 Planning, Preliminary Design and Environmental Compliance for
- 5 the Delta Habitat Conservation and Conveyance Program in
- 6 Connection with the Development of the Bay Delta Conservation
- 7 Plan, in accordance with the provisions of that memorandum of
- 8 agreement.
- 9 (b) The department may enter into a new memorandum of
- 10 agreement to further efforts to develop a Bay Delta Conservation
- 11 Plan (BDCP) only if that memorandum of agreement does all of
- 12 the following:
- 13 (1) Allows the counties in the Delta to participate in the making
- 14 of BDCP determinations, including, but not limited to, additional
- 15 alternatives for conveyance and diversion, levee restoration,
- 16 protection for agriculture and recreation, and habitat conservation.

1 (2) *Evaluates non-diversion alternatives, such as water*
2 *conservation, desalination, or storage, in the environmental impact*
3 *report.*

4 (3) *Establishes technical working groups to address issues in*
5 *each of the counties in the Delta.*

6 (4) *Provides funding to counties in the Delta to study the impacts*
7 *of BDCP proposals and potential alternatives.*

8 (5) *Collaborates with habitat conservation plans and natural*
9 *community conservation plans to ensure integration of state and*
10 *local efforts.*

11 (6) *Independently reviews the science behind BDCP proposals*
12 *in coordination with the counties of the Delta.*

13 *SEC. 2. Section 85090 is added to the Water Code, to read:*

14 85090. (a) *Pursuant to Section 5096.821 of the Public*
15 *Resources Code, available funds in the Disaster Preparedness and*
16 *Flood Prevention Bond Fund of 2006 are appropriated to the*
17 *department for levee improvements.*

18 (b) *Pursuant to Section 75033 of the Public Resources Code,*
19 *funds made available pursuant to Division 43 (commencing with*
20 *Section 75001) of the Public Resources Code are appropriated to*
21 *the department for levee improvements.*

22 *SEC. 3. Section 85200 of the Water Code is amended to read:*

23 85200. (a) *The Delta Stewardship Council is hereby established*
24 *as an independent agency of the state.*

25 (b) (1) *The council shall consist of seven voting members, of*
26 *which ~~four~~ two members shall be appointed by the Governor and*
27 *confirmed by the Senate, one member shall be appointed by the*
28 *Senate Committee on Rules, one member shall be appointed by*
29 *the Speaker of the Assembly, ~~and~~ one member shall be the*
30 *Chairperson of the Delta Protection Commission, one member*
31 *shall be the Vice-Chairperson of the Delta Protection Commission,*
32 *and one member shall be a member of the Delta Protection*
33 *Commission chosen by a majority vote of that commission. Initial*
34 *appointments to the council shall be made by July 1, 2010.*

35 (2) *No member of the council shall serve two consecutive terms,*
36 *but a member may be reappointed after a period of two years*
37 *following the end of his or her term.*

38 (c) (1) (A) *The initial terms of two of the four members*
39 *appointed by the Governor shall ~~be four years~~ expire January 1,*
40 *2013.*

1 (B) The initial terms of two of the four members appointed by
2 the Governor shall be six years.

3 (C) The initial terms of the members appointed by the Senate
4 Committee on Rules and the Speaker of the Assembly shall be
5 four years.

6 (D) Upon the expiration of each term described in ~~subparagraphs~~
7 ~~(A), (B)~~; *subparagraph (B)* or (C), the term of each succeeding
8 member shall be four years.

9 (2) The Chairperson, *Vice-Chairperson*, and *chosen member*
10 of the Delta Protection Commission shall serve as a member of
11 the council for the period during which he or she holds the position
12 as commission chairperson, *commission vice-chairperson*, or
13 *commission member*.

14 (d) Any vacancy shall be filled by the appointing authority
15 within 60 days. If the term of a council member expires, and no
16 successor is appointed within the allotted timeframe, the existing
17 member may serve up to 180 days beyond the expiration of his or
18 her term.

19 (e) The council members shall select a chairperson from among
20 their members, who shall serve for not more than four years in that
21 capacity.

22 (f) The council shall meet once a month in a public forum. At
23 least two meetings each year shall take place at a location within
24 the Delta.

25 ~~SECTION 1. Section 11108 is added to the Water Code, to~~
26 ~~read:~~

27 ~~11108. "Delta" means the Sacramento-San Joaquin Delta, as~~
28 ~~defined in Section 12220.~~

29 ~~SEC. 2. Section 11109 is added to the Water Code, to read:~~

30 ~~11109. "Delta conveyance facility" means a facility that~~
31 ~~conveys water directly from the Sacramento River to the State~~
32 ~~Water Resources Development System or the federal Central~~
33 ~~Valley Project pumping facilities in the south Delta.~~

34 ~~SEC. 3. Section 11110 is added to the Water Code, to read:~~

35 ~~11110. "Historical levels" means the average annual abundance,~~
36 ~~from 1922 through 1967, of the adult populations of fish and~~
37 ~~wildlife estimated to have lived in or been dependent on any area,~~
38 ~~as determined by the Department of Fish and Game.~~

39 ~~SEC. 4. Section 11111 is added to the Water Code, to read:~~

1 11111. “Suisun Marsh” means the areas described in Section
2 29101 of the Public Resources Code, and subject to protection
3 under Division 19 (commencing with Section 29000) of the Public
4 Resources Code.

5 SEC. 5. Article 9.4 (commencing with Section 11259) is added
6 to Chapter 2 of Part 3 of Division 6 of the Water Code, to read:

7
8 Article 9.4. Additional Facilities and Programs
9

10 11259. Notwithstanding any other law, construction of a new
11 Delta conveyance facility shall not commence until all of the
12 following conditions are met:

13 (a) The department and the Department of Fish and Game adopt
14 a final agreement that specifies the stages of construction of the
15 new Delta conveyance facility. For purposes of that agreement,
16 the first stage of construction shall include new fish screens, which
17 shall be tested for a period of not less than two years prior to the
18 commencement of the next phase of construction in order to
19 establish the adequacy of the fish screens and operational criteria.
20 The agreement shall provide that the final phase of construction
21 shall not commence until the department and Department of Fish
22 and Game determine that the fish screens and operational criteria
23 will adequately protect fish populations.

24 (b) Plans and agreements to protect the beneficial uses of the
25 Delta are in place, including plans and agreements to do all of the
26 following:

27 (1) Relocate the intake to the Contra Costa Canal to divert water
28 from state water facilities, subject to the terms of a contract
29 between the department and any appropriate agencies representing
30 the beneficiaries.

31 (2) Complete the Los Vaqueros unit, located in eastern Contra
32 Costa County, approximately eight miles west of the Clifton Court
33 Forebay. Other offstream storage reservoirs may be located south
34 or west of the Delta, as determined by the director, to be served
35 by existing project facilities.

36 (3) Complete south Delta water quality improvement facilities,
37 consisting of pumping plants, discharge canals, flow control
38 structures, and channelization of sloughs to provide improved
39 circulation, distribution, and quality of water in the southeastern
40 Delta and to meet the needs of the south Delta area. Those facilities

1 may include a turnout from the California Aqueduct to the Westley
2 Wasteway of the federal Delta-Mendota Canal or other facilities
3 to deliver water to the San Joaquin river. In lieu of that turnout,
4 the director may enter an agreement with the Bureau of
5 Reclamation to exchange an equivalent amount of water between
6 the Delta-Mendota Canal and the California Aqueduct. Portions
7 of any new facilities described in this paragraph that are not
8 integrally connected with the new Delta conveyance facility shall
9 be constructed only if a contract between an appropriate agency
10 representing the beneficiaries and the department is executed.

11 (4) As mitigation for the past, present, and future adverse
12 impacts of reduced Delta outflows on the wildlife resources of the
13 Suisun Marsh, construct, maintain, or operate, or contract with the
14 Suisun Resources Conservation District for the construction,
15 maintenance, or operation of, the Suisun Marsh overall protection
16 facilities in accordance with a plan developed by the department
17 in cooperation with the Suisun Resources Conservation District
18 and the Department of Fish and Game. These facilities shall be
19 completed no later than the first stage of construction of the new
20 Delta conveyance facility, as described in subdivision (a):

21 (5) (A) The construction of facilities for utilizing groundwater
22 storage space, as determined by the director to be feasible, for
23 purposes of providing yield for the State Water Resources
24 Development System based upon estimates by the department that
25 groundwater storage can yield 400,000 acre-feet annually, in
26 conjunction with existing and future surface water supplies, by the
27 recharge and extraction of ground water and including the
28 capitalized cost of delivering water for filling or refilling ground
29 water storage space, in one or more of the following locations
30 within the service area of the State Water Resources Development
31 System:

32 (i) The south San Francisco Bay area in the Counties of Santa
33 Clara and Alameda, served by the South Bay Aqueduct.

34 (ii) The San Joaquin Valley, served by the California Aqueduct.

35 (iii) Southern California, served by the California Aqueduct,
36 including enlargement of the Devil Canyon Power Plant and the
37 Mojave Division (East Branch) from the Cottonwood Power Plant
38 to Silverwood Lake.

39 (B) A facility described in this paragraph shall not be constructed
40 or operated within the boundaries of an agency that has contracted

1 for water from the State Water Resources Development System
2 without a contract with that agency.

3 (6) Except as provided in paragraph (7), the construction of the
4 Glenn Reservoir-River Diversion Unit on the west side of the
5 Sacramento Valley in the vicinity of Stony Creek and Thomas
6 Creek watersheds.

7 (7) If the Glenn Reservoir-River Diversion Unit described in
8 paragraph (6) is not feasible, as determined by the director, the
9 construction of the Colusa Reservoir-River Diversion Unit on the
10 west side of the Sacramento Valley in the western portion of the
11 Counties of Glenn and Colusa. The Sites Reservoir portion of the
12 unit may be developed at any time hereafter by the federal
13 government as a facility of the federal Central Valley Project to
14 serve the Tehama-Colusa Canal and any extension thereof into
15 Yolo and Solano Counties.

16 (8) Implementation of wastewater reclamation programs to
17 provide yield for the State Water Resources Development System.
18 Facilities for these programs shall be economically competitive
19 with alternative new water supply sources, and shall not be
20 constructed or operated within the boundaries of any agency that
21 has contracted for water from the State Water Resources
22 Development System, unless the department does so pursuant to
23 a contract with that agency.

24 (9) Implementation of water conservation programs within the
25 boundaries of agencies that have contracted for water from the
26 State Water Resources Development System. However, the
27 implementation of these programs is contingent upon contracts
28 between the agencies and the department.

29 (10) (A) Construction of the Mid-Valley Canal Unit for the
30 alleviation of groundwater overdraft and provision of water supply
31 for state and federal water fowl management areas within the canal
32 service area. Only water developed by facilities other than those
33 of the project may be delivered through the canal unit, and that
34 water shall be transported through the new Delta conveyance
35 facility. The full cost of the canal unit incurred by the state shall
36 be allocated to agricultural, municipal, and industrial contractors
37 for the delivered water, and shall be repaid by those contractors.

38 (B) The Secretary of the Natural Resources Agency is authorized
39 to indicate in writing the state's intent to agree to administer any
40 federal multiple-purpose water project land and water areas of the

1 ~~Mid-Valley Canal Unit for recreation and fish and wildlife~~
2 ~~enhancement, as provided in Section 4601-13 of Title 16 of the~~
3 ~~United States Code, if the water project is constructed by the United~~
4 ~~States.~~

5 ~~(11) Construction of the Western Delta Overland Water~~
6 ~~Facilities, to supply water to agricultural areas on Sherman Island,~~
7 ~~Jersey Island, Hotchkiss Tract, and adjacent areas.~~

8 ~~(12) (A) Construction of facilities to provide for the~~
9 ~~transportation of water to termini to serve the Counties of San~~
10 ~~Joaquin and San Mateo, and the City and County of San Francisco.~~

11 ~~(B) Construction of facilities to provide for the transportation~~
12 ~~of a supplemental water supply to areas in Alameda and Contra~~
13 ~~Costa Counties not served through the Contra Costa Canal or the~~
14 ~~South Bay Aqueduct. Water delivered through the facilities shall~~
15 ~~be water developed by facilities of the federal Central Valley~~
16 ~~Project.~~

17 ~~11259.3. (a) Construction of facilities described in subdivision~~
18 ~~(a) of Section 11259 or paragraph (10) of subdivision (b) of Section~~
19 ~~11259 may commence only after the department has entered into~~
20 ~~a permanent agreement with the Department of Fish and Game~~
21 ~~for the protection and enhancement of fish and wildlife that~~
22 ~~provides for both of the following:~~

23 ~~(1) The restoration and maintenance of adult populations of fish~~
24 ~~and wildlife at historical levels in the Delta and the Suisun Marsh~~
25 ~~and the San Francisco Bay system westerly of the Delta.~~
26 ~~Maintenance at historical levels shall consider natural fluctuations~~
27 ~~in annual water supply and populations of fish and wildlife. The~~
28 ~~agreement shall include those limitations on exports and diversions~~
29 ~~to storage that are necessary to restoring and maintaining historical~~
30 ~~levels of fish and wildlife. To the extent practicable, fresh water~~
31 ~~needed to restore and maintain fish and wildlife in the San~~
32 ~~Francisco Bay System westerly of the Delta shall be provided from~~
33 ~~unregulated flows.~~

34 ~~(2) The realization of the potential of the project for increasing~~
35 ~~resources above the levels described in paragraph (1) consistent~~
36 ~~with the contracts for water delivery and with other purposes of~~
37 ~~the projects.~~

38 ~~(b) The department shall immediately proceed with activities~~
39 ~~prerequisite to the construction of the facilities described in~~

1 subdivision (a) of Section 11259, and shall complete the design
2 and commence construction as soon as possible.

3 11259.5. (a) The construction of any new facilities described
4 in paragraphs (3), (6), (7), (8), and (10) of subdivision (b) of
5 Section 11259 is conditional upon the completion of engineering,
6 economic, environmental, and financial feasibility reports found
7 favorable by the Director of Water Resources.

8 (b) Each financial feasibility report shall contain all of the
9 following:

10 (1) An initial allocation of project costs to project purposes.

11 (2) The proposed method of financing.

12 (3) An estimate of the method of repayment.

13 (4) A designation of the water and power contractors that are
14 proposed to repay the allocated reimbursable water development
15 costs, including interest, if any, on upstream storage, conveyance,
16 operations, maintenance, and replacement.

17 (5) An estimate of the impact upon retail water prices in the
18 various service areas of the project.

19 11259.7. (a) The environmental impact report for the Delta
20 conveyance facility shall include a discussion of the sources of
21 mineral, nutrient, and biological components of the Sacramento
22 River, and shall evaluate the possible impacts to those components
23 resulting from the operation of the Delta conveyance facility.

24 (b) If the department determines that there will be significant
25 adverse mineral, nutrient, or biological effects caused by the
26 operation of the Delta conveyance facility, the department shall
27 do all of the following:

28 (1) Evaluate mitigation measures in the environmental impact
29 report.

30 (2) Propose cost allocation principles for mitigation.

31 (3) Prepare trial cost allocation.

32 (c) To the extent practicable, the department shall mitigate the
33 adverse impacts on mineral, nutrient, and biological components
34 caused by the operation of the Delta conveyance facility.

35 SEC. 6. Section 11456 is added to the Water Code, to read:

36 11456. (a) The department shall enter into permanent and
37 enforceable contracts with the Delta agencies specified in
38 subdivision (c) for purposes of recognizing the right of water users
39 to make use of the waters of the Delta and establishing criteria for
40 the minimum quality of water that shall prevail within the Delta

1 before water may be exported from the Delta. The quality shall be
2 adequate to permit the preservation of Delta agricultural, domestic,
3 and environmental uses, as provided in Part 4.5 (commencing with
4 Section 12200):

5 (b) ~~The contracts shall provide for reasonable payment to be
6 made for any benefits that may be received through the water
7 supply or quality provided in the contracts in excess of that which
8 would have been available in absence of the operations of the State
9 Water Resources Development System and of the federal Central
10 Valley Project, and offset by any detriments caused by those
11 operations. If contracts have not been executed by January 1, 2013,
12 differences between the state and the Delta agencies specified in
13 subdivision (c) shall be resolved by arbitration upon the written
14 request of either party to the proposed contract identifying the
15 issues upon which arbitration shall be held. Arbitration shall be
16 conducted in accordance with Title 9 (commencing with Section
17 1280) of Part 3 of the Code of Civil Procedure.~~

18 (c) ~~The agencies with which the contracts shall be entered
19 pursuant to subdivision (a) are the following:~~

- 20 (1) ~~North Delta Water Agency.~~
- 21 (2) ~~Central Delta Water Agency.~~
- 22 (3) ~~South Delta Water Agency.~~
- 23 (4) ~~East Contra Costa Irrigation District.~~
- 24 (5) ~~Byron-Bethany Irrigation District.~~
- 25 (6) ~~Contra Costa County Water Agency.~~
- 26 (7) ~~Contra Costa County Water District.~~
- 27 (8) ~~Suisun Resource Conservation District.~~

28 (d) ~~When binding determinations have been made involving
29 two-thirds of the total acreage within the Delta and Suisun Marsh
30 located within the agencies specified in subdivision (c), the
31 department or the remaining agencies may withdraw from the
32 arbitration proceedings. This section shall not supersede any
33 requirement for elections to approve the contracts, reached by
34 negotiation or arbitration, as may be required by the act authorizing
35 creation of the agency.~~

36 ~~SEC. 7. Section 11457 is added to the Water Code, to read:~~

37 ~~11457. The costs of providing any benefits received by
38 agricultural, municipal, and industrial water users in the Delta as
39 a result of project operations, in excess of any detriments caused
40 by project operations, shall be repayable to the department by the~~

1 beneficiaries, to the extent properly allocable. The costs of
2 providing the benefits shall not be reimbursable by any State Water
3 Resources Development System water service contractor who does
4 not receive those benefits.

5 SEC. 8. Section 11458 is added to the Water Code, to read:

6 11458. (a) Except as provided in subdivision (b), the
7 department shall not transport water for the federal Central Valley
8 Project through project facilities, including the Delta conveyance
9 facility, unless both of the following events occur:

10 (1) The Congress of the United States enacts legislation or the
11 Secretary of the Interior enters into a permanent contract with the
12 department that requires operation of the federal Central Valley
13 Project in accordance with all of the following conditions:

14 (A) Operation in full coordination with the State Water
15 Resources Development System and in compliance with water
16 quality standards adopted pursuant to Section 13170 and as set
17 forth as conditions in permits and licenses pursuant to Part 2
18 (commencing with Section 1200) of Division 2. Actions of the
19 board in establishing water quality standards and conditions in
20 permits and licenses shall be a combined action meeting all of the
21 applicable requirements of Part 2 (commencing with Section 1200)
22 of Division 2.

23 (B) Operation in conformity with a permanent agreement
24 between the United States and the state for the protection and
25 enhancement of fish and wildlife, which shall provide for both of
26 the following:

27 (i) The restoration and maintenance of adult populations of fish
28 and wildlife at historical levels in the Delta and the Suisun Marsh
29 and the San Francisco Bay System westerly of the Delta.
30 Maintenance at historical levels shall consider natural fluctuations
31 in annual water supply and populations of fish and wildlife. The
32 agreement shall include those limitations on exports and diversions
33 to storage that are necessary to assist in restoring and maintaining
34 historical levels of fish and wildlife. To the extent practicable,
35 fresh water needed to restore and maintain fish and wildlife in the
36 San Francisco Bay System westerly of the Delta shall be provided
37 from unregulated flows.

38 (ii) The realization of the potential of the project for increasing
39 these resources above the levels in paragraph (i), consistent with

1 the contracts for water delivery and with other purposes of the
2 projects.

3 (2) The federal government agrees to the transportation of water
4 of the federal Central Valley Project through the facilities described
5 in subdivision (a) of Section 11259.

6 (b) The department may transport water for the federal Central
7 Valley Project through project facilities, in accordance with the
8 following:

9 (1) Contracts between the department and the United States
10 existing on January 1, 2013.

11 (2) The requirements of any decision of the State Water
12 Resources Control Board.

13 (3) For the San Felipe Unit of the federal Central Valley Project,
14 in implementation of the principles of the agreement between the
15 department and the Santa Clara Valley Water District. If operation
16 of the federal Central Valley Project to meet Delta water quality
17 standards requires proportionate reduction in deliveries of water
18 to the San Felipe Unit, those reductions will be made.

19 SEC. 9. Section 11460 of the Water Code is amended to read:

20 11460. (a) In the construction and operation by the department
21 of any project under this part, a watershed or area in which water
22 originates, or an area immediately adjacent thereto that can
23 conveniently be supplied with water from that area, shall not be
24 deprived by the department, directly or indirectly, of the prior right
25 to all of the water reasonably required to adequately supply the
26 beneficial needs of the watershed, area, or any of the inhabitants
27 or property owners in that area.

28 (b) The project shall be operated in compliance with water
29 quality standards set forth as conditions in permits or licenses
30 pursuant to Part 2 (commencing with Section 1200) of Division 2
31 and in water quality control plans, as provided in Section 13170
32 or as established by contract, including rectifying failure of the
33 United States to operate the federal Central Valley Project in
34 accordance with those standards. Actions of the state board in
35 establishing water quality standards and conditions in permits and
36 licenses shall be a combined action meeting all of the applicable
37 requirements of Part 2 (commencing with Section 1200) of
38 Division 2.

39 (c) The department, the Attorney General, and other state
40 agencies shall take all necessary actions, including initiating or

1 participating in judicial, administrative, and legislative proceedings,
2 to assure that the federal Central Valley Project is operated in
3 compliance with standards established by the state board, as
4 specified in subparagraph (A) of paragraph (1) of subdivision (a)
5 of Section 11458.

6 SEC. 10. Section 11915.2 is added to the Water Code, to read:

7 11915.2. The department shall make an allocation of the costs
8 to the project to provide water for water quality, fish and wildlife,
9 and recreation in the Delta, Suisun Marsh, or San Francisco Bay,
10 to compensate for historic upstream depletions and diversions that
11 have reduced the amount of water naturally available in the Delta,
12 Suisun Marsh, and San Francisco Bay. Public agencies that have
13 contracted for water supplies from the project shall not be
14 responsible for these allocated costs.

15 SEC. 11. (a) The Department of Fish and Game may
16 administer a comprehensive study to determine the interrelationship
17 between Delta outflow, including flushing flows, fish and wildlife
18 resources in the San Francisco Bay system westerly of the Delta,
19 and waste discharges into the San Francisco Bay system. The State
20 Water Resources Control Board shall be responsible for the
21 portions of the study relating to waste discharges. The study and
22 the work plan for it shall be reviewed by a committee composed
23 of representatives of the San Francisco Bay Conservation and
24 Development Commission, the State Water Resources Control
25 Board, and the Department of Water Resources.

26 (b) The Department of Fish and Game shall report progress on
27 the study annually to the Legislature. The report shall include
28 recommendations for coordination with any other ongoing related
29 study and for adjustment in funding, and the report shall include
30 independent statements of review from each agency on the review
31 committee.

32 (c) The primary purpose of the study described in subdivision
33 (a) is to provide data to aid the State Water Resources Control
34 Board in its consideration of the need to set standards to protect
35 San Francisco Bay to assure that planning for future projects will
36 not appreciably reduce unregulated delta outflows before the State
37 Water Resources Control Board determines the need for water
38 quality standards to protect the San Francisco Bay System westerly
39 of the Delta.

1 ~~(d) The study need not be completed before the final~~
2 ~~environmental impact report on the Delta conveyance facility, as~~
3 ~~described in subdivision (a) of Section 11259 of the Water Code,~~
4 ~~is adopted.~~

5 ~~(e) The study may be included in any existing study performed~~
6 ~~by the Department of Fish and Game that meets the requirements~~
7 ~~of subdivision (a).~~

8 ~~(f) This section shall not affect the obligation of the Department~~
9 ~~of Water Resources under the California Environmental Quality~~
10 ~~Act (Division 13 (commencing with Section 21000) of the Public~~
11 ~~Resources Code).~~

12 ~~(g) (1) The requirement for submitting a report under~~
13 ~~subdivision (b) is inoperative on December 31, 2017, pursuant to~~
14 ~~Section 10231.5 of the Government Code.~~

15 ~~(2) A report to be submitted pursuant to subdivision (b) shall~~
16 ~~be submitted in compliance with Section 9795 of the Government~~
17 ~~Code.~~

18 ~~SEC. 12. The Department of Water Resources shall study the~~
19 ~~possible interconnection between the State Water Resources~~
20 ~~Development System and water supply systems serving the~~
21 ~~Counties of Alameda, Contra Costa, San Joaquin, and San Mateo,~~
22 ~~and the City and County of San Francisco.~~

23 ~~SEC. 13. The Department of Water Resources may participate~~
24 ~~in an investigation of the need to enlarge Shasta Dam and Reservoir~~
25 ~~or other existing federal reservoirs for joint use of the State Water~~
26 ~~Resources Development System and the federal Central Valley~~
27 ~~Project, if a contract is executed for this purpose between the~~
28 ~~Secretary of the Interior and the Department of Water Resources.~~
29 ~~The study shall be subject to Section 11259.5 of the Water Code.~~

AMENDED IN ASSEMBLY APRIL 12, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2421

**Introduced by Assembly Member Bill Berryhill
(Principal coauthor: Assembly Member Huber)**

February 24, 2012

An act to add ~~Chapter 1.5 (commencing with and repeal Section 115) to Division 1115~~ of the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 2421, as amended, Bill Berryhill. ~~Sacramento-San Joaquin Delta: peripheral canal. Bay Delta Conservation Plan: Delta Plan project: costs and benefits.~~

Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. *The Sacramento-San Joaquin Delta Reform Act of 2009 establishes the Delta Stewardship Council, which is required to develop, adopt, and commence implementation of a comprehensive management plan for the Delta (Delta Plan) by January 1, 2012. The act authorizes the incorporation of the Bay Delta Conservation Plan into the Delta Plan if certain requirements are met.*

The bill would require ~~the Legislative Analyst's Office to complete a prescribed economic feasibility analysis prior to the enactment of a statute authorizing the construction of a peripheral canal, as defined an independent 3rd party, chosen as prescribed, to conduct an analysis of the costs and benefits, as specified, for any project being submitted by the Bay Delta Conservation Plan to the Delta Plan and to submit this~~

to the Legislature, as prescribed. This bill would prohibit the funding for these provisions from exceeding \$1,000,000.

Vote: majority. 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 115 is added to the Water Code, to read:
 2 115. (a) An independent third-party analysis shall be
 3 completed and submitted to the Legislature either prior to any
 4 project being submitted by the Bay Delta Conservation Plan to
 5 the Delta Plan, or on or before June 30, 2013, whichever occurs
 6 first. The analysis of the costs and benefits shall use the Department
 7 of Water Resources Economic Analysis Guidebook of 2008 and
 8 include all of the following:
 9 (1) The total cost of the project, including, but not limited to,
 10 environmental review, planning, design, construction, mitigation,
 11 and all related expenses, and the methods for paying those costs.
 12 (2) The expected impacts of the project on taxpayers, water
 13 ratepayers, and the General Fund.
 14 (3) Whether the analysis of the costs and benefits determines
 15 that the direct social benefits of any proposed project or plan
 16 outweigh its social costs over the analysis period. This comparison
 17 may be displayed as either the quotient of benefits divided by costs
 18 representing the benefit to cost ratio, the difference between
 19 benefits and costs representing the net benefits, or both. The
 20 analysis shall include whether the project is economically justified,
 21 meaning whether the present value of the proposed project exceeds
 22 the present value of its net benefits over the life of the project or
 23 plan.
 24 (b) The third party that conducts this analysis shall be chosen
 25 by the following:
 26 (1) One representative of the Legislative Analyst’s Office.
 27 (2) One representative of the Delta Protection Commission.
 28 (3) One representative of the State Water Contractors.
 29 (c) Funding for the purposes of this section shall not exceed
 30 one million dollars (\$1,000,000).
 31 (d) (1) A report to be submitted to the Legislature pursuant to
 32 subdivision (a) shall be submitted in compliance with Section 9795
 33 of the Government Code.

1 (2) Pursuant to Section 10231.5 of the Government Code, this
2 section is repealed on June 30, 2017.

3 SECTION 1. ~~Chapter 1.5 (commencing with Section 115) is~~
4 ~~added to Division 1 of the Water Code, to read:~~

5

6

~~CHAPTER 1.5. PERIPHERAL CANAL~~

7

8 115. ~~As used in this chapter, the following terms have the~~
9 ~~following meanings:~~

10 (a) ~~“Delta” means the Sacramento-San Joaquin Delta, as defined~~
11 ~~in Section 12220.~~

12 (b) ~~“Peripheral canal” means a facility or structure that conveys~~
13 ~~water directly from a diversion point in the Sacramento River to~~
14 ~~pumping facilities of the State Water Project or the federal Central~~
15 ~~Valley Project south of the Delta.~~

16 116. ~~Prior to the enactment of any statute authorizing the~~
17 ~~construction of a peripheral canal, the Legislative Analyst’s Office~~
18 ~~shall complete an economic feasibility analysis that includes all~~
19 ~~of the following:~~

20 (a) ~~The total cost of the project, including environmental review,~~
21 ~~planning, design, construction, mitigation, and all related expenses,~~
22 ~~and the methods for paying those costs.~~

23 (b) ~~Expected impacts of the project on taxpayers, water~~
24 ~~ratepayers, and the General Fund.~~

25 (c) ~~Expected environmental and economic impacts of the project~~
26 ~~on existing public infrastructure in and around the Delta and the~~
27 ~~Delta watershed.~~

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AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2422

Introduced by Assembly Member Bill Berryhill

February 24, 2012

An act to ~~amend Section 147 of~~ *add Section 148 to* the Water Code, relating to water resources, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2422, as amended, Bill Berryhill. ~~State Water Resources Development System: reporting requirement. Sacramento-San Joaquin Delta: Western Delta Intakes Concept: feasibility study.~~

Under existing law, the Department of Water Resources operates the State Water Resources Development System. ~~Existing law requires the department, on or before January 10, 2010, and annually thereafter, to prepare and submit to the chairpersons of the fiscal committees of the Legislature a report, as prescribed, about the budget of the State Water Resources Development System: that includes dams, reservoirs, and other infrastructure.~~

This bill would ~~make technical, nonsubstantive changes in these provisions:~~ *require the department to undertake an expedited evaluation and feasibility study of the Western Delta Intakes Concept, as defined, and to consult with the Department of Fish and Game, as specified. This bill would require the department to prepare and submit to the Legislature, on or before January 1, 2014, a prescribed report about the feasibility study.*

Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006,

statewide general election, authorizes the issuance of bonds in the amount of \$5,388,000,000 for the purposes of financing a safe drinking water, water quality and supply, flood control, and resource protection program. Under existing law, \$65,000,000 of that bond money is available to the department for planning and feasibility studies related to the existing and potential future needs for California's water supply, conveyance, and flood control systems.

This bill would appropriate \$750,000 of that bond money to the department to pay the costs of the study of the Western Delta Intakes Concept.

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

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

1 SECTION 1. Section 148 is added to the Water Code, to read:

2 148. (a) (1) The department shall undertake an expedited
3 evaluation and feasibility study of the Western Delta Intakes
4 Concept.

5 (2) For the purposes of this section, the "Western Delta Intakes
6 Concept" means a proposal that would provide a large scaleable
7 intake facility on the publicly owned land of Sherman Island in
8 the Western Delta, thereby allowing more natural freshwater to
9 flow through the Delta before any surplus water is extracted. The
10 concept also includes connecting tunnels and the construction of
11 up to two million acre feet of storage in the vicinity of the Clifton
12 Court Forebay in order to allow the extraction of more water in
13 periods of high flow to compensate for the extraction of less water
14 in periods of low flow. The purpose of the concept is to fully
15 achieve the coequal goals of ecosystem restoration in the Delta
16 and reliable water exports at the highest possible level.

17 (b) The department, in conducting the study required pursuant
18 to subdivision (a), shall consult with the Department of Fish and
19 Game with regard to the potential environmental and ecological
20 impacts and benefits of the Western Delta Intakes Concept,
21 including issues of water quality and fish entrainment.

22 (c) On or before January 1, 2014, the department shall prepare
23 and submit to the Legislature a report that includes its findings
24 pursuant to subdivision (a). If the department determines that the
25 implementation of the Western Delta Intakes Concept is feasible,

1 *the department shall include in the report recommendations with*
2 *regard to specific facilities to be constructed, and shall identify*
3 *potential funding sources, for the purposes of implementing the*
4 *Western Delta Intakes Concept.*

5 *(d) (1) The requirement for submitting a report imposed under*
6 *subdivision (c) is inoperative on January 1, 2018, pursuant to*
7 *Section 10231.5 of the Government Code.*

8 *(2) A report to be submitted pursuant to subdivision (c) shall*
9 *be submitted in compliance with Section 9795 of the Government*
10 *Code.*

11 *(e) Of the funds made available pursuant to Section 75041 of*
12 *the Public Resources Code, the sum of seven hundred fifty thousand*
13 *dollars (\$750,000) is hereby appropriated to the department to*
14 *pay the costs of the study required by this section.*

15 ~~SECTION 1. Section 147 of the Water Code is amended to~~
16 ~~read:~~

17 ~~147. (a) On or before January 10, 2010, and annually thereafter,~~
18 ~~the department shall prepare and submit to the chairpersons of the~~
19 ~~fiscal committees of the Legislature a report with regard to the~~
20 ~~budget for the State Water Resources Development System.~~

21 ~~(b) The department shall include in the report all of the following~~
22 ~~information:~~

23 ~~(1) A description of the expenditures made, or projected to be~~
24 ~~made, as applicable, on behalf of the State Water Resources~~
25 ~~Development System, by program and fund, and of the total~~
26 ~~revenues expended, or projected to be expended, as applicable,~~
27 ~~for that system, including each fund source.~~

28 ~~(2) A description of the positions within the department that~~
29 ~~carry out functions related to the State Water Resources~~
30 ~~Development System, and the total number of those positions.~~

31 ~~(3) A description of any funds, other than funds generated by~~
32 ~~the State Water Resources Development System, that are expended,~~
33 ~~or projected to be expended, as applicable, for the State Water~~
34 ~~Resources Development System, including those funds used for~~
35 ~~cost-sharing purposes.~~

36 ~~(4) An itemization of all contracts related to the Bay-Delta~~
37 ~~Conservation Plan financed, or projected to be financed, as~~
38 ~~applicable, in full or in part with funds generated by the State~~
39 ~~Water Resources Development System, including the dollar amount~~

1 of those contracts and a brief description of the purposes of those
2 contracts:
3 (e) ~~The department shall include in each report information~~
4 ~~relating to three fiscal years including the two completed fiscal~~
5 ~~years that immediately precede the year in which the report is due,~~
6 ~~along with applicable information for the fiscal year in which the~~
7 ~~report is due. The department shall prepare the first report required~~
8 ~~under subdivision (a) for the 2007-08, 2008-09, and 2009-10~~
9 ~~fiscal years.~~

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ASSEMBLY BILL

No. 2423

Introduced by Assembly Member Bill Berryhill

February 24, 2012

An act to amend Section 85300 of the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

AB 2423, as introduced, Bill Berryhill. Comprehensive Sacramento-San Joaquin Delta planning.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council as an independent agency of the state. Existing law requires the council, on or before January 1, 2012, to develop, adopt, and commence implementation of a comprehensive management plan for the Delta (Delta Plan), as specified.

This bill would make a technical, nonsubstantive change to those provisions.

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 85300 of the Water Code is amended to
2 read:
3 85300. (a) On or before January 1, 2012, the council shall
4 develop, adopt, and commence implementation of the Delta Plan
5 pursuant to this part that furthers the coequal goals. The Delta Plan
6 shall include subgoals and strategies to assist in guiding state and
7 local agency actions related to the Delta. In developing the Delta

1 Plan, the council shall consider each of the strategies and actions
2 set forth in the Strategic Plan and may include any of those
3 strategies or actions in the Delta Plan. The Delta Plan may also
4 identify specific actions that state or local agencies may take to
5 implement the subgoals and strategies.

6 (b) In developing the Delta Plan, the council shall consult with
7 federal, state, and local agencies with responsibilities in the Delta.
8 All state agencies with responsibilities in the Delta shall cooperate
9 with the council in developing the Delta Plan, upon request of the
10 council.

11 (c) The council shall review the Delta Plan at least once every
12 five years and may revise ~~it~~ *the Delta Plan* as the council deems
13 appropriate. The council may request any state agency with
14 responsibilities in the Delta to make recommendations with respect
15 to revision of the Delta Plan.

16 (d) (1) The council shall develop the Delta Plan consistent with
17 all of the following:

18 (A) The federal Coastal Zone Management Act of 1972 (16
19 U.S.C. Sec. 1451 et seq.), or an equivalent compliance mechanism.

20 (B) Section 8 of the federal Reclamation Act of 1902.

21 (C) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.).

22 (2) If the council adopts a Delta Plan pursuant to the federal
23 Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et
24 seq.), the council shall submit the Delta Plan for approval to the
25 United States Secretary of Commerce pursuant to that act, or to
26 any other federal official assigned responsibility for the Delta
27 pursuant to a federal statute enacted after January 1, 2010.

28 (e) The council shall report to the Legislature no later than
29 March 31, 2012, as to its adoption of the Delta Plan.

AMENDED IN SENATE APRIL 19, 2012

AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1278

Introduced by Senator Wolk

February 23, 2012

An act to amend ~~Section~~ *Sections 65007, 65302.9 of, and to amend, repeal, and add Section, 65860.1, and 65865.5 of, the Government Code, and to amend Section 9610 of the Water Code, relating to land use.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1278, as amended, Wolk. Planning and zoning: flood protection: Sacramento-San Joaquin Valley.

(1) Existing law requires each city and county within the Sacramento-San Joaquin Valley to amend its general plan, as specified, within 24 months of the adoption of the Central Valley Flood Protection Plan by the Central Valley Flood Protection Board. Existing law requires the Central Valley Flood Protection Board, the Department of Water Resources, and local flood agencies to collaborate with cities or counties by providing the cities and counties with information and other technical assistance to assist with complying with these requirements.

This bill would *instead require each city and county to amend its general plan, as specified, within 24 months of the Department of Water Resources issuing maps for areas protected by the State Plan of Flood Control. The bill would* additionally require the Department of Water Resources to provide financial assistance to cities and counties, to the extent funding is available for that purpose.

(2) Existing law prohibits a city or county within the Sacramento-San Joaquin Valley from entering into a development agreement for property

that is located in a flood hazard zone unless the city or county makes specified findings, including, among others, that certain conditions have been imposed by the city or county.

This bill would, ~~until January 1, 2017,~~ *additionally* authorize a city or county to make a finding that ~~the city or county does not have access to information regarding the urban level of protection for the property, and the property is located outside a flood hazard zone that is subject to depths of flooding greater than 3 feet during a 200-year flood, thereby authorizing the city or county to enter into a development agreement for that property~~ *property in an undetermined risk area, as defined, has met the urban level of flood protection, as specified.*

(3) *Existing law requires the Department of Water Resources to develop preliminary maps for the 100- and 200-year flood plains protected by project levees, as specified, and to provide the preliminary maps to cities and counties within the Sacramento-San Joaquin Valley.*

This bill would additionally require the department, before July 2, 2013, to issue maps for areas protected by the State Plan of Flood Control.

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. Section 65007 of the Government Code is
- 2 amended to read:
- 3 65007. As used in this title, the following terms have the
- 4 following meanings, unless the context requires otherwise:
- 5 (a) “Adequate progress” means all of the following:
- 6 (1) The total project scope, schedule, and cost of the completed
- 7 flood protection system have been developed to meet the
- 8 appropriate standard of protection.
- 9 (2) (A) Revenues that are sufficient to fund each year of the
- 10 project schedule developed in paragraph (1) have been identified
- 11 and, in any given year and consistent with that schedule, at least
- 12 90 percent of the revenues scheduled to be received by that year
- 13 have been appropriated and are currently being expended.
- 14 (B) Notwithstanding subparagraph (A), for any year in which
- 15 state funding is not appropriated consistent with an agreement
- 16 between a state agency and a local flood management agency, the
- 17 Central Valley Flood Protection Board may find that the local

1 flood management agency is making adequate progress in working
2 toward the completion of the flood protection system.

3 (3) Critical features of the flood protection system are under
4 construction, and each critical feature is progressing as indicated
5 by the actual expenditure of the construction budget funds.

6 (4) The city or county has not been responsible for a significant
7 delay in the completion of the system.

8 (5) The local flood management agency shall provide the
9 Department of Water Resources and the Central Valley Flood
10 Protection Board with the information specified in this subdivision
11 sufficient to determine substantial completion of the required flood
12 protection. The local flood management agency shall annually
13 report to the Central Valley Flood Protection Board on the efforts
14 in working toward completion of the flood protection system.

15 (b) “Central Valley Flood Protection Plan” has the same
16 meaning as that set forth in Section 9612 of the Water Code.

17 (c) “Developed area” has the same meaning as that set forth in
18 Section 59.1 of Title 44 of the Code of Federal Regulations.

19 (d) “Flood hazard zone” means an area subject to flooding that
20 is delineated as either a special hazard area or an area of moderate
21 hazard on an official flood insurance rate map issued by the Federal
22 Emergency Management Agency. The identification of flood
23 hazard zones does not imply that areas outside the flood hazard
24 zones, or uses permitted within flood hazard zones, will be free
25 from flooding or flood damage.

26 (e) “Nonurbanized area” means a developed area or an area
27 outside a developed area in which there are fewer than 10,000
28 residents.

29 (f) “Project levee” means any levee that is part of the facilities
30 of the State Plan of Flood Control.

31 (g) “Sacramento-San Joaquin Valley” means lands in the bed
32 or along or near the banks of the Sacramento River or San Joaquin
33 River, or their tributaries or connected therewith, or upon any land
34 adjacent thereto, or within the overflow basins thereof, or upon
35 land susceptible to overflow therefrom. The Sacramento-San
36 Joaquin Valley does not include lands lying within the Tulare Lake
37 basin, including the Kings River.

38 (h) “State Plan of Flood Control” has the same meaning as that
39 set forth in subdivision (j) of Section 5096.805 of the Public
40 Resources Code.

1 (i) “Tulare Lake basin” means the Tulare Lake Hydrologic
2 Region as defined in the California Water Plan Update 2009,
3 prepared by the Department of Water Resources pursuant to
4 Chapter 1 (commencing with Section 10004) of Part 1.5 of Division
5 6 of the Water Code.

6 (j) “*Undetermined risk area*” means an area with possible, but
7 *undetermined, flood hazard risk for which an analysis of an urban*
8 *level of flood protection has not been conducted by the Department*
9 *of Water Resources, a local flood agency, or the National Flood*
10 *Insurance Program.*

11 ~~(j)~~

12 (k) “Urban area” means a developed area in which there are
13 10,000 residents or more.

14 ~~(k)~~

15 (l) “Urbanizing area” means a developed area or an area outside
16 a developed area that is planned or anticipated to have 10,000
17 residents or more within the next 10 years.

18 ~~(l)~~

19 (m) “Urban level of flood protection” means the level of
20 protection that is necessary to withstand flooding that has a
21 1-in-200 chance of occurring in any given year using criteria
22 consistent with, or developed by, the Department of Water
23 Resources.

24 (n) “*Zone B and X (shaded)*” means an area of moderate flood
25 hazard, usually the area between the limits of the 100-year and
26 500-year floods, and designates base floodplains of lesser hazards,
27 such as areas protected by levees from 100-year flood, or shallow
28 flooding areas with average depths of less than one foot or
29 drainage areas less than one square mile.

30 ~~SECTION 1.~~

31 *SEC. 2.* Section 65302.9 of the Government Code is amended
32 to read:

33 65302.9. (a) ~~Within~~ *Before July 2, 2013, the Department of*
34 *Water Resources shall issue maps for areas protected by the State*
35 *Plan of Flood Control.*

36 (b) ~~Within 24 months of the adoption of the Central Valley Flood~~
37 ~~Protection Plan by the Central Valley Flood Protection Board~~
38 ~~pursuant to Section 9612 of the Water Code~~ *department issuing*
39 *the maps, each city and county within the Sacramento-San Joaquin*
40 *Valley, shall amend its general plan to contain all of the following:*

1 (1) (A) The data and analysis contained in the Central Valley
2 Flood Protection Plan *pursuant to Section 9612 of the Water Code*,
3 including, but not limited to, the locations of the facilities of the
4 State Plan of Flood Control, ~~the locations of other flood~~
5 ~~management facilities~~, and the locations of the real property
6 protected by those facilities, ~~and the locations of flood hazard~~
7 ~~zones~~.

8 (B) *The locations of flood hazard zones, including, but not*
9 *limited to, locations mapped by the Federal Emergency*
10 *Management Agency Flood Insurance Rate Map or the Flood*
11 *Hazard Boundary Map, locations that participate in the National*
12 *Flood Insurance Program, locations identified as Zones B and X*
13 *(shaded) by the Federal Emergency Management Agency, and*
14 *locations mapped by a local flood agency or flood district.*

15 (2) Goals, policies, and objectives, based on the data and
16 analysis identified pursuant to paragraph (1), for the protection of
17 lives and property that will reduce the risk of flood damage.

18 (3) Feasible implementation measures designed to carry out the
19 goals, policies, and objectives established pursuant to paragraph
20 (2).

21 (b) *An undetermined risk area shall be presumed to be at risk*
22 *for a flood hazard unless deemed otherwise by the State Plan of*
23 *Flood Control, an official National Flood Insurance Program rate*
24 *map issued by the Federal Emergency Management Agency, or a*
25 *finding made by a city or county based on a determination of*
26 *substantial evidence by a local flood agency.*

27 (b)

28 (c) (1) To assist each city or county in complying with this
29 section, the Central Valley Flood Protection Board, the Department
30 of Water Resources, and local flood agencies shall collaborate
31 with cities or counties by providing them with information and
32 other technical assistance.

33 (2) To assist each city or county in complying with this section,
34 the Department of Water Resources shall provide financial
35 assistance to cities and counties to the extent funding is available
36 for that purpose.

37 (e)

38 (d) In implementing this section, each city and county, both
39 general law and charter, within the Sacramento-San Joaquin Valley,

1 shall comply with this article, including, but not limited to, Sections
2 65300.5, 65300.7, 65300.9, and 65301.

3 ~~(d)~~

4 ~~(e)~~ Notwithstanding any other ~~provision~~ of law, this section
5 ~~applies shall apply~~ to all cities, including charter cities, and
6 counties within the Sacramento-San Joaquin Valley. The
7 Legislature finds and declares that flood protection in the
8 Sacramento and San Joaquin Rivers drainage areas is a matter of
9 statewide concern and not a municipal affair as that term is used
10 in Section 5 of Article XI of the California Constitution.

11 ~~SEC. 2. Section 65865.5 of the Government Code is amended~~
12 ~~to read:~~

13 ~~65865.5. (a) Notwithstanding any other provision of law, after~~
14 ~~the amendments required by Sections 65302.9 and 65860.1 have~~
15 ~~become effective, the legislative body of a city or county within~~
16 ~~the Sacramento-San Joaquin Valley shall not enter into a~~
17 ~~development agreement for property that is located within a flood~~
18 ~~hazard zone unless the city or county finds, based on substantial~~
19 ~~evidence in the record, one of the following:~~

20 ~~(1) The facilities of the State Plan of Flood Control or other~~
21 ~~flood management facilities protect the property to the urban level~~
22 ~~of flood protection in urban and urbanizing areas or the national~~
23 ~~Federal Emergency Management Agency standard of flood~~
24 ~~protection in nonurbanized areas.~~

25 ~~(2) The city or county has imposed conditions on the~~
26 ~~development agreement that will protect the property to the urban~~
27 ~~level of flood protection in urban and urbanizing areas or the~~
28 ~~national Federal Emergency Management Agency standard of~~
29 ~~flood protection in nonurbanized areas.~~

30 ~~(3) The local flood management agency has made adequate~~
31 ~~progress on the construction of a flood protection system that will~~
32 ~~result in flood protection equal to or greater than the urban level~~
33 ~~of flood protection in urban or urbanizing areas or the national~~
34 ~~Federal Emergency Management Agency standard of flood~~
35 ~~protection in nonurbanized areas for property located within a~~
36 ~~flood hazard zone, intended to be protected by the system. For~~
37 ~~urban and urbanizing areas protected by project levees, the urban~~
38 ~~level of flood protection shall be achieved by 2025.~~

39 ~~(4) The city or county does not have access to information~~
40 ~~regarding the urban level of protection for the property and the~~

1 property is located outside of a flood hazard zone that is subject
2 to depths of flooding greater than three feet during a 200-year
3 flood.

4 (b) ~~The effective date of amendments referred to in this section~~
5 ~~shall be the date upon which the statutes of limitation specified in~~
6 ~~subdivision (c) of Section 65009 have run or, if the amendments~~
7 ~~and any associated environmental documents are challenged in~~
8 ~~court, the validity of the amendments and any associated~~
9 ~~environmental documents has been upheld in a final decision.~~

10 (c) ~~This section does not change or diminish existing~~
11 ~~requirements of local flood plain management laws, ordinances,~~
12 ~~resolutions, or regulations necessary to local agency participation~~
13 ~~in the national flood insurance program.~~

14 (d) ~~This section shall remain in effect only until January 1, 2017,~~
15 ~~and as of that date is repealed, unless a later enacted statute, that~~
16 ~~is enacted before January 1, 2017, deletes or extends that date.~~

17 SEC. 3. ~~Section 65856.5 is added to the Government Code, to~~
18 ~~read:~~

19 ~~65856.5. (a) Notwithstanding any other provision of law, after~~
20 ~~the amendments required by Sections 65302.9 and 65860.1 have~~
21 ~~become effective, the legislative body of a city or county within~~
22 ~~the Sacramento-San Joaquin Valley shall not enter into a~~
23 ~~development agreement for property that is located within a flood~~
24 ~~hazard zone unless the city or county finds, based on substantial~~
25 ~~evidence in the record, one of the following:~~

26 (1) ~~The facilities of the State Plan of Flood Control or other~~
27 ~~flood management facilities protect the property to the urban level~~
28 ~~of flood protection in urban and urbanizing areas or the national~~
29 ~~Federal Emergency Management Agency standard of flood~~
30 ~~protection in nonurbanized areas.~~

31 (2) ~~The city or county has imposed conditions on the~~
32 ~~development agreement that will protect the property to the urban~~
33 ~~level of flood protection in urban and urbanizing areas or the~~
34 ~~national Federal Emergency Management Agency standard of~~
35 ~~flood protection in nonurbanized areas.~~

36 (3) ~~The local flood management agency has made adequate~~
37 ~~progress on the construction of a flood protection system that will~~
38 ~~result in flood protection equal to or greater than the urban level~~
39 ~~of flood protection in urban or urbanizing areas or the national~~
40 ~~Federal Emergency Management Agency standard of flood~~

1 protection in nonurbanized areas for property located within a
2 flood hazard zone, intended to be protected by the system. For
3 urban and urbanizing areas protected by project levees, the urban
4 level of flood protection shall be achieved by 2025.

5 (b) ~~The effective date of amendments referred to in this section
6 shall be the date upon which the statutes of limitation specified in
7 subdivision (e) of Section 65009 have run or, if the amendments
8 and any associated environmental documents are challenged in
9 court, the validity of the amendments and any associated
10 environmental documents has been upheld in a final decision.~~

11 (c) ~~This section does not change or diminish existing
12 requirements of local flood plain management laws, ordinances,
13 resolutions, or regulations necessary to local agency participation
14 in the national flood insurance program.~~

15 (d) ~~This section shall become operative on January 1, 2017.~~

16 *SEC. 3. Section 65860.1 of the Government Code is amended*
17 *to read:*

18 65860.1. (a) ~~Within 36 months of the adoption Central Valley
19 Flood Protection Plan by the Central Valley Flood Protection Board
20 pursuant to Section 9612 of the Water Code, but not *Not* more than
21 12 months after the amendment of its general plan pursuant to
22 Section 65302.9, each city and county within the Sacramento-San
23 Joaquin Valley shall amend its zoning ordinance so that it is
24 consistent with the general plan, as amended.~~

25 (b) ~~Notwithstanding any other provision of law, this section
26 applies shall apply to all cities, including charter cities, and
27 counties within the Sacramento-San Joaquin Valley. The
28 Legislature finds and declares that flood protection in the
29 Sacramento and San Joaquin Rivers drainage areas is a matter of
30 statewide concern and not a municipal affair as that term is used
31 in Section 5 of Article XI of the California Constitution.~~

32 *SEC. 4. Section 65865.5 of the Government Code is amended*
33 *to read:*

34 65865.5. (a) ~~Notwithstanding any other provision of law, after
35 the amendments required by Sections 65302.9 and 65860.1 have
36 become effective, the legislative body of a city or county within
37 the Sacramento-San Joaquin Valley shall not enter into a
38 development agreement for property that is located within a flood
39 hazard zone unless the city or county finds, based on substantial
40 evidence in the record, one of the following:~~

1 (1) The facilities of the State Plan of Flood Control or other
2 flood management facilities protect the property to the urban level
3 of flood protection in urban and urbanizing areas or the national
4 Federal Emergency Management Agency standard of flood
5 protection in nonurbanized areas.

6 (2) The city or county has imposed conditions on the
7 development agreement that will protect the property to the urban
8 level of flood protection in urban and urbanizing areas or the
9 national Federal Emergency Management Agency standard of
10 flood protection in nonurbanized areas.

11 (3) The local flood management agency has made adequate
12 progress on the construction of a flood protection system that will
13 result in flood protection equal to or greater than the urban level
14 of flood protection in urban or urbanizing areas or the national
15 Federal Emergency Management Agency standard of flood
16 protection in nonurbanized areas for property located within a
17 flood hazard zone, intended to be protected by the system. For
18 urban and urbanizing areas protected by project levees, the urban
19 level of flood protection shall be achieved by 2025.

20 (4) *The property in an undetermined risk area has met the urban*
21 *level of flood protection based on substantial evidence in the record*
22 *provided by the developer.*

23 (b) The effective date of amendments referred to in this section
24 shall be the date upon which the statutes of limitation specified in
25 subdivision (c) of Section 65009 have run or, if the amendments
26 and any associated environmental documents are challenged in
27 court, the validity of the amendments and any associated
28 environmental documents has been upheld in a final decision.

29 (c) This section does not change or diminish existing
30 requirements of local flood plain management laws, ordinances,
31 resolutions, or regulations necessary to local agency participation
32 in the national flood insurance program.

33 *SEC. 5. Section 9610 of the Water Code is amended to read:*

34 9610. (a) (1) By July 1, 2008, the department shall develop
35 preliminary maps for the 100- and 200-year flood plains protected
36 by project levees. The 100-year flood plain maps shall be prepared
37 using criteria developed or accepted by the Federal Emergency
38 Management Agency (FEMA).

39 (2) The department shall use available information from the
40 2002 Sacramento-San Joaquin River Basin Comprehensive Study,

1 preliminary and regulatory FEMA flood insurance rate maps,
2 recent flood plain studies, and other sources to compile preliminary
3 maps.

4 (3) The department shall provide the preliminary maps to cities
5 and counties within the Sacramento-San Joaquin Valley for use
6 as best available information relating to flood protection.

7 (4) The department shall post this information on the board's
8 Internet Web site and may periodically update the maps as
9 necessary.

10 (b) By July 1, 2008, the department shall give notice to cities
11 in the Sacramento-San Joaquin Valley outside areas protected by
12 project levees regarding maps and other information as to flood
13 risks available from the Federal Emergency Management Agency
14 or another federal, state, or local agency.

15 (c) On or before December 31, 2010, the department shall
16 prepare a status report on the progress and development of the
17 Central Valley Flood Protection Plan pursuant to Section 9612.
18 The department shall post this information on the board's Internet
19 Web site, and make it available to the public.

20 (d) *On or before July 1, 2013, the department shall issue maps*
21 *for areas protected by the State Plan of Flood Control.*

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1495

Introduced by Senator Wolk

(Coauthors: Assembly Members Bill Berryhill, Galgiani, and Huber)

February 24, 2012

An act to amend Section 85057.5 of the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

SB 1495, as amended, Wolk. Sacramento-San Joaquin Delta Reform Act of 2009.

The Sacramento-San Joaquin Delta Reform Act of 2009 establishes the Delta Stewardship Council, which is required to develop, adopt, and commence implementation of a comprehensive management plan for the Delta by January 1, 2012. *The act requires a state or local public agency that proposes to undertake a covered action to prepare a written certification, as prescribed, as to whether the covered action is consistent with the Delta Plan.* The act defines "covered action" to mean a plan, program, or project that meets specified conditions.

This bill would exclude from the definition of "covered action" specified leases approved by specified special districts, and *routine dredging activities and projects conducted by the federal government or specified special districts to improve interstate and international commerce through the navigable waters of the United States necessary for maintenance of certain facilities operated by special districts.*

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. Section 85057.5 of the Water Code is amended
2 to read:

3 85057.5. (a) “Covered action” means a plan, program, or
4 project as defined pursuant to Section 21065 of the Public
5 Resources Code that meets all of the following conditions:

6 (1) Will occur, in whole or in part, within the boundaries of the
7 Delta or Suisun Marsh.

8 (2) Will be carried out, approved, or funded by the state or a
9 local public agency.

10 (3) Is covered by one or more provisions of the Delta Plan.

11 (4) Will have a significant impact on achievement of one or
12 both of the coequal goals or the implementation of
13 government-sponsored flood control programs to reduce risks to
14 people, property, and state interests in the Delta.

15 (b) “Covered action” does not include any of the following:

16 (1) A regulatory action of a state agency.

17 (2) Routine maintenance and operation of the State Water
18 Project or the federal Central Valley Project.

19 (3) Regional transportation plans prepared pursuant to Section
20 65080 of the Government Code.

21 (4) Any plan, program, project, or activity within the secondary
22 zone of the Delta that the applicable metropolitan planning
23 organization under Section 65080 of the Government Code has
24 determined is consistent with either a sustainable communities
25 strategy or an alternative planning strategy that the State Air
26 Resources Board has determined would, if implemented, achieve
27 the greenhouse gas emission reduction targets established by that
28 board pursuant to subparagraph (A) of paragraph (2) of subdivision
29 (b) of Section 65080 of the Government Code. For purposes of
30 this paragraph, “consistent with” means consistent with the use
31 designation, density, building intensity, transportation plan, and
32 applicable policies specified for the area in the sustainable
33 communities strategy or the alternative planning strategy, as
34 applicable, and any infrastructure necessary to support the plan,
35 program, project, or activity.

36 (5) Routine maintenance and operation of any facility located,
37 in whole or in part, in the Delta, that is owned or operated by a
38 local public agency.

1 (6) Any plan, program, project, or activity that occurs, in whole
2 or in part, in the Delta, if both of the following conditions are met:

3 (A) The plan, program, project, or activity is undertaken by a
4 local public agency that is located, in whole or in part, in the Delta.

5 (B) Either a notice of determination is filed, pursuant to Section
6 21152 of the Public Resources Code, for the plan, program, project,
7 or activity by, or the plan, program, project, or activity is fully
8 permitted by, September 30, 2009.

9 (7) (A) Any project within the secondary zone, as defined
10 pursuant to Section 29731 of *the* Public Resources Code as of
11 January 1, 2009, for which a notice of approval or determination
12 pursuant to Section 21152 of the Public Resources Code has been
13 filed before the date on which the Delta Plan becomes effective.

14 (B) Any project for which a notice of approval or determination
15 is filed on or after the date on which the final Bay Delta
16 Conservation Plan becomes effective, and before the date on which
17 the Delta Plan becomes effective, is not a covered action but shall
18 be consistent with the Bay Delta Conservation Plan.

19 (C) Subparagraphs (A) and (B) do not apply to either of the
20 following:

21 (i) Any project that is within a Restoration Opportunity Area
22 as shown in Figure 3.1 of Chapter 3: Draft Conservation Strategy
23 of the Bay Delta Conservation Plan, August 3, 2009, or as shown
24 in a final Bay Delta Conservation Plan.

25 (ii) Any project that is within the alignment of a conveyance
26 facility as shown in Figures 1 to 5, inclusive, of the Final Draft
27 Initial Assessment of Dual Delta Water Conveyance Report, April
28 23, 2008, and in future revisions of this document by the
29 department.

30 (8) Leases approved by a special district formed under the
31 Harbors and Navigation Code if all of the following apply:

32 (A) The uses proposed by the lease are authorized by the
33 applicable general plan and zoning ordinances of the city where
34 the special district is located.

35 (B) *The uses proposed by the lease are approved by the city*
36 *where the special district is located and the city complies with*
37 *Chapter 3 (commencing with Section 85225) of Part 3, if*
38 *applicable, prior to approval of the lease by the special district.*

39 ~~(B)~~

1 (C) The special district complies with the California
2 Environmental Quality Act (Division 13 (commencing with Section
3 21000) of the Public Resources Code) prior to approving the lease.

4 ~~(9) Dredging activities and projects conducted by the federal
5 government or a special district formed under the Harbors and
6 Navigation Code to improve interstate and international commerce
7 through the navigable waters of the United States.~~

8 *(9) Routine dredging activities that are necessary for
9 maintenance of facilities operated by special districts formed under
10 the Harbors and Navigation Code.*

11 (c) Nothing in the application of this section shall be interpreted
12 to authorize the abrogation of any vested right whether created by
13 statute or by common law.

ASSEMBLY BILL

No. 1626

Introduced by Assembly Member Yamada

February 9, 2012

An act to amend Sections 9380 and 9509 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1626, as introduced, Yamada. Election materials: public examination: writ of mandate: elections official.

Existing law requires the elections official administering a county, municipal, district, or school district election to make a copy of certain election materials available for public examination in his or her office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. It permits any voter of the jurisdiction in which the election is being held, during that 10-calendar-day public examination period, to seek a writ of mandate or an injunction requiring the amendment or deletion of any or all of the materials. In the case of county and municipal elections, existing law also permits the elections official, himself or herself, to seek the above-described writ of mandate or injunction, as specified.

This bill would also authorize the elections official to seek the above-described writ of mandate or injunction in the context of a district or school district election.

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 9380 of the Elections Code is amended
2 to read:

3 9380. (a) The elections official shall make a copy of the
4 materials referred to in Sections 9312, 9315, and 9317 available
5 for public examination in his or her office for a period of 10
6 calendar days immediately following the filing deadline for
7 submission of those documents. Any person may obtain a copy of
8 the materials from the elections official for use outside of the
9 elections official's office. The elections official may charge a fee
10 to any person obtaining a copy of the material. The fee may not
11 exceed the actual cost incurred by the elections official in providing
12 the copy.

13 (b) (1) During the 10-calendar-day public examination period
14 provided by this section, any voter of the jurisdiction in which the
15 election is being held, *or the elections official, himself or herself,*
16 may seek a writ of mandate or an injunction requiring any material
17 to be amended or deleted. The writ of mandate or injunction request
18 shall be filed no later than the end of the 10-calendar-day public
19 examination period.

20 (2) A peremptory writ of mandate or an injunction shall be
21 issued only upon clear and convincing proof that the material in
22 question is false, misleading, or inconsistent with this chapter, and
23 that issuance of the writ or injunction will not substantially interfere
24 with the printing or distribution of official election materials as
25 provided by law.

26 (3) The elections official shall be named as respondent and the
27 person or official who authored the material in question shall be
28 named as real parties in interest. *In the case of the elections official*
29 *bringing the mandamus or injunctive action, the board of*
30 *supervisors of the county shall be named as the respondent and*
31 *the person or official who authored the material in question shall*
32 *be named as the real party in interest.*

33 SEC. 2. Section 9509 of the Elections Code is amended to read:

34 9509. (a) The elections official shall make a copy of the
35 materials referred to in Sections 9500, 9501, and 9504 available
36 for public examination in his or her office for a period of 10
37 calendar days immediately following the filing deadline for
38 submission of those documents. Any person may obtain a copy of

1 the materials from the elections official for use outside of the
2 elections official's office. The elections official may charge a fee
3 to any person obtaining a copy of the material. The fee may not
4 exceed the actual cost incurred by the elections official in providing
5 the copy.

6 (b) (1) During the 10-calendar-day public examination period
7 provided by this section, any voter of the jurisdiction in which the
8 election is being held, *or the elections official, himself or herself,*
9 may seek a writ of mandate or an injunction requiring any or all
10 of the materials to be amended or deleted. The writ of mandate or
11 injunction request shall be filed no later than the end of the
12 10-calendar-day public examination period.

13 (2) A peremptory writ of mandate or an injunction shall be
14 issued only upon clear and convincing proof that the material in
15 question is false, misleading, or inconsistent with this chapter, and
16 that issuance of the writ or injunction will not substantially interfere
17 with the printing or distribution of official election materials as
18 provided by law.

19 (3) The elections official shall be named as respondent and the
20 person or official who authored the material in question shall be
21 named as real parties in interest. *In the case of the elections official*
22 *bringing the mandamus or injunctive action, the board of*
23 *supervisors of the county shall be named as the respondent and*
24 *the person or official who authored the material in question shall*
25 *be named as the real party in interest.*

AMENDED IN ASSEMBLY APRIL 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2231

Introduced by Assembly Member Fuentes
(Principal coauthor: Senator Padilla)

February 24, 2012

An act to amend Section 5611 of the Streets and Highways Code, relating to sidewalks.

LEGISLATIVE COUNSEL'S DIGEST

AB 2231, as amended, Fuentes. Sidewalks: repairs.

Existing law requires the owners of lots or portions of lots fronting on any portion of a public street or place to maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition that will not interfere with the public convenience in the use of those works or areas, except as to those conditions created or maintained by persons other than the owner.

Existing law requires the superintendent of streets, as defined, to provide specified notice to the owner or person in possession of the property fronting on that portion of the sidewalk so out of repair or pending reconstruction, to repair the sidewalk. Under existing law, if the repair is not commenced within 2 weeks after the notice has been provided, the superintendent of streets shall make the repair and the cost of the repair shall be imposed as a lien on the property.

This bill would require a city, county, or city and county to repair any sidewalk out of repair or pending reconstruction if that sidewalk is owned by the local entity, or if the repairs are required as a result of damage caused by plants or trees. ~~The bill would provide that, if the local entity fails to carry out the repairs, the local entity shall be liable~~

for any injury resulting from the failure to repair. The bill would prohibit a city, county, or city and county from imposing an assessment for these sidewalk repairs against the owner of private property fronting on any portion of a sidewalk. The bill would make these provisions applicable to charter cities and counties.

By imposing new duties on cities, counties, and cities and counties, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 5611 of the Streets and Highways Code
2 is amended to read:

3 5611. (a) When any portion of the sidewalk is out of repair or
4 pending reconstruction and in condition to endanger persons or
5 property or in condition to interfere with the public convenience
6 in the use of the sidewalk, the superintendent of streets shall notify
7 the owner or person in possession of the property fronting on that
8 portion of the sidewalk so out of repair, to repair the sidewalk.

9 (b) Notwithstanding subdivision (a) or any other provision of
10 this article, when any portion of any sidewalk is out of repair or
11 pending reconstruction and is in a condition to endanger persons
12 or property or is in a condition to interfere with the public
13 convenience in the use of that sidewalk, a city, county, or city and
14 county shall repair that sidewalk, if (1) that sidewalk is owned by
15 that city, county, or city and county, or (2) the repairs are required
16 as a result of damage caused by plants or trees.

17 ~~(c) If the city, county, or city and county fails to perform the~~
18 ~~repairs required under subdivision (b), the city, county, or city and~~
19 ~~county shall be liable for any injury resulting from the failure to~~
20 ~~repair.~~

21 (d)

1 (c) No city, county, or city and county shall impose an
2 assessment against the private owner of the property fronting on
3 any portion of a sidewalk for sidewalk repairs under this section.

4 (e)

5 (d) The Legislature finds and declares that this section
6 constitutes a matter of statewide concern, and shall apply to charter
7 cities and charter counties. The provisions of this section shall
8 supersede any inconsistent provisions in the charter of any county
9 or city.

10 SEC. 2. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.

ASSEMBLY BILL

No. 2062

Introduced by Assembly Member Davis

February 23, 2012

An act to add Section 87500.2 to the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2062, as introduced, Davis. Political Reform Act of 1974: statements of economic interests: electronic filing.

Existing law establishes, until December 31, 2012, a pilot program authorizing specified local government agencies to develop and implement a system for the electronic filing of statements of economic interests by certain public officials, as specified.

This bill would authorize all agencies to permit the electronic filing of a statement of economic interests, in accordance with regulations adopted by the Fair Political Practices Commission. The bill would require the Commission to approve and certify an electronic filing system proposed by an agency if the system meets prescribed requirements. The bill would also authorize the Commission to conduct discretionary audits of an agency's electronic filing system to evaluate its performance and compliance with the requirements of this bill.

The bill would authorize a city or county that developed an electronic filing system pursuant to the pilot program to continue to use that system during the time it takes the Commission to adopt the regulations to govern the electronic filing system program, but would require the city or county to submit a description of its electronic filing system to the

Commission for approval and certification after the Commission’s regulations take effect, as specified.

Existing law makes a knowing or willful violation of the Political Reform Act of 1974 a misdemeanor and subjects offenders to criminal penalties.

By creating additional crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act’s purposes upon a 2/3 vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

- 1 SECTION 1. Section 87500.2 is added to the Government
- 2 Code, to read:
- 3 87500.2. (a) An agency may permit the electronic filing of a
- 4 statement of economic interests required by Article 2 (commencing
- 5 with Section 87200) or Article 3 (commencing with Section
- 6 87300), including amendments, in accordance with regulations
- 7 adopted by the Commission.
- 8 (b) In consultation with interested agencies, the Commission
- 9 shall use common database integration features in developing
- 10 database design requirements for all electronic filings that may be
- 11 used.
- 12 (c) (1) An agency that intends to permit electronic filing of a
- 13 statement of economic interests shall submit a proposal, which
- 14 shall include a description of the electronic filing system that the
- 15 agency proposes to use, to the Commission for approval and
- 16 certification.

1 (2) The Commission shall review an agency's proposal for
2 compliance with the system requirement regulations adopted
3 pursuant to subdivisions (a) and (b) and the requirements of
4 subdivision (d). If the proposed system complies with these
5 requirements, the Commission shall approve and certify the
6 agency's electronic filing system as soon as practicable after
7 receiving the agency's submitted proposal.

8 (d) An agency's proposed electronic filing system shall meet
9 the following requirements:

10 (1) A statement of economic interests filed electronically shall
11 include an electronic transmission that is submitted under penalty
12 of perjury and that conforms to subdivision (b) of Section 1633.11
13 of the Civil Code.

14 (2) (A) The agency's filing officer shall issue to a person who
15 electronically files his or her statement of economic interests or
16 amendment electronic confirmation that notifies the filer that his
17 or her statement of economic interests or amendment was received.
18 The confirmation shall include the date and the time that the
19 statement of economic interests or amendment was received by
20 the filing officer and the method by which the filer may view and
21 print the data received by the filing officer.

22 (B) A copy retained by the filer of a statement of economic
23 interests or amendment that was electronically filed and the
24 confirmation issued pursuant to subparagraph (A) that shows that
25 the filer timely filed his or her statement of economic interests or
26 amendment shall create a rebuttable presumption that the filer
27 timely filed his or her statement of economic interests or
28 amendment.

29 (3) The agency shall utilize an electronic filing system that
30 includes layered security to ensure data integrity. The system shall
31 have the capability to uniquely identify a filer electronically when
32 he or she accesses the electronic filing system. The operational
33 process for the system shall include industry best practices to
34 ensure that the security and integrity of the data and information
35 contained in the statement of economic interests is not jeopardized
36 or compromised.

37 (4) The agency shall provide the public with a copy of an
38 official's statement of economic interests upon request, in
39 accordance with Section 81008. The copy of the electronically
40 filed statement of economic interests shall be identical to the

1 statement of economic interests published by the Commission and
2 shall include the date that the statement was filed.

3 (e) The Commission may adopt regulations to require that an
4 agency redact information on a statement of economic interests
5 prior to posting the statement of economic interests on the Internet.

6 (f) The Commission may conduct discretionary audits of an
7 agency's approved and certified electronic filing system to evaluate
8 its performance and compliance with the requirements of this
9 section.

10 (g) A city or county that developed an electronic filing system
11 pursuant to the pilot program established by Section 87500.1 may
12 continue to use that system for purposes of this section, including,
13 but not limited to, the time during which the Commission is
14 adopting the regulations required by this section. However, after
15 the Commission's regulations take effect, the city or county shall
16 submit a description of its electronic filing system to the
17 Commission for approval and certification, within a reasonable
18 time to be determined by the Commission. A city or county shall
19 not continue to use an electronic filing system originally developed
20 for purposes of Section 87500.1 if the Commission does not
21 approve and certify that electronic filing system as complying with
22 the requirements of the Commission's regulations and the other
23 requirements of this section.

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 SEC. 3. The Legislature finds and declares that this bill furthers
34 the purposes of the Political Reform Act of 1974 within the
35 meaning of subdivision (a) of Section 81012 of the Government
36 Code.

37 SEC. 4. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
39 the meaning of Article IV of the Constitution and shall go into
40 immediate effect. The facts constituting the necessity are:

1 In order to allow the Fair Political Practices Commission time
2 to develop regulations and procedures critical to the implementation
3 of a system for the electronic filing of statements of economic
4 interests prior to the 2013 filing period, which will allow state and
5 local agencies to achieve significant savings, and to allow the city
6 and county agencies that participated in the pilot program to
7 continue using electronic filing while the Commission develops
8 the necessary regulations in order to preserve the substantial
9 investment those agencies have already made in developing
10 electronic filing systems, it is necessary that this act take immediate
11 effect.

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AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2031

Introduced by Assembly Member Fuentes

February 23, 2012

An act to amend Sections 1230, 1230.1, and 6025 of the Penal Code, relating to probation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2031, as amended, Fuentes. Probation: community corrections program.

Existing law authorizes each county to establish a Community Corrections Performance Incentives Fund to receive state moneys to implement a community corrections program consisting of a system of felony probation supervision services to, among other things, manage and reduce offender risk while under felony probation supervision and upon reentry from jail into the community. Existing law requires a community corrections program to be implemented by probation and advised by a local Community Corrections Partnership, consisting of specified members, including, but not limited to, the sheriff and the heads of various county social services programs. Existing law requires a Community Corrections Partnership to recommend a local plan to the county board of supervisors for the implementation of public safety realignment.

This bill would add a rank-and-file deputy sheriff and a rank-and-file probation officer *or deputy probation officer, to be appointed by a local labor organization*, to the membership of a Community Corrections Partnership and would require their votes on the local plan.

Existing law establishes the Board of State and Community Corrections to provide statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California’s adult and juvenile criminal justice system. The board is comprised of specified members, including, but not limited to, county sheriffs and probation officers.

This bill would add a rank-and-file juvenile probation officer *or deputy juvenile probation officer*, a rank-and-file adult probation officer *or deputy adult probation officer*, a rank-and-file deputy sheriff, and a state parole officer or agent to the membership of the board, to be appointed by the Governor, subject to Senate confirmation.

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. Section 1230 of the Penal Code is amended to
2 read:

3 1230. (a) Each county is hereby authorized to establish in each
4 county treasury a Community Corrections Performance Incentives
5 Fund (CCPIF), to receive all amounts allocated to that county for
6 purposes of implementing this chapter.

7 (b) In any fiscal year for which a county receives moneys to be
8 expended for the implementation of this chapter, the moneys,
9 including interest, shall be made available to the CPO of that
10 county, within 30 days of the deposit of those moneys into the
11 fund, for the implementation of the community corrections program
12 authorized by this chapter.

13 (1) The community corrections program shall be developed and
14 implemented by probation and advised by a local Community
15 Corrections Partnership.

16 (2) The local Community Corrections Partnership shall be
17 chaired by the CPO and comprised of the following membership:

18 (A) The presiding judge of the superior court, or his or her
19 designee.

20 (B) A county supervisor or the chief administrative officer for
21 the county or a designee of the board of supervisors.

22 (C) The district attorney.

23 (D) The public defender.

24 (E) The sheriff.

- 1 (F) A rank-and-file deputy sheriff, *to be appointed by the local*
2 *labor organization.*
- 3 (G) A chief of police.
- 4 (H) A rank-and-file probation officer *or deputy probation*
5 *officer, to be appointed by the local labor organization.*
- 6 (I) The head of the county department of social services.
- 7 (J) The head of the county department of mental health.
- 8 (K) The head of the county department of employment.
- 9 (L) The head of the county alcohol and substance abuse
10 programs.
- 11 (M) The head of the county office of education.
- 12 (N) A representative from a community-based organization with
13 experience in successfully providing rehabilitative services to
14 persons who have been convicted of a criminal offense.
- 15 (O) An individual who represents the interests of victims.
- 16 (3) Funds allocated to probation pursuant to this act shall be
17 used to provide supervision and rehabilitative services for adult
18 felony offenders subject to probation, and shall be spent on
19 evidence-based community corrections practices and programs,
20 as defined in subdivision (d) of Section 1229, which may include,
21 but are not limited to, the following:
 - 22 (A) Implementing and expanding evidence-based risk and needs
23 assessments.
 - 24 (B) Implementing and expanding intermediate sanctions that
25 include, but are not limited to, electronic monitoring, mandatory
26 community service, home detention, day reporting, restorative
27 justice programs, work furlough programs, and incarceration in
28 county jail for up to 90 days.
 - 29 (C) Providing more intensive probation supervision.
 - 30 (D) Expanding the availability of evidence-based rehabilitation
31 programs including, but not limited to, drug and alcohol treatment,
32 mental health treatment, anger management, cognitive behavior
33 programs, and job training and employment services.
 - 34 (E) Evaluating the effectiveness of rehabilitation and supervision
35 programs and ensuring program fidelity.
- 36 (4) The CPO shall have discretion to spend funds on any of the
37 above practices and programs consistent with this act but, at a
38 minimum, shall devote at least 5 percent of all funding received
39 to evaluate the effectiveness of those programs and practices
40 implemented with the funds provided pursuant to this chapter. A

1 CPO may petition the Administrative Office of the Courts to have
 2 this restriction waived, and the Administrative Office of the Courts
 3 shall have the authority to grant such a petition, if the CPO can
 4 demonstrate that the department is already devoting sufficient
 5 funds to the evaluation of these programs and practices.

6 (5) Each probation department receiving funds under this chapter
 7 shall maintain a complete and accurate accounting of all funds
 8 received pursuant to this chapter.

9 SEC. 2. Section 1230.1 of the Penal Code is amended to read:

10 1230.1. (a) Each county local Community Corrections
 11 Partnership established pursuant to subdivision (b) of Section 1230
 12 shall recommend a local plan to the county board of supervisors
 13 for the implementation of the 2011 public safety realignment.

14 (b) The plan shall be voted on by an executive committee of
 15 each county’s Community Corrections Partnership consisting of
 16 the chief probation officer of the county as chair, a chief of police,
 17 the sheriff, a rank-and-file deputy sheriff, the District Attorney,
 18 the Public Defender, the presiding judge of the superior court, or
 19 his or her designee, a rank-and-file probation officer *or deputy*
 20 *probation officer*, and one department representative listed in either
 21 subparagraph (G), (H), or (J) of paragraph (2) of subdivision (b)
 22 of Section 1230, as designated by the county board of supervisors
 23 for purposes related to the development and presentation of the
 24 plan.

25 (c) The plan shall be deemed accepted by the county board of
 26 supervisors unless the board rejects the plan by a vote of four-fifths
 27 of the board, in which case the plan goes back to the Community
 28 Corrections Partnership for further consideration.

29 (d) Consistent with local needs and resources, the plan may
 30 include recommendations to maximize the effective investment
 31 of criminal justice resources in evidence-based correctional
 32 sanctions and programs, including, but not limited to, day reporting
 33 centers, drug courts, residential multiservice centers, mental health
 34 treatment programs, electronic and GPS monitoring programs,
 35 victim restitution programs, counseling programs, community
 36 service programs, educational programs, and work training
 37 programs.

38 SEC. 3. Section 6025 of the Penal Code, as amended by Section
 39 32 of Chapter 36 of the Statutes of 2011, is amended to read:

1 6025. (a) Commencing July 1, 2012, the Board of State and
2 Community Corrections shall be composed of 16 members, as
3 follows:

4 (1) The Chair of the Board of State and Community Corrections,
5 who shall be the Secretary of the Department of Corrections and
6 Rehabilitation.

7 (2) The Director of the Division of Adult Parole Operations for
8 the Department of Corrections and Rehabilitation.

9 (3) A county sheriff in charge of a local detention facility which
10 has a Corrections Standards Authority rated capacity of 200 or
11 less inmates, appointed by the Governor, subject to Senate
12 confirmation.

13 (4) A county sheriff in charge of a local detention facility which
14 has a Corrections Standards Authority rated capacity of over 200
15 inmates, appointed by the Governor, subject to Senate
16 confirmation.

17 (5) A county supervisor or county administrative officer. This
18 member shall be appointed by the Governor, subject to Senate
19 confirmation.

20 (6) A chief probation officer from a county with a population
21 over 200,000, appointed by the Governor, subject to Senate
22 confirmation.

23 (7) A chief probation officer from a county with a population
24 under 200,000, appointed by the Governor, subject to Senate
25 confirmation.

26 (8) A judge appointed by the Judicial Council of California.

27 (9) A chief of police, appointed by the Governor, subject to
28 Senate confirmation.

29 (10) A community provider of rehabilitative treatment or
30 services for adult offenders, appointed by the Speaker of the
31 Assembly.

32 (11) A community provider or advocate with expertise in
33 effective programs, policies, and treatment of at-risk youth and
34 juvenile offenders, appointed by the Senate Committee on Rules.

35 (12) A public member, appointed by the Governor, subject to
36 Senate confirmation.

37 (13) Four rank-and-file representatives, to be appointed by the
38 Governor and subject to Senate confirmation, including all of the
39 following:

1 (A) One juvenile probation officer ~~who is a first line supervisor~~
2 ~~or lower rank with a minimum of five years of experience as a~~ *or*
3 ~~a deputy~~ juvenile probation officer.

4 (B) One adult probation officer ~~with a minimum of five years~~
5 ~~experience as an~~ *or a deputy* adult probation officer.

6 (C) One deputy sheriff who is a sergeant or lower rank, ~~with a~~
7 ~~minimum of five years experience in an adult correctional facility.~~

8 (D) One state parole officer or parole agent.

9 (b) The terms of the members appointed by the Governor shall
10 expire as follows: three on July 1, 2014, and ~~four~~ *eight* on July 1,
11 2015, as specified by the Governor. The term of the member
12 appointed by the Senate Committee on Rules shall expire on July
13 1, 2014. The term of the member appointed by the Speaker of the
14 Assembly shall expire on July 1, 2015. The term of the member
15 appointed by the Judicial Council shall expire on July 1, 2015.
16 Successor members shall hold office for terms of three years, each
17 term to commence on the expiration date of the predecessor. Any
18 appointment to a vacancy that occurs for any reason other than
19 expiration of the term shall be for the remainder of the unexpired
20 term. Members are eligible for reappointment.

21 (c) The board shall select a vice chairperson from among its
22 members, who shall be either a chief probation officer or a sheriff.
23 Seven members of the board shall constitute a quorum.

24 (d) When the board is hearing charges against any member, the
25 individual concerned shall not sit as a member of the board for the
26 period of hearing of charges and the determination of
27 recommendations to the Governor.

28 (e) If any appointed member is not in attendance for three
29 meetings in any calendar year, the board shall inform the
30 appointing authority, which may remove that member and make
31 a new appointment, as provided in this section, for the remainder
32 of the term.

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STATE CAPITOL
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Assembly California Legislature



SANDRÉ R. SWANSON
ASSEMBLYMEMBER, SIXTEENTH DISTRICT

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COMMITTEES
CHAIR, LABOR AND EMPLOYMENT
CHAIR, SELECT COMMITTEE ON STATE
SCHOOL FINANCIAL TAKEOVERS
CHAIR, STATUS OF BOYS AND MEN OF
COLOR IN CALIFORNIA
BUDGET
BUDGET SUBCOMMITTEE #2 ON
EDUCATION FINANCE
ELECTIONS & REDISTRICTING
UTILITIES & COMMERCE
WORKFORCE INVESTMENT BOARD
SELECT COMMITTEES
BIOTECHNOLOGY
DELINQUENCY PREVENTION AND
YOUTH DEVELOPMENT
HEALTHCARE WORKFORCE AND
ACCESS TO CARE
PRESERVATION OF CALIFORNIA'S
ENTERTAINMENT INDUSTRY
PORTS
PROCUREMENT

April 11, 2012

Supervisor Barbara Kondylis
355 Tuolumne Street, Suite 1300
Vallejo, CA 94590

Re: Support request for ACA 18 (First Responders Initiative)

Dear Colleague:

I am writing to respectfully request your support for ACA 18, the First Responders Initiative.

City and county governments are facing serious budget deficits all across California. First Responder services in your area will unfortunately feel the full force of this crisis through imposed austerity measures and layoffs. Local governments simply cannot raise enough revenue to offset these insufficiencies.

ACA 18 fixes this problem.

Under existing state law, city, counties, and special districts may only impose a special tax with a 2/3 "supermajority" of voters. Consequently, police, fire, and emergency response services must jump through extensive political hurdles in order to receive adequate financing. Given our state's current economic challenges, these crucial services are in jeopardy in cities and counties that cannot secure a supermajority of voters.

ACA 18 would amend California's Constitution to authorize cities, counties, and special districts to impose special parcel taxes to fund the maintenance or improvement of fire and police services with only a majority vote. Do not let these essential services be compromised for the sake of a supermajority consensus.

This constitutional amendment recognizes the importance of these emergency services as well as the mechanisms that finance them. Support ACA 18 and save your local fire and police departments!

____ Yes, please include me as a supporter for this bill.

Signature

Name (Please Print)

For additional information, please contact Angela R. Haywood at (916) 319-2016.
Please return to Room 6012 or fax to (916) 319-2116



AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1627

Introduced by Assembly Member Dickinson

February 9, 2012

An act to ~~amend Sections 25402 and 25402.1 of~~ *add Section 21099* to the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1627, as amended, Dickinson. ~~Environmental quality: building standards: Energy:~~ vehicle miles traveled.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA requires the Office of Planning and Research to prepare guidelines to assist state and local agencies in implementing the requirements of CEQA.

This bill would require the office, not later than January 1, 2014, to prepare and make available a manual containing specified information designed to be used by local governments, local agencies, and project developers to evaluate and incorporate measures and strategies to

reduce vehicle miles traveled (VMT) in new residential and commercial building projects. The bill would require the office, not later than January 1, 2014, to make recommendations to the Legislature and local policymakers of measures to improve the reduction of VMT related to residential and commercial building projects.

~~(1) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to prescribe, by regulation, building design and construction standards and energy and water conservation design standards for new residential and nonresidential buildings. Existing law requires the Energy Commission to certify, within 180 days of the approval of the standards by the State Building Standards Commission, an energy conservation manual for use by designers, builders, and contractors of residential and nonresidential buildings.~~

~~The bill would prohibit a local building department from issuing a building permit for a residential or nonresidential building unless the department confirms that the building plan complies with those standards.~~

~~The bill would enact the Healthy Neighborhoods Act of 2012 and would require the Energy Commission to prescribe, by regulation, standards for reducing vehicle miles traveled by occupants of a building that would be applicable to new residential and nonresidential buildings and modification of existing residential and nonresidential buildings. The bill would require the commission to publish the standards, upon adoption, in the energy conservation manual. The bill would prohibit a local building department from issuing a building permit for a residential or nonresidential building unless the department confirms that the building plan complies with the standards. Because a local building department would be required to confirm that a building plan complies with the vehicle miles traveled standards, this bill would impose a state-mandated local program. The bill would authorize a city, county, or city and county to prescribe, by ordinance or resolution, a schedule of fees sufficient to cover the costs incurred in the enforcement of these standards.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *The State Air Resources Board has determined, in its scoping*
4 *plan adopted pursuant to the California Global Warming Solutions*
5 *Act of 2006 (Division 25.5 (commencing with Section 38500) of*
6 *the Health and Safety Code), that reduction of vehicle miles*
7 *traveled (VMT) is an essential compliance strategy by which the*
8 *state will meet the act's greenhouse gas emission requirements by*
9 *2020.*

10 (b) *Transportation is the single largest contributor to the state's*
11 *greenhouse gas emissions, accounting for 37 percent of all*
12 *emissions. Three-fourths of all transportation emissions come from*
13 *single passenger vehicle use. Statewide greenhouse gas emissions*
14 *increased 10 percent from 1990 to 2008, but emissions from the*
15 *transportation sector grew even faster, at 16 percent.*

16 (c) *In 2008, the Legislature enacted Chapter 728 of the Statutes*
17 *of 2008, which requires metropolitan planning organizations to*
18 *adopt regional transportation and development plans to reduce*
19 *VMT. It is in the interest of the state to augment these efforts and*
20 *achieve further VMT reductions by the adoption of measures that*
21 *are applied to individual residential and commercial buildings*
22 *and projects.*

23 SEC. 2. *Section 21099 is added to the Public Resources Code,*
24 *to read:*

25 21099. (a) *Not later than January 1, 2014, the Office of*
26 *Planning and Research shall prepare and make available a manual*
27 *designed to be used by local governments, local agencies, and*
28 *project developers to evaluate and incorporate measures and*
29 *strategies to reduce vehicle miles traveled in new residential and*
30 *commercial building projects.*

31 (b) *In preparing the manual required pursuant to subdivision*
32 *(a), the Office of Planning and Research shall, at a minimum, do*
33 *all of the following:*

1 (1) Identify and evaluate existing measures and strategies for
 2 reducing vehicle miles traveled by occupants or users of new
 3 residential and commercial building projects.

4 (2) Identify and evaluate existing means by which projected and
 5 actual vehicle-miles-traveled reductions from specific measures
 6 and the efficacy of those measures may be determined.

7 (3) Identify further research needed to improve the measurement
 8 and evaluation of vehicle-miles-traveled reductions.

9 (4) Identify and evaluate the costs associated with implementing
 10 vehicle-miles-traveled reduction measures and strategies.

11 (c) Not later than January 1, 2014, the Office of Planning and
 12 Research shall make recommendations to the Legislature and local
 13 policymakers, as appropriate, of measures to improve the reduction
 14 of vehicle miles traveled related to residential and commercial
 15 building projects.

16 SECTION 1. This act shall be known and may be cited as the
 17 Healthy Neighborhoods Act of 2012.

18 ~~SEC. 2. Section 25402 of the Public Resources Code is~~
 19 ~~amended to read:~~

20 ~~25402. The commission shall, after one or more public~~
 21 ~~hearings, do all of the following, in order to reduce the wasteful,~~
 22 ~~uneconomic, inefficient, or unnecessary consumption of energy,~~
 23 ~~including the energy associated with the use of water:~~

24 ~~(a) (1) Prescribe, by regulation, lighting, insulation climate~~
 25 ~~control system, and other building design and construction~~
 26 ~~standards that increase the efficiency in the use of energy and water~~
 27 ~~for new residential and new nonresidential buildings. The~~
 28 ~~commission shall periodically update the standards and adopt any~~
 29 ~~revision that, in its judgment, it deems necessary. Six months after~~
 30 ~~the commission certifies an energy conservation manual pursuant~~
 31 ~~to subdivision (c) of Section 25402.1, no city, county, city and~~
 32 ~~county, or state agency shall issue a permit for any building unless~~
 33 ~~the building satisfies the standards prescribed by the commission~~
 34 ~~pursuant to this subdivision or subdivision (b) that are in effect on~~
 35 ~~the date an application for a building permit is filed. Water~~
 36 ~~efficiency standards adopted pursuant to this subdivision shall be~~
 37 ~~demonstrated by the commission to be necessary to save energy.~~

38 ~~(2) Prior to adopting a water efficiency standard for residential~~
 39 ~~buildings, the Department of Housing and Community~~
 40 ~~Development and the commission shall issue a joint finding~~

1 whether the standard (A) is equivalent or superior in performance,
2 safety, and for the protection of life, health, and general welfare
3 to standards in Title 24 of the California Code of Regulations and
4 (B) does not unreasonably or unnecessarily impact the ability of
5 Californians to purchase or rent affordable housing, as determined
6 by taking account of the overall benefit derived from water
7 efficiency standards. Nothing in this subdivision in any way
8 reduces the authority of the Department of Housing and
9 Community Development to adopt standards and regulations
10 pursuant to Part 1.5 (commencing with Section 17910) of Division
11 13 of the Health and Safety Code.

12 ~~(3) Water efficiency standards and water conservation design~~
13 ~~standards adopted pursuant to this subdivision and subdivision (b)~~
14 ~~shall be consistent with the legislative findings of this division to~~
15 ~~ensure and maintain a reliable supply of electrical energy and be~~
16 ~~equivalent to or superior to the performance, safety, and protection~~
17 ~~of life, health, and general welfare standards contained in Title 24~~
18 ~~of the California Code of Regulations. The commission shall~~
19 ~~consult with the members of the coordinating council as established~~
20 ~~in Section 18926 of the Health and Safety Code in the development~~
21 ~~of these standards.~~

22 (b) (1) Prescribe, by regulation, energy and water conservation
23 design standards for new residential and new nonresidential
24 buildings. The standards shall be performance standards and shall
25 be promulgated in terms of energy consumption per gross square
26 foot of floorspace, but may also include devices, systems, and
27 techniques required to conserve energy and water. The commission
28 shall periodically review the standards and adopt any revision that,
29 in its judgment, it deems necessary. A building that satisfies the
30 standards prescribed pursuant to this subdivision need not comply
31 with the standards prescribed pursuant to subdivision (a). Water
32 conservation design standards adopted pursuant to this subdivision
33 shall be demonstrated by the commission to be necessary to save
34 energy. Prior to adopting a water conservation design standard for
35 residential buildings, the Department of Housing and Community
36 Development and the commission shall issue a joint finding
37 whether the standard (A) is equivalent or superior in performance,
38 safety, and for the protection of life, health, and general welfare
39 to standards in the California Building Standards Code and (B)
40 does not unreasonably or unnecessarily impact the ability of

1 Californians to purchase or rent affordable housing, as determined
2 by taking account of the overall benefit derived from the water
3 conservation design standards. Nothing in this subdivision in any
4 way reduces the authority of the Department of Housing and
5 Community Development to adopt standards and regulations
6 pursuant to Part 1.5 (commencing with Section 17910) of Division
7 13 of the Health and Safety Code.

8 (2) In order to increase public participation and improve the
9 efficacy of the standards adopted pursuant to subdivisions (a) and
10 (b), the commission shall, prior to publication of the notice of
11 proposed action required by Section 18935 of the Health and Safety
12 Code, involve parties who would be subject to the proposed
13 regulations in public meetings regarding the proposed regulations.
14 All potential affected parties shall be provided advance notice of
15 these meetings and given an opportunity to provide written or oral
16 comments. During these public meetings, the commission shall
17 receive and take into consideration input from all parties
18 concerning the parties' design recommendations, cost
19 considerations, and other factors that would affect consumers and
20 California businesses of the proposed standard. The commission
21 shall take into consideration prior to the start of the notice of
22 proposed action any input provided during these public meetings.

23 (3) The standards adopted or revised pursuant to subdivisions
24 (a) and (b) shall be cost-effective when taken in their entirety and
25 when amortized over the economic life of the structure compared
26 with historic practice. When determining cost-effectiveness, the
27 commission shall consider the value of the water or energy saved,
28 impact on product efficacy for the consumer, and the life cycle
29 cost of complying with the standard. The commission shall consider
30 other relevant factors, as required by Sections 18930 and 18935
31 of the Health and Safety Code, including, but not limited to, the
32 impact on housing costs, the total statewide costs and benefits of
33 the standard over its lifetime, economic impact on California
34 businesses, and alternative approaches and their associated costs.

35 (e) (1) Prescribe, by regulation, standards for minimum levels
36 of operating efficiency, based on a reasonable use pattern, and
37 may prescribe other cost-effective measures, including incentive
38 programs, fleet averaging, energy and water consumption labeling
39 not preempted by federal labeling law, and consumer education
40 programs, to promote the use of energy and water efficient

1 appliances whose use, as determined by the commission, requires
2 a significant amount of energy or water on a statewide basis. The
3 minimum levels of operating efficiency shall be based on feasible
4 and attainable efficiencies or feasible improved efficiencies that
5 will reduce the energy or water consumption growth rates. The
6 standards shall become effective no sooner than one year after the
7 date of adoption or revision. No new appliance manufactured on
8 or after the effective date of the standards may be sold or offered
9 for sale in the state, unless it is certified by the manufacturer thereof
10 to be in compliance with the standards. The standards shall be
11 drawn so that they do not result in any added total costs for
12 consumers over the designed life of the appliances concerned.

13 In order to increase public participation and improve the efficacy
14 of the standards adopted pursuant to this subdivision, the
15 commission shall, prior to publication of the notice of proposed
16 action required by Section 18935 of the Health and Safety Code,
17 involve parties who would be subject to the proposed regulations
18 in public meetings regarding the proposed regulations. All potential
19 affected parties shall be provided advance notice of these meetings
20 and given an opportunity to provide written or oral comments.
21 During these public meetings, the commission shall receive and
22 take into consideration input from all parties concerning the parties'
23 design recommendations, cost considerations, and other factors
24 that would affect consumers and California businesses of the
25 proposed standard. The commission shall take into consideration
26 prior to the start of the notice of proposed action any input provided
27 during these public meetings.

28 The standards adopted or revised pursuant to this subdivision
29 shall not result in any added total costs for consumers over the
30 designed life of the appliances concerned. When determining
31 cost-effectiveness, the commission shall consider the value of the
32 water or energy saved, impact on product efficacy for the
33 consumer, and the life cycle cost to the consumer of complying
34 with the standard. The commission shall consider other relevant
35 factors, as required by Sections 11346.5 and 11357 of the
36 Government Code, including, but not limited to, the impact on
37 housing costs, the total statewide costs and benefits of the standard
38 over its lifetime, economic impact on California businesses, and
39 alternative approaches and their associated costs.

1 ~~(2) No new appliance, except for any plumbing fitting, regulated~~
2 ~~under paragraph (1), that is manufactured on or after July 1, 1984,~~
3 ~~may be sold, or offered for sale, in the state, unless the date of the~~
4 ~~manufacture is permanently displayed in an accessible place on~~
5 ~~that appliance.~~

6 ~~(3) During the period of five years after the commission has~~
7 ~~adopted a standard for a particular appliance under paragraph (1),~~
8 ~~no increase or decrease in the minimum level of operating~~
9 ~~efficiency required by the standard for that appliance shall become~~
10 ~~effective, unless the commission adopts other cost-effective~~
11 ~~measures for that appliance.~~

12 ~~(4) Neither the commission nor any other state agency shall~~
13 ~~take any action to decrease any standard adopted under this~~
14 ~~subdivision on or before June 30, 1985, prescribing minimum~~
15 ~~levels of operating efficiency or other energy conservation~~
16 ~~measures for any appliance, unless the commission finds by a~~
17 ~~four-fifths vote that a decrease is of benefit to ratepayers, and that~~
18 ~~there is significant evidence of changed circumstances. Before~~
19 ~~January 1, 1986, the commission shall not take any action to~~
20 ~~increase a standard prescribing minimum levels of operating~~
21 ~~efficiency for any appliance or adopt a new standard under~~
22 ~~paragraph (1). Before January 1, 1986, any appliance manufacturer~~
23 ~~doing business in this state shall provide directly, or through an~~
24 ~~appropriate trade or industry association, information, as specified~~
25 ~~by the commission after consultation with manufacturers doing~~
26 ~~business in the state and appropriate trade or industry associations~~
27 ~~on sales of appliances so that the commission may study the effects~~
28 ~~of regulations on those sales. These informational requirements~~
29 ~~shall remain in effect until the information is received. The trade~~
30 ~~or industry association may submit sales information in an~~
31 ~~aggregated form in a manner that allows the commission to carry~~
32 ~~out the purposes of the study. The commission shall treat any sales~~
33 ~~information of an individual manufacturer as confidential and that~~
34 ~~information shall not be a public record. The commission shall not~~
35 ~~request any information that cannot be reasonably produced in the~~
36 ~~exercise of due diligence by the manufacturer. At least one year~~
37 ~~prior to the adoption or amendment of a standard for an appliance,~~
38 ~~the commission shall notify the Legislature of its intent, and the~~
39 ~~justification to adopt or amend a standard for the appliance.~~

1 Notwithstanding paragraph (3) and this paragraph, the commission
2 may do any of the following:

3 (A) Increase the minimum level of operating efficiency in an
4 existing standard up to the level of the National Voluntary
5 Consensus Standards 90, adopted by the American Society of
6 Heating, Refrigeration, and Air Conditioning Engineers or, for
7 appliances not covered by that standard, up to the level established
8 in a similar nationwide consensus standard.

9 (B) Change the measure or rating of efficiency of any standard,
10 if the minimum level of operating efficiency remains substantially
11 the same.

12 (C) Adjust the minimum level of operating efficiency in an
13 existing standard in order to reflect changes in test procedures that
14 the standards require manufacturers to use in certifying compliance,
15 if the minimum level of operating efficiency remains substantially
16 the same.

17 (D) Readopt a standard preempted, enjoined, or otherwise found
18 legally defective by an administrative agency or a lower court, if
19 final legal action determines that the standard is valid and if the
20 standard that is readopted is not more stringent than the standard
21 that was found to be defective or preempted.

22 (E) Adopt or amend any existing or new standard at any level
23 of operating efficiency, if the Governor has declared an energy
24 emergency as described in Section 8558 of the Government Code.

25 (5) Notwithstanding paragraph (4), the commission may adopt
26 standards pursuant to Commission Order No. 84-0111-1, on or
27 before June 30, 1985.

28 (d) Recommend minimum standards of efficiency for the
29 operation of any new facility at a particular site that are technically
30 and economically feasible. No site and related facility shall be
31 certified pursuant to Chapter 6 (commencing with Section 25500);
32 unless the applicant certifies that standards recommended by the
33 commission have been considered, which certification shall include
34 a statement specifying the extent to which conformance with the
35 recommended standards will be achieved.

36 Whenever this section and Chapter 11.5 (commencing with
37 Section 19878) of Part 3 of Division 13 of the Health and Safety
38 Code are in conflict, the commission shall be governed by that
39 chapter of the Health and Safety Code to the extent of the conflict.

40 (e) The commission shall do all of the following:

1 ~~(1) Not later than January 1, 2004, amend any regulations in~~
2 ~~effect on January 1, 2003, pertaining to the energy efficiency~~
3 ~~standards for residential clothes washers to require that residential~~
4 ~~clothes washers manufactured on or after January 1, 2007, be at~~
5 ~~least as water efficient as commercial clothes washers.~~

6 ~~(2) Not later than April 1, 2004, petition the federal Department~~
7 ~~of Energy for an exemption from any relevant federal regulations~~
8 ~~governing energy efficiency standards that are applicable to~~
9 ~~residential clothes washers.~~

10 ~~(3) Not later than January 1, 2005, report to the Legislature on~~
11 ~~its progress with respect to the requirements of paragraphs (1) and~~
12 ~~(2).~~

13 ~~(f) (1) The commission shall, in consultation with the Office~~
14 ~~of Planning and Research, the Department of Transportation, and~~
15 ~~the State Air Resources Board, prescribe, by regulation, standards~~
16 ~~to reduce the vehicle miles traveled by occupants of residential~~
17 ~~and nonresidential buildings within the boundaries of a~~
18 ~~metropolitan planning organization.~~

19 ~~(2) (A) The initial standards prescribed pursuant to this~~
20 ~~subdivision shall accomplish a significant reduction of vehicle~~
21 ~~miles traveled by occupants of a building relative to the regional~~
22 ~~average as established by the appropriate metropolitan~~
23 ~~transportation organization.~~

24 ~~(B) The standards shall be revised by the commission every~~
25 ~~three years to accomplish a gradual decrease in statewide per capita~~
26 ~~vehicle miles traveled.~~

27 ~~(C) The initial standards and revisions of the standards shall be~~
28 ~~consistent with and further the intent of the California Global~~
29 ~~Warming Solutions Act of 2006 (Division 25.5 (commencing with~~
30 ~~Section 38500) of the Health and Safety Code), Chapter 728 of~~
31 ~~the Statutes of 2008, and Chapter 469 of the Statutes of 2011.~~

32 ~~(D) In developing and revising the standards, the commission~~
33 ~~shall consider all feasible and attainable means available to achieve~~
34 ~~significant reductions in vehicle miles traveled.~~

35 ~~(E) In determining the feasible and attainable means, the~~
36 ~~commission shall take into consideration all economic, social, and~~
37 ~~environmental costs, over a minimum of a 30-year life cycle for~~
38 ~~the state as a whole, and shall include, but not be limited to, the~~
39 ~~following:~~

- 1 (i) ~~Changes in the cost of construction to comply with the~~
2 ~~standards.~~
- 3 (ii) ~~Changes in the capital and operational costs of transportation~~
4 ~~and utility infrastructure for local and state government resulting~~
5 ~~from more compact development.~~
- 6 (iii) ~~Changes in the cost of automobile ownership and operation~~
7 ~~necessary for households and businesses.~~
- 8 (iv) ~~Reductions in the costs resulting from harm to life, limb,~~
9 ~~and property caused by automobile accidents.~~
- 10 (v) ~~Health impacts of automobile emissions.~~
- 11 (vi) ~~Other environmental, economic, and social costs that result~~
12 ~~from the use of an automobile as compared to mass transit, bicycle,~~
13 ~~or pedestrian modes of transportation.~~
- 14 (F) ~~The standards developed shall facilitate a local government's~~
15 ~~demonstration of progress towards compliance with the~~
16 ~~requirements of the California Global Warming Solutions Act of~~
17 ~~2006.~~
- 18 (3) (A) ~~The standards prescribed by this subdivision shall apply~~
19 ~~to new residential and nonresidential buildings, and to modification~~
20 ~~of existing residential and nonresidential buildings that increases~~
21 ~~the transportation needs of occupants of those buildings.~~
- 22 (B) ~~The standards shall apply only to residential and~~
23 ~~nonresidential buildings located within the boundaries of a~~
24 ~~metropolitan planning organization.~~
- 25 (C) ~~The standards do not apply to modification of a residential~~
26 ~~or nonresidential building that does not increase the gross square~~
27 ~~footage of that building.~~
- 28 (D) ~~The standards do not apply to modification of an existing~~
29 ~~residential building that does not increase the number of residential~~
30 ~~units of the building.~~
- 31 (4) ~~To increase public participation and improve the efficiency~~
32 ~~of the standards adopted pursuant to this subdivision, the~~
33 ~~commission shall, prior to publication of the notice of proposed~~
34 ~~action required by Chapter 3.5 (commencing with Section 11340)~~
35 ~~of Part 1 of Division 3 of Title 2 of the Government Code, involve~~
36 ~~parties that would be subject to the proposed regulations in public~~
37 ~~meetings regarding the proposed regulations. All potentially~~
38 ~~affected parties shall be provided advance notice of these meetings~~
39 ~~and given an opportunity to provide written or oral comments.~~
40 ~~During these public meetings, the commission shall receive and~~

1 take into consideration input from all parties concerning the parties'
2 cost considerations and other factors that would affect consumers
3 and California businesses subject to the proposed standard. The
4 commission shall take into consideration prior to the notice of
5 proposed action any input provided during these public meetings.

6 ~~(5) Upon the adoption of the standards, the commission shall~~
7 ~~publish the standards in the energy conservation manual certified~~
8 ~~pursuant to paragraph (5) of subdivision (a) of Section 25402.1.~~
9 ~~The standards shall be effective six months after the adoption and~~
10 ~~publication of the standards in the energy conservation manual.~~

11 ~~(6) The commission shall determine means of demonstrating~~
12 ~~compliance with standards adopted pursuant to this subdivision~~
13 ~~that include, but are not limited to, all of the following:~~

14 ~~(A) Project location relative to existing destinations and the~~
15 ~~walkability, bikeability, and transit access existing in the immediate~~
16 ~~area of the building.~~

17 ~~(B) Physical design factors of the proposed building or proposed~~
18 ~~modification of the building that impact walkability, bikeability,~~
19 ~~and transit access for the occupants of the building both onsite and~~
20 ~~offsite.~~

21 ~~(C) Programs that accommodate reduction in the building~~
22 ~~occupants' vehicle miles traveled, such as carpooling or transit~~
23 ~~pass subsidies.~~

24 ~~(D) (i) Offsite offset measures that reduce the vehicle miles~~
25 ~~traveled within the jurisdiction of the local government in which~~
26 ~~the building is located when location and onsite design measures~~
27 ~~would not accomplish the vehicle mile traveled reduction required~~
28 ~~by the standards.~~

29 ~~(ii) Each local jurisdiction shall maintain a list of projects or~~
30 ~~programs that would reduce the vehicle miles traveled and the~~
31 ~~estimated vehicle miles traveled reduction for the listed projects~~
32 ~~and programs.~~

33 ~~(iii) Offsite offset measures may include, but are not limited to,~~
34 ~~the following:~~

35 ~~(I) Endowing a new bus line or an upgrade in service for an~~
36 ~~existing bus line in the immediate neighborhood of the building~~
37 ~~or in an area in the jurisdiction where efficacy for reducing vehicle~~
38 ~~miles traveled is high.~~

39 ~~(II) Funding or undertaking improvements to walkability,~~
40 ~~bikeability, or transit access in another area within the jurisdiction.~~

1 ~~(III) Endowing trip reduction programs in other areas in the~~
2 ~~jurisdiction.~~

3 ~~(IV) Priority shall be given to offsite offset measures that have~~
4 ~~the most cost-effective vehicle miles traveled reduction achievable,~~
5 ~~such as measures in existing denser and mixed-use areas.~~

6 ~~(7) Means of demonstrating compliance with the standards~~
7 ~~adopted pursuant to this subdivision shall not include means that~~
8 ~~do not reduce automobile vehicle miles traveled, such as energy~~
9 ~~efficiency of structures, use of alternative fuel, or fuel-efficient~~
10 ~~vehicles, and site design features, such as reduced pavement.~~

11 ~~SEC. 3. Section 25402.1 of the Public Resources Code is~~
12 ~~amended to read:~~

13 ~~25402.1. (a) In order to implement the requirements of~~
14 ~~subdivisions (a), (b), and (f) of Section 25402, the commission~~
15 ~~shall do all of the following:~~

16 ~~(1) Develop a public domain computer program which will~~
17 ~~enable contractors, builders, architects, engineers, and government~~
18 ~~officials to estimate the energy consumed by residential and~~
19 ~~nonresidential buildings and the vehicle miles traveled by the~~
20 ~~occupants of those buildings. The commission may charge a fee~~
21 ~~for the use of the program, which fee shall be based upon the actual~~
22 ~~cost of the program, including any computer costs.~~

23 ~~(2) Establish a formal process for certification of compliance~~
24 ~~options for new products, materials, and calculation methods which~~
25 ~~provides for adequate technical and public review to ensure~~
26 ~~accurate, equitable, and timely evaluation of certification~~
27 ~~applications. Proponents filing applications for new products,~~
28 ~~materials, and calculation methods shall provide all information~~
29 ~~needed to evaluate the application that is required by the~~
30 ~~commission. The commission shall publish annually the results~~
31 ~~of its certification decisions and instructions to users and local~~
32 ~~building officials concerning requirements for showing compliance~~
33 ~~with the building standards for new products, materials, or~~
34 ~~calculation methods. The commission may charge and collect a~~
35 ~~reasonable fee from applicants to cover the costs under this~~
36 ~~subdivision. Any funds received by the commission for purposes~~
37 ~~of this subdivision shall be deposited in the Energy Resources~~
38 ~~Programs Account and, notwithstanding Section 13340 of the~~
39 ~~Government Code, are continuously appropriated to the~~
40 ~~commission for the purposes of this subdivision. Any~~

1 unenumerated portion of funds collected as a fee for an application
2 remaining in the Energy Resources Programs Account after
3 completion of the certification process for that application shall
4 be returned to the applicant within a reasonable period of time.

5 (3) ~~Include a prescriptive method of complying with the~~
6 ~~standards, including design aids such as a manual, sample~~
7 ~~calculations, and model structural designs.~~

8 (4) ~~Conduct a pilot project of field testing of actual residential~~
9 ~~buildings to calibrate and identify potential needed changes in the~~
10 ~~modeling assumptions to increase the accuracy of the public~~
11 ~~domain computer program specified in subdivision (a) and to~~
12 ~~evaluate the impacts of the standards, including, but not limited~~
13 ~~to, the energy savings, cost effectiveness, reduction in vehicle~~
14 ~~miles traveled, and the effects on indoor air quality. The pilot~~
15 ~~project shall be conducted pursuant to a contract entered into by~~
16 ~~the commission. The commission shall consult with the participants~~
17 ~~designated pursuant to Section 9202 of the Public Utilities Code~~
18 ~~to seek funding and support for field monitoring in each public~~
19 ~~utility service territory, with the University of California to take~~
20 ~~advantage of its extensive building monitoring expertise, and with~~
21 ~~the California Building Industry Association to coordinate the~~
22 ~~involvement of builders and developers throughout the state, when~~
23 ~~appropriate. The pilot project shall include periodic public~~
24 ~~workshops to develop plans and review progress. The commission~~
25 ~~shall prepare and submit a report to the Legislature on progress~~
26 ~~and initial findings not later than December 31, 1988, and a final~~
27 ~~report on the results of the pilot project on residential buildings~~
28 ~~not later than June 30, 1990. The report shall include~~
29 ~~recommendations regarding the need and feasibility of conducting~~
30 ~~further monitoring of actual residential and nonresidential~~
31 ~~buildings. The report shall also identify any revisions to the public~~
32 ~~domain computer program, energy conservation standards, and~~
33 ~~the standards prescribed by subdivision (f) of Section 25402 if the~~
34 ~~pilot project determines that revisions are appropriate.~~

35 (5) ~~Certify, not later than 180 days after approval of the~~
36 ~~standards prescribed pursuant to subdivision (a) or (b) of Section~~
37 ~~25402 by the State Building Standards Commission, or after the~~
38 ~~adoption of the standards prescribed pursuant to subdivision (f) of~~
39 ~~Section 25402, an energy conservation manual for use by designers,~~
40 ~~builders, and contractors of residential and nonresidential buildings.~~

1 The manual shall be furnished upon request at a price sufficient
2 to cover the costs of production and shall be distributed at no cost
3 to all affected local agencies. The manual shall contain, but not be
4 limited to, the following:

5 (A) The standards for energy conservation established by the
6 commission.

7 (B) Forms, charts, tables, and other data to assist designers and
8 builders in meeting the standards.

9 (C) Design suggestions for meeting or exceeding the standards.

10 (D) Any other information which the commission finds will
11 assist persons in conforming to the standards.

12 (E) Instructions for use of the computer program for calculating
13 energy consumption in residential and nonresidential buildings.

14 (F) The prescriptive method for use as an alternative to the
15 computer program.

16 (G) The standards adopted pursuant to subdivision (f) of Section
17 25402.

18 (H) Coefficients and algorithms used to determine the vehicle
19 miles traveled reduction and the economic, social, and
20 environmental costs using the best analysis available.

21 (6) Conduct research to increase the accuracy of the tools needed
22 for the measurement of vehicle miles traveled.

23 (7) Establish a continuing program of technical assistance to
24 local building departments in the enforcement of subdivisions (a),
25 (b), and (f) of Section 25402 and this section. The program shall
26 include the training of local officials in building technology and
27 enforcement procedures related to energy conservation, and the
28 development of complementary training programs conducted by
29 local governments, educational institutions, and other public or
30 private entities. The technical assistance program shall include the
31 preparation and publication of forms and procedures for local
32 building departments in performing the review of building plans
33 and specifications. The commission shall provide, on a contract
34 basis, a review of building plans and specifications submitted by
35 a local building department, and shall adopt a schedule of fees
36 sufficient to repay the cost of those services.

37 (b) Subdivisions (a), (b), and (f) of Section 25402 and this
38 section, and the rules and regulations of the commission adopted
39 pursuant to those provisions, shall be enforced by the building
40 department of every city, county, or city and county.

1 ~~(1) A building permit for a residential or nonresidential building~~
2 ~~shall not be issued by a local building department, unless a review~~
3 ~~by the building department of the plans for the proposed residential~~
4 ~~or nonresidential building contains detailed energy system and~~
5 ~~vehicle miles traveled specifications and confirms that the building~~
6 ~~satisfies the minimum standards established pursuant to subdivision~~
7 ~~(a) or (b) and subdivision (f) of Section 25402, and this section~~
8 ~~that are applicable to the building.~~

9 ~~(2) Where there is no local building department, the commission~~
10 ~~shall enforce subdivisions (a), (b), and (f) of Section 25402 and~~
11 ~~this section.~~

12 ~~(3) If a local building department fails to enforce subdivisions~~
13 ~~(a), (b), and (f) of Section 25402 and this section or any other~~
14 ~~provision of this chapter or standard adopted pursuant thereto, the~~
15 ~~commission may provide enforcement after furnishing 10 days'~~
16 ~~written notice to the local building department.~~

17 ~~(4) A city, county, or city and county may, by ordinance or~~
18 ~~resolution, prescribe a schedule of fees sufficient to pay the costs~~
19 ~~incurred in the enforcement of subdivisions (a), (b), and (f) of~~
20 ~~Section 25402 and this section. The commission may establish a~~
21 ~~schedule of fees sufficient to pay the costs incurred by that~~
22 ~~enforcement.~~

23 ~~(5) The construction of a state building shall not commence~~
24 ~~until the Department of General Services or the state agency that~~
25 ~~otherwise has jurisdiction over the property reviews the plans for~~
26 ~~the proposed building and certifies that the plans satisfy the~~
27 ~~minimum standards established pursuant to Chapter 2.8~~
28 ~~(commencing with Section 15814.30) of Part 10b of Division 3 of~~
29 ~~Title 2 of the Government Code, subdivision (a) or (b) and~~
30 ~~subdivision (f) of Section 25402, and this section that are applicable~~
31 ~~to the building.~~

32 ~~(e) Subdivisions (a) and (b) of Section 25402 and this section~~
33 ~~shall apply only to new residential and nonresidential buildings~~
34 ~~on which actual site preparation and construction have not~~
35 ~~commenced prior to the effective date of rules and regulations~~
36 ~~adopted pursuant to those sections that are applicable to those~~
37 ~~buildings. Those sections shall not prohibit either of the following:~~

38 ~~(1) The enforcement of state or local energy conservation or~~
39 ~~energy insulation standards, adopted prior to the effective date of~~
40 ~~rules and regulations adopted pursuant to subdivisions (a) and (b)~~

1 of Section 25402 and this section with regard to residential and
2 nonresidential buildings on which actual site preparation and
3 construction have commenced prior to that date.

4 (2) ~~The enforcement of city or county energy conservation or~~
5 ~~energy insulation standards, whenever adopted, with regard to~~
6 ~~residential and nonresidential buildings on which actual site~~
7 ~~preparation and construction have not commenced prior to the~~
8 ~~effective date of rules and regulations adopted pursuant to~~
9 ~~subdivisions (a) and (b) of Section 25402 and this section, if the~~
10 ~~city or county files the basis of its determination that the standards~~
11 ~~are cost effective with the commission and the commission finds~~
12 ~~that the standards will require the diminution of energy~~
13 ~~consumption levels permitted by the rules and regulations adopted~~
14 ~~pursuant to those sections. If, after two or more years after the~~
15 ~~filing with the commission of the determination that those standards~~
16 ~~are cost effective, there has been a substantial change in the factual~~
17 ~~circumstances affecting the determination, upon application by~~
18 ~~any interested party, the city or county shall update and file a new~~
19 ~~basis of its determination that the standards are cost effective. The~~
20 ~~determination that the standards are cost effective shall be adopted~~
21 ~~by the governing body of the city or county at a public meeting.~~
22 ~~If, at the meeting on the matter, the governing body determines~~
23 ~~that the standards are no longer cost effective, the standards shall,~~
24 ~~as of that date, be unenforceable and no building permit or other~~
25 ~~entitlement shall be denied based on the noncompliance with the~~
26 ~~standards.~~

27 (d) ~~The commission may exempt from the requirements of this~~
28 ~~section and of any regulations adopted pursuant to this section any~~
29 ~~proposed building for which compliance would be impossible~~
30 ~~without substantial delays and increases in cost of construction, if~~
31 ~~the commission finds that substantial funds have been expended~~
32 ~~in good faith on planning, designing, architecture or engineering~~
33 ~~prior to the date of adoption of the regulations.~~

34 (e) ~~If a dispute arises between an applicant for a building permit,~~
35 ~~or the state pursuant to paragraph (5) of subdivision (g), and the~~
36 ~~building department regarding interpretation of Section 25402 or~~
37 ~~the regulations adopted pursuant thereto, either party may submit~~
38 ~~the dispute to the commission for resolution. The commission's~~
39 ~~determination of the matter shall be binding on the parties.~~

1 ~~(f) Section 25130, 25131, 25402, or this section does not prevent~~
2 ~~the enforcement of any regulation adopted pursuant to this chapter,~~
3 ~~or Chapter 11.5 (commencing with Section 19878) of Part 3 of~~
4 ~~Division 13 of the Health and Safety Code as they existed prior to~~
5 ~~September 16, 1977.~~
6 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
7 ~~Section 6 of Article XIII B of the California Constitution because~~
8 ~~a local agency or school district has the authority to levy service~~
9 ~~charges, fees, or assessments sufficient to pay for the program or~~
10 ~~level of service mandated by this act, within the meaning of Section~~
11 ~~17556 of the Government Code.~~