

Date of Hearing: April 19, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1476 (Alvarez) – As Amended April 11, 2023

**SUBJECT:** Community Redevelopment Law of 2023.

**SUMMARY:** Creates the Community Redevelopment Law of 2023. Specifically, **this bill:**

1) Defines the following terms:

- a) “Affected taxing entity” to mean any governmental taxing agency which levied or had levied on its behalf an ad valorem property tax on all or a portion of the property located in the proposed agency in the fiscal year before the designation of the agency district.
- b) “Affected taxing entity equity amount” to mean the amount of ad valorem property tax revenue that the affected taxing entity would have received from property located within the redevelopment project area in the absence of the affordable housing and infrastructure agency, calculated as specified.
- c) “Agency” to mean a community and affordable housing reinvestment agency (agency) created by this title.
- d) “County” to mean a county or a city and county.
- e) “Debt” to mean any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.
- f) “Designated official” to mean the appropriate official, such as an engineer of a city or county that is an affected taxing entity, as designated.
- g) “Governing board” to mean the governing body of an agency.
- h) “Landowner” or “owner of land” to mean any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the governing board. Specifies that the governing board has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive. Specifies that a public agency is not a landowner or owner of land, unless the public agency owns all of the land to be included within the proposed agency.
- i) “Legislative body” to mean the city council of the city or board of supervisors of the county.
- j) “Redevelopment project” to mean any undertaking of an agency.
- k) “Special district” to mean an agency of the state formed for the performance of governmental or proprietary functions within limited geographic boundaries.

- 2) States that the Legislature declares that this bill constitutes the Community Redevelopment Law within the meaning of Article XVI of Section 16 of the California Constitution, and that an agency formed pursuant to this bill shall have all powers granted to a redevelopment agency pursuant to that section.
- 3) Allows the legislative body of a city or county to propose to form an agency by adopting a resolution of intention to establish the agency. This resolution of intention shall contain specified information, including a preliminary project plan and a financing section.
- 4) Requires the preliminary project plan prepared by the legislative body, at a minimum, to include the following:
  - a) A description of the proposed boundaries of the project area, as specified.
  - b) A general statement of the land uses, layout of principal streets, population densities and building intensities, and standards proposed as the basis for the redevelopment of the project area.
  - c) Evidence that redevelopment will achieve the purposes of this bill.
  - d) Evidence that the proposed redevelopment is consistent with the general plan of each applicable city or county in which the projects are proposed to be located.
  - e) A general description of the impact of the project upon the area's residents and upon the surrounding neighborhood.
  - f) A description of the affordable housing or infrastructure projects that are proposed to be financed by the agency.
- 5) Requires the financing section to contain all of the following information:
  - a) A projection of the amount of tax revenues expected to be received by the agency in each year during which the agency will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year.
  - b) A plan for financing the affordable housing or infrastructure projects to be assisted by the agency, including a detailed description of any intention to incur debt.
  - c) A statement of the total number of dollars of taxes that may be allocated to the agency pursuant to the plan.
  - d) The date on which the agency will cease to exist, by which time all tax allocation to the agency will end. The date shall not be more than 45 years from the date on which the issuance of bonds is first approved, or the issuance of a loan is first approved by the legislative body of a city, county, or special district, as specified.
  - e) An analysis of the costs to the city or county of providing facilities and services to the area of the agency while the area is being developed and after the area is developed, as specified.

- f) An analysis of the projected fiscal impact of the agency and the associated development upon each affected taxing entity.
  - g) A passthrough provision that provides that the agency will, except as otherwise provided, pay to each affected taxing entity an amount equivalent to the affected taxing entity equity amount. Specifies that a passthrough provision shall not provide payment to the city or county proposing to form the agency, or to any school entity, as specified.
  - h) An override passthrough provision that provides that the agency will pay to each affected taxing entity that imposed an override property tax on property located within the project area an amount that is equivalent to the amount the affected taxing entity would have received, as specified.
- 6) Requires the legislative body to direct the city clerk or county recorder to mail a copy of the resolution of intention to each affected taxing entity.
  - 7) Allows the legislative body of two or more cities to propose to jointly form an agency, subject to certain conditions, by adoption of a resolution of intention by each city proposing to jointly form the agency, and specifies the process for jointly forming an agency.
  - 8) Authorizes the proposed boundaries of the project area of an agency proposed to be jointly formed to include any or all of the territory within each city proposing to jointly form the agency.
  - 9) Requires the city or county that adopted the resolution of intention, or each of the cities that jointly adopted a resolution of intention, to consult with each affected taxing entity. Allows any affected taxing entity to suggest revisions to be included in the resolution of formation.
  - 10) Allows any affected taxing entity entitled to receive a passthrough to elect to not receive any amount that would have been received under a passthrough provision, as specified.
  - 11) Requires the legislative body, no sooner than 60 days after the resolution of intention was provided to each affected taxing entity, to hold a public hearing on the proposal. The legislative body shall provide notice of the public hearing, as specified.
  - 12) Provides that, at the public hearing, the legislative body shall proceed to hear and pass upon all written and oral objections to the formation of the agency. The hearing may be continued from time to time. The legislative body shall consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the formation of the agency.
  - 13) Allows, at the conclusion of the public hearing, the legislative body to adopt a resolution proposing the formation of the agency. The resolution shall contain all specified information and shall consider the recommendations of affected taxing entities. The legislative body shall direct the city clerk or county recorder to mail the resolution of formation to each affected taxing entity.
  - 14) Requires the legislative body that adopted the resolution of formation, shall submit that resolution, along with all supporting documents, to the Strategic Growth Council (SGC).

- 15) Requires the SGC to determine whether the establishment of an agency would promote statewide greenhouse gas (GHG) reduction goals. The SGC shall ensure that the projects proposed in the resolution equitably represent rural, suburban, and urban communities, and that establishing the agency would not result in an inequitable geographic distribution of agencies throughout the state. The SGC shall approve the resolution of formation of an agency if it determines both of the following:
  - a) Formation of the agency would not result in a state fiscal impact that exceeds a specified limit.
  - b) Formation of the agency would promote statewide GHG reduction goals, as specified.
- 16) Provides that if the SGC approves the resolution of formation, the agency shall be deemed to be in existence as of the date of the approval.
- 17) Specifies that, if the SGC determines that either or both of the necessary criteria are not met, it shall disapprove the formation and provide written explanation of its disapproval to the legislative body and to each affected taxing agency.
- 18) Requires the SGC to adopt policies and procedures for the receipt and evaluation of resolutions of intention. The SGC shall establish a program to provide technical assistance to a city or county that desires to form an agency, and shall provide that technical assistance by entering into a contract with that city or county, as specified.
- 19) Provides that the governing board of the agency shall consist of the following:
  - a) One member appointed by the legislative body that adopted the resolution of intention, or in the case of an agency jointly formed by two or more cities, one member appointed by the legislative body of each city.
  - b) One member appointed by each affected taxing entity.
  - c) Two public members initially appointed by the members of the board composed of the members specified above, and then thereafter appointed by the board as a whole. The public members shall not be an elective officer or employee of any affected taxing entity.
- 20) Specifies that a majority of the membership of the board constitutes a quorum, and if a vacancy exists, a majority of the remaining members of the board constitutes a quorum.
- 21) Prohibits members of the board from receiving compensation, but they may receive reimbursement for actual and necessary expenses incurred in the performance of official duties, as specified.
- 22) Provides that members of the governing board are subject to ethics training requirements and the agency shall be a local agency subject to the Ralph M. Brown Act's open meeting requirements, California Public Records Act requirements, and the Political Reform Act of 1974.
- 23) Authorizes an agency to finance the following:

- a) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that constitutes affordable housing or infrastructure projects, as specified.
  - b) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.
  - c) Costs related to dwelling units, as specified.
- 24) Provides that financed facilities are not required to be physically located within the boundaries of the agency if there is a tangible connection to the work of the agency. Prohibits an agency from financing routine maintenance, repair work, or the costs of an ongoing operation or providing services of any kind. Provides that an agency can only finance redevelopment projects that the agency finds are appropriate or necessary in the interests of the general welfare. States that redevelopment projects shall only include the following affordable housing or infrastructure projects:
- a) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.
  - b) Sewage treatment and water reclamation plants and interceptor pipes.
  - c) Facilities for the collection and treatment of water for urban uses.
  - d) Flood control levees and dams, retention basins, and drainage channels.
  - e) Childcare facilities.
  - f) Libraries.
  - g) Parks, recreational facilities, and open space.
  - h) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.
  - i) Brownfield restoration and other environmental mitigation.
  - j) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as specified, for rent or purchase. Allows the agency to finance very low, low, or moderate income units in mixed-income housing developments, as specified.
  - k) Transit priority projects, as specified.
  - l) Projects that implement a sustainable communities strategy, as specified.
  - m) Port or harbor infrastructure, as specified.
- 25) Specifies that the agency shall require, by recorded covenants or restrictions, that housing units built by the agency shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income households for the longest

feasible time, but not less than 55 years for rental units and 45 years for owner-occupied units.

- 26) Authorizes an agency to utilize specified powers related to hazardous material cleanup.
- 27) Prohibits an agency from allocating or transferring any funds to any city, county, or special district unless it is a payment required by the passthrough provision included in the financing section and included in the redevelopment project plan, as specified.
- 28) Allows an agency to, within the area established in an approved redevelopment project plan, do either of the following:
  - a) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property, any interest in property, and any improvements on it, as specified.
  - b) Acquire real property by eminent domain to be used in a redevelopment project, as specified.
- 29) Allows an agency to rent, maintain, manage, operate, repair, and clear real property owned by the agency in an area established in an approved project plan for the purpose of providing affordable housing.
- 30) Prohibits a city or county that created a former redevelopment agency from forming an agency, or participating in the governance or financing of an agency, until specified conditions have been met. Allows an agency to include a portion of a former redevelopment project area, in specified circumstances.
- 31) Provides that an agency may finance only the facilities authorized in this bill to the extent the facilities are in addition to those provided in the territory of the agency before the agency was created. The additional facilities may not supplant facilities already available within that territory when the agency was created but may supplement, rehabilitate, upgrade, or make more sustainable those facilities. An agency may include areas that are not contiguous.
- 32) States the intent of the Legislature that the creation of an agency should not ordinarily lead to the removal of existing dwelling units. Requires replacement dwelling units to be constructed or rehabilitated, if dwelling units to be removed or destroyed are or were inhabited by persons or families of very low, low, or moderate income at any time within five years before the establishment of the agency, as specified. Provides for other replacement dwelling and relocation assistance requirements, as specified.
- 33) Requires any action or proceeding to attack, review, set aside, void, or annul the creation of an agency or adoption of a redevelopment plan, including the division of taxes thereunder, to be commenced within 30 days after the formation of the agency or adoption of the plan, as applicable. Specifies that an action or proceeding with respect to a division of taxes or an action to determine the validity of the issuance of bonds may be brought pursuant existing validating proceedings, as specified.
- 34) Requires an agency to maintain detailed records of every action taken by that agency, as specified.

- 35) Requires an agency to adopt an annual budget, as specified.
- 36) Requires an agency to submit an annual report to its governing board within six months of the end of the agency's fiscal year, and to submit the final report of any audit undertaken by any other local, state, or federal governmental entity within 30 days of receipt of that audit report. Specifies the contents of the annual report, including an independent financial audit report, a fiscal statement for the previous fiscal year, and a description of the agency's activities in the previous fiscal year affecting housing and displacement.
- 37) Requires the agency, to file with the Controller, the annual report within six months of the end of the agency's fiscal year, and to file the report with the Department of Housing and Community Development (HCD), as specified. Requires the agency to provide a copy, upon written request, to any persons or any affected taxing entity, as specified.
- 38) Requires the agency to inform the governing board of any major audit violations at the time the agency presents the annual report to the governing board, as specified. The governing board shall review any submitted report and take any action it deems appropriate on that report no later than the first meeting of the governing board occurring more than 21 days from the receipt of the report.
- 39) Requires the Controller to develop and periodically revise the guidelines for the content of the report, and appoint an advisory committee to advise in the development of those guidelines, as specified.
- 40) Requires, on or before May 1 of each year, HCD to compile and publish reports of the activities of each agency for the previous fiscal year, as specified. HCD shall send a copy of the executive summary of its report to each agency for which information was reported and shall send a copy of its report to each agency that requests a copy.
- 41) Requires the Controller, on or before April 1 of each year, to compile a list of agencies that appear to have major audit violations, and, on or before June 1 of each year, determine if the agency has corrected the major audit violation, as specified.
- 42) Requires the Controller to send an agency's major violations and relevant documents to the Attorney General, if the Controller determines that an agency has not corrected the major audit violation, as specified.
- 43) Requires notice to the agency if the Controller refers audit violations to the Attorney General, requires the Attorney General, within 45 days of receiving the referral from the Controller, to determine whether to file an action to compel the agency's compliance, and provides for court procedures, as specified. Provides for a sliding scale of fines based on the agency's total revenue, if the court determines that the major audit violation has not been corrected, among other provisions related to enforcement.
- 44) Requires, after the agency is formed, the governing board to designate an appropriate official, such as an engineer of a city or county that is an affected taxing entity, to prepare a redevelopment project plan, as specified.
- 45) Requires the official to prepare a proposed redevelopment project plan. The plan shall be consistent with the general plan of each city or county within the agency's boundaries, or, if

the proposed project is located outside those boundaries, with the general plan of the city or county that the project is located. The plan must contain specified information. When preparing the plan, the designated official shall consult with each affected taxing entity, and, at the request of any affected taxing entity, shall meet with representatives of an affected taxing entity. Any affected taxing entity may suggest revisions to the plan.

- 46) Provides that the designated official shall mail the redevelopment project plan to each owner of land within the agency's boundaries and to each affected taxing entity together with any report required by the California Environmental Quality Act (CEQA), as specified, and make the plan available for public inspection. The plan shall also be sent to the governing board.
- 47) Requires the governing board, no sooner than 60 days after the plan was submitted to each affected taxing entity, to hold a public hearing on the proposal, and provide notice of the public hearing, as specified. Requires the governing board to hear and pass upon all written and oral objections to the plan, and to consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the proposed plan. The governing board may modify the plan, as specified.
- 48) Provides that, at the conclusion of the hearing, the governing board may adopt a resolution proposing the adoption of the plan or it may adopt a resolution abandoning the proceedings. If the proceedings are abandoned, the agency shall cease to exist, as specified.
- 49) Provides that the plan shall take effect upon the adoption of the resolution and the plan shall specify if the agency shall be funded solely through the agency's share of tax increment, governmental or private loans, grants, bonds, assessments, fees, or some combination thereof. However, the agency shall not issue bonds or levy assessments or fees that may be included in the plan before certain conditions are met.
- 50) Authorizes an agency to expend up to 10% of any accrued tax increment in the first two years of the effective date of the formation of the agency on planning and dissemination of information to the residents within the agency's boundaries about the plan and planned activities to be funded by the agency.
- 51) Allows a redevelopment project plan to contain a provision that taxes, if any, levied upon taxable property in the area included within the agency each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the resolution approving the plan, shall be divided as follows:
  - a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the agency as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the formation of the agency, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid. For the purpose of allocating taxes levied by or for any affected taxing entity or entities that did not include the territory in a redevelopment project on the effective date of the resolution but to which that territory has been annexed or otherwise included after that effective date, the assessment roll of the county last equalized on the effective date of the resolution shall be used in



determining the assessed valuation of the taxable property in the project on the effective date.

- b) That portion of the levied taxes each year in excess of the amount specified in a) above, shall be allocated to and when collected shall be paid into a special fund of the agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in that project as shown by the last equalized assessment roll referred to in a) above, all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid to the affected taxing entities. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid to the affected taxing entities as taxes on all other property are paid. When the agency ceases to exist pursuant to the adopted redevelopment project plan, all moneys thereafter received from taxes upon the taxable property in the agency shall be paid to the respective affected taxing entities as taxes on all other property are paid.
  - c) That portion of the taxes in excess of the amount identified in a) above that are attributable to a tax rate levied by an affected taxing entity for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that affected taxing entity. This shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the affected taxing entity on or after January 1, 1989.
- 52) Specifies, where an agency's boundaries overlap with the boundaries of any former redevelopment agency (RDA) project area, any debt or obligation of an agency shall be subordinate to any and all enforceable obligations of the former RDA, as approved by the Oversight Board and Department of Finance (DOF), as specified. Specifies that the division of taxes allocated to the agency, as specified, shall not include any taxes required to be deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund (RPTTF).
- 53) Allows the legislative body of the city or county forming the agency to choose to dedicate any portion of its net available revenue to the agency through the redevelopment project plan, and defines "net available revenue" for its purposes.
- 54) Requires that portion of any ad valorem property tax revenue annually allocated to a city or county pursuant to existing law related to the Educational Revenue Augmentation Fund (ERAF) that is specified in the adopted plan and that corresponds to the increase in the assessed valuation of taxable property, to be allocated to, and when collected to be apportioned to a special fund of the agency for all lawful purposes of the agency.
- 55) Provides that when the agency ceases to exist pursuant to the adopted plan, the revenues described in the division of taxes section of the bill shall be allocated to, and when collected, shall be apportioned to the respective city or county.

- 56) Provides that the bill's provisions shall not be construed to prevent an agency from utilizing revenues from any of the following sources to support its activities provided that the applicable voter approval has been obtained, and the plan has been approved: the Improvement Act of 1911; the Municipal Improvement Act of 1913; the Improvement Bond Act of 1915; the Landscaping and Lighting Act of 1972; the Vehicle Parking District Law of 1943; the Parking District Law of 1951; the Park and Playground Act of 1909; the Mello-Roos Community Facilities Act of 1982; the Benefit Assessment Act of 1982; and, the so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.
- 57) Provides that the portion of specified taxes shall be allocated and paid to the agency by the county auditor or officer responsible for the payment of taxes into funds of the affected taxing entities pursuant to specified procedures.
- 58) Requires, not later than October 1 of each year, for each redevelopment project for which the plan provides for the division of taxes, the agency to file, with the county auditor or officer, a statement of indebtedness, a reconciliation statement, a passthrough statement, and an override passthrough statement, as specified. All statements required to be filed shall be certified by the chief financial officer of the agency.
- 59) Requires, for each redevelopment project for which a statement of indebtedness is required to be filed, the statement of indebtedness to contain all of the following:
- a) For each loan, advance, or indebtedness incurred or entered into, all of the following information:
    - i) The date the loan, advance, or indebtedness was incurred or entered into.
    - ii) The principal amount, term, purpose, interest rate, and total interest of each loan, advance, or indebtedness.
    - iii) The principal amount and interest due in the fiscal year in which the statement of indebtedness is filed for each loan, advance, or indebtedness.
    - iv) The total amount of principal and interest remaining to be paid for each loan, advance, or indebtedness.
  - b) The sum of the amounts in iii), above.
  - c) The sum of the amounts in iv) above.
  - d) The available revenues as of the end of the previous year, as specified.
- 60) Specifies that the agency may estimate the amount of principal or interest, the interest rate, or term of any loan, advance, or indebtedness if the nature of the loan, advance, or indebtedness is such that the amount of principal or interest, the interest rate or term cannot be precisely determined. The agency may list on a statement of indebtedness any loan, advance, or indebtedness incurred or entered into on or before the date the statement is filed.

- 61) Provides that, for each redevelopment project for which a reconciliation statement is required to be filed. The reconciliation statement shall contain specified information.
- 62) Requires an agency to prepare a passthrough statement that includes specified information.
- 63) Provides that, for each agency that has an override passthrough provision in the financing section of its resolution of intention, the agency shall prepare an override passthrough statement that includes specified information.
- 64) Specifies that available revenues for the required statements shall include all cash or cash equivalents held by the agency that were received by the agency, as specified, and all cash or cash equivalents held by the agency that are irrevocably pledged or restricted to payment of a loan, advance, or indebtedness that the agency has listed on a statement of indebtedness. However, available revenue, for purposes of this section, shall not include the amount of any payment that the agency is required to make under a passthrough provision as described in the passthrough statements.
- 65) Contains provisions for county auditors to allocate funds, as specified.
- 66) Provides that the statement of indebtedness constitutes prima facie evidence of the loans, advances, or indebtedness of the agency and provides a process for a county auditor or other officer to dispute the statement of indebtedness, as specified.
- 67) Requires the Controller to prescribe a uniform form for a statement of indebtedness, reconciliation, passthrough, and override passthrough. These forms shall be consistent with this bill, and in preparing these forms, the Controller shall obtain the input of county auditors, agencies, and organizations of county auditors and agencies.
- 68) Provides provisions declaring that this bill furthers specified constitutional requirements.
- 69) Requires the county auditor to, after deducting its administrative costs for activities as specified, allocate the funds deposited in a special trust fund established for a district and shall distribute those taxes in the same manner and at the same time or times as the payment of taxes into the funds of the affected taxing entities of the county, as specified.
- 70) Requires not less than 30% of all taxes allocated to the agency from any affected taxing entity, as specified, to be deposited into a separate fund established pursuant to this bill, which shall be used for the purposes of increasing, improving, and preserving the community's supply of low and moderate income housing available at affordable housing cost, as specified. Provides for the powers the agency may exercise and the requirements the agency must follow in carrying out these specified purposes, and limits on how the agency can use the funds.
- 71) Requires each agency to expend over each 10-year period of the project plan the moneys in the separate fund, as specified.
- 72) Requires every redevelopment project plan to contain both of the following:
  - a) A provision that requires, whenever dwelling units housing persons and families of low or moderate income are destroyed or removed as part of a project, the agency to, within

two years, rehabilitate, develop or construct an equal number of replacement dwelling units, as specified.

- b) A provision that prohibits the number of housing units occupied by extremely low, very low, and low income households, including the number of bedrooms in those units, at the time the plan is adopted, from being reduced in the plan area during the effective period of the plan.
- 73) Specifies that programs to assist or develop low and moderate income housing pursuant to this bill shall be entitled to priority consideration after a program implemented by a housing successor, as specified, for assistance in housing programs administered by the California Housing Finance Agency, HCD, and other state agencies and departments, if those agencies or departments determine that the housing is otherwise eligible for assistance under a particular program.
- 74) Provides that assistance provided by an agency to preserve the availability to lower income households of affordable housing units within the plan area that are assisted or subsidized by public entities and that are threatened with imminent conversion to market rates may be credited and offset against an agency's obligations, as specified.
- 75) Allows an agency to adopt a plan for expenditure of all moneys in the separate fund, in the event that an excess surplus accumulates, as specified.
- 76) Contains procedures specifying what happens if the agency fails to expend or encumber excess surplus in the separate fund, as specified.
- 77) Provides that certain required covenants or restrictions may be subordinated under specified alternatives.
- 78) Specifies that certain subsidies may include payment of a portion of the principal and interest on bonds issued by a public agency to finance housing for specified persons and families if the agency ensures by contract that the benefit of the subsidy will be passed on to those persons and families in the form of lower housing costs.
- 79) Provides that, for each interest in real property acquired using moneys from the separate fund, the agency shall, within five years from the date it first acquires the property interest for the development of housing affordable to persons and families of low and moderate income, initiate activities consistent with the development of the property for that purpose, as specified.
- 80) Allows the agency, by majority vote of its governing board, to initiate proceedings to issue bonds by adopting a resolution stating its intent to issue bonds. The resolution shall contain all of the following information:
- a) A description of the facilities or developments to be financed with the proceeds of the proposed bond issue.
  - b) The estimated cost of the facilities or developments, the estimated cost of preparing and issuing the bonds, and the principal amount of the proposed bond issuance.

- c) The maximum interest rate and discount on the proposed bond issuance.
  - d) A determination of the amount of tax revenue available or estimated to be available, for the payment of the principal of, and interest on, the bonds.
  - e) A finding that the amount necessary to pay the principal of, and interest on, the proposed bond issuance will be less than, or equal to, the amount determined, as specified.
- 81) Requires the clerk of the agency to publish the resolution to issue bonds once a day for at least seven successive days in a newspaper published in the city or county at least six days a week, or at least once a week for two successive weeks in a newspaper published in the city or county less than six days a week. Requires, in the case of an agency jointly formed by two or more cities, the clerk to publish the resolution in a newspaper in each city. If no newspapers meet the criteria, the resolution must be posted in three public places within the territory of the district for two succeeding weeks.
- 82) Specifies requirements if the agency adopts a resolution proposing initiation of proceedings to issue bonds for port or harbor infrastructure.
- 83) Requires the agency to issue bonds by adopting a resolution providing for all of the following:
- a) The issuance of the bonds in one or more series.
  - b) The principal amount of the bonds that shall be consistent with the amount specified in the resolution to issue bonds.
  - c) The date the bonds will bear.
  - d) The date of maturity of the bonds.
  - e) The denomination of the bonds.
  - f) The form of the bonds.
  - g) The manner of execution of the bonds.
  - h) The medium of payment in which the bonds are payable.
  - i) The place or manner of payment and any requirements for registration of the bonds.
  - j) The terms of call or redemption, with or without premium.
- 84) Allows the agency to provide for the refunding of bonds, as specified.
- 85) Prohibits the agency or any person executing the bonds from being personally liable on the bonds by reason of their issuance, and provides that the bonds and other obligations of an agency are not a debt of the city, county, or state or any of its political subdivisions, other

than the agency, and none of those entities, other than the agency, shall be liable on the bonds. Requires the bond obligations to be payable exclusively from funds or properties of the agency. Requires the bonds to contain a statement to this effect on their face. States that the bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.

- 86) Allows the bonds to be sold at a discount not to exceed 5% of par at public sale. Requires, at least five days prior to the sale, notice to be published, as specified, in a newspaper of general circulation and in a financial newspaper published in the City and County of San Francisco and in the City of Los Angeles. Prohibits bonds from being sold at not less than par to the federal government at a private sale without any public advertisement.
- 87) Provides that, if any member of the agency whose signature appears on bonds ceases to be a member of the agency before delivery of the bonds, his or her signature is as effective as if he or she had remained in office. Provides that bonds issued pursuant to the bill's provisions are fully negotiable.
- 88) Authorizes, upon approval of its legislative body, a city, county, or special district to loan moneys to the agency, as specified.
- 89) Requires the agency to contract for an independent financial and performance audit every two years after the issuance of debt, conducted according to guidelines established by the Controller, as specified.
- 90) Provides that, upon request of the governor or of the Legislature, the Bureau of state audits may conduct financial and performance of districts, as specified.
- 91) Defines “state fiscal impact” to mean the impact on the amount that the state is required to apportion to local educational entities, in accordance with existing requirements, with respect to all agencies within the state.
- 92) Requires for the 2024–25 fiscal year, and each fiscal year thereafter, the Controller to determine the state fiscal impact with respect to all agencies within the state, based on the latest annual report for each agency. The Controller’s determination of the state fiscal impact shall remain in effect for one year.
- 93) Provides that, if the state fiscal impact exceeds \_\_\_\_ dollars (\$\_\_\_\_) in any fiscal year, an agency shall not be formed, and an existing agency shall not incur any additional indebtedness, until the next fiscal year in which the Controller determines that the state fiscal impact is below the limit specified.
- 94) Requires the Controller to publish on their internet website a notice that includes the Controller’s determination of the state fiscal impact of all agencies within the state for the prior fiscal year and stating whether or not any additional agencies may be formed pursuant to this bill based on that determination.
- 95) States that it is the intent of the Legislature to ensure that enactment of the Community Redevelopment Law of 2023 and the authorization for the division of taxes upon taxable property pursuant to that law, does not affect the amount of funding required to be applied

for the support of school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution.

- 96) Requires the Director of Finance to adjust “the percentage of General Fund revenues appropriated for school districts and community college districts” in a manner that ensures that the division of taxes authorized by this bill shall have no net fiscal impact upon the total amount of General Fund revenue and local property tax revenue allocated to school districts and community college districts. The Director of Finance shall make this adjustment effective with the 2024–25 fiscal year, consistent with the effective date of the Community Redevelopment Law of 2023.
- 97) Requires the Director of Finance to update the adjustment required by 96) above to account for either of the following:
- a) Subsequent enactment of a redevelopment project plan that includes a provision for the division of taxes upon taxable property within the area included within an agency.
  - b) The end of the division of taxes resulting from an agency ceasing to exist pursuant to its redevelopment project plan and the payment of moneys received from taxes upon taxable property to school districts and community college districts, as specified.
- 98) Contains other technical and conforming changes.
- 99) Provides that, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Bill Summary.** This bill would allow cities and counties to create affordable housing and infrastructure agencies to fund infrastructure and would require that 30% of funding generated be set-aside for affordable housing activities. To establish an agency, all taxing entities would be required to participate; however, the local agency that establishes the agency would be required to passthrough property tax sufficient to keep the other taxing entities whole, excluding the schools' portion. Agencies are also required to obtain state approval by the SGC. Agencies would provide the SGC with a copy of the resolution to create the agency and their plan to fund infrastructure and affordable housing, and finance their activities. Schools would generally be kept whole because the state would contribute to agencies by backfilling schools to meet the Proposition 98 obligations and backfill property tax shifts. Each year, the Controller would determine the “state fiscal impact” or the amount that the state needs to contribute to schools to meet the Proposition 98 guarantee. This amount would be capped and would limit the amount of agencies that could be formed. This bill contains numerous additional provisions related to the formation, powers, and duties of these agencies. This bill is sponsored by the author.
- 2) **Author’s Statement.** According to the author, “Decades ago, the California Legislature recognized the need for creative ways to finance development in underdeveloped areas. This

resulted in the creation of Redevelopment Agencies (RDA), which were entities that funded development projects through tax increment financing. Although these agencies resulted in important projects, they lacked oversight and more robust protections, resulting in superfluous projects and financial inefficiencies, which were exasperated by the 2008 financial crisis. These issues resulted in Governor Brown dissolving them in 2012. Recognizing both the significant contributions RDAs made to underdeveloped communities and the inefficiencies that led to their dissolution, AB 1476 re-establishes them with stricter financial protections and oversight. Specifically, it strengthens oversight powers, requires annual audits of the agencies, includes housing development requirements, and a cap on the amount of agencies that can be established that is directly tied to prop 98 funding to mitigate the cost to the state. With these protections, AB 1476 would be an important tool for our underdeveloped communities.”

- 3) **Redevelopment.** Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of RDAs to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Generally, property tax increment financing involves a local government forming a tax increment financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area.

To calculate the increased property tax revenues captured by the district, the amount of property tax revenues received by any local government participating in the district is “frozen” at the amount it received from property within a project area prior to the project area’s formation. In future years, as the project area’s assessed valuation grows above the frozen base, the resulting additional property tax revenues — the so-called property tax “increment” revenues — flow to the tax increment financing district instead of other local governments. After the bonds have been fully repaid using the incremental property tax revenues, the district is dissolved, ending the diversion of tax increment revenues from participating local governments.

Prior to Proposition 13, very few RDAs existed; however, after its passage, RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set aside 20% of funding generated in a project area to increase the supply of low and moderate income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend \$1 billion on affordable housing. At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over \$5.6 billion yearly.

In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved and the Governor signed two measures, ABX1 26 (Blumenfield), Chapter 5 and ABX1 27 (Blumenfield), Chapter 6 that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's



petition with respect to ABX1 27. As a result, all RDAs were required to dissolve as of February 1, 2012.

- 4) **Attempts to Replace RDAs.** After the Supreme Court's 2011 Matosantos decision dissolved all RDAs, legislators enacted several measures creating new tax increment financing tools to pay for local economic development. The Legislature authorized the creation of Enhanced Infrastructure Financing Districts (EIFDs) [SB 628 (Beall), Chapter 785, Statutes of 2014] quickly followed by Community Revitalization and Investment Authorities (CRIAs) [AB 2 (Alejo), Chapter 319, Statutes of 2015]. Similar to EIFDs, CRIAs use tax increment financing to fund infrastructure projects. CRIAs may currently only be formed in economically depressed areas.

The Legislature has also authorized the formation of affordable housing authorities (AHAs), which may use tax increment financing exclusively for rehabilitating and constructing affordable housing and also do not require voter approval to issue bonds [AB 1598 (Mullin), Chapter 764, Statutes of 2017]. SB 961 (Allen), Chapter 559, Statutes of 2018, removed the vote requirement for a subset of EIFDs to issue bonds and required these EIFDs to instead solicit public input, and AB 116 (Ting), Chapter 656, Statutes of 2019, removed the voter requirement for any EIFD to issue bonds in favor of a formal protest process. SB 852 (Dodd), Chapter 266, Statutes of 2022, created climate resilience districts (CRDs), which can also utilize tax-increment financing. CRDs were also given the authority to issue general obligation bonds and impose special taxes. While these entities share fundamental similarities with RDAs in terms of using various forms of tax-increment financing, they differ in two significant aspects, 1) not having access to the school's share of property tax increment, and 2) not automatically including the tax increment of other taxing entities.

- 5) **Governor's Office of Planning and Research (OPR) Report.** SB 961 (Allen), Chapter 559, Statutes of 2018, required OPR to, on or before January 1, 2021, complete a study and make recommendations on (1) the effectiveness of tax increment financing tools, (2) the relative advantages and disadvantages of different types of tax increment financing tools, and (3) the impacts of extending the Second Neighborhood Infill Finance and Transit Improvement Act (NIFTI-2s) to areas around bus stops, including segregated bus lanes. The first report identified several key limitations current tax increment financing districts share:
  - a) They have limited revenue potential to make district formation worthwhile.
  - b) Unlike redevelopment, where taxing entity participation was mandatory, current tax increment financing districts rely on volunteer participation.
  - c) They have limited powers compared to RDAs.
  - d) Some technical challenges interfere with their development.
- 6) **RDA 2.0?** RDAs were dissolved during a severe budget shortfall and were often criticized for a number of reasons. The February 2011 Legislative Analyst's Office (LAO) report, "Should California End Redevelop Agencies?" proclaimed that there was no reliable evidence that redevelopment increase regional or state wide economic development, and that RDAs "lacked key accountability elements that are common to state-supported local

assistance programs. Specifically, no state agency reviews redevelopment economic development activities or ensures that projects areas focus on the program's mission."

The LAO also reported that, "In terms of housing production efficiency and effectiveness, we are not aware of any studies that compare redevelopment agencies' results in producing affordable housing with other financing approaches. We note, however, that state audits and oversight reports frequently conclude that a significant number of redevelopment agencies take actions that have the effect of reducing their housing program productivity, including:

- a) Maintaining large balances of unspent housing funds. (The Department of Housing and Community Development's most recent report indicates that the agencies collectively had an unencumbered balance of more than \$2.5 billion.)
- b) Using most of their housing funds for planning and administrative costs.
- c) Spending housing funds to acquire land for housing, but not building the housing for a decade or longer."

AB 1476 includes the following provisions, among others:

- a) Robust replacement housing policies and anti-displacement policies.
  - b) Requires agencies to keep detailed records of use of funds. Creates a \$10,000 fine per violation of the record keeping requirements.
  - c) Requires an independent audit each year by a certified public accountant. Requires the audit be submitted to the Controller.
  - d) The Controller annually determines major audit violations and refers any violations that are not corrected to the Attorney General.
  - e) Authorizes fines for major audit violations that are not corrected up to \$250,000.
  - f) The agency is governed by a board that includes members of the public.
- 7) **Policy Consideration.** The report conducted by OPR identified several key limitations current tax increment financing districts share, including the limited revenue potential to make district formation worthwhile. In addition, unlike RDAs, where taxing entity participation was mandatory, current tax increment financing districts rely on volunteer participation, and they have limited powers compared to RDAs. The reports found that, despite the multitude of tax increment financing tools available for local agencies to choose from, only five EIFDs had been created by the end of 2020.

Despite the authority to finance infrastructure with tax increment financing, these financing mechanisms have been used infrequently in part because they do not have access to the school share of property tax increment like RDAs did. However, AB 1476 does allow an agency access to the school's share of property tax increment, allowing for agencies created under this bill to collect more funding than other existing tax increment financing tools. In light of this, the Committee may wish to consider if the school's share of tax increment will make these agencies more successful.

8) **Previous Legislation.** AB 3037 (Chiu) of 2018 was very similar to this bill and would have created the Community Development Law of 2018. This bill was held in the Assembly Appropriations Committee.

AB 11 (Chiu) of 2019 was almost identical to this bill and would have created the Community Redevelopment Law of 2019. This bill was held in the Assembly Appropriations Committee.

9) **Arguments in Support.** None on file.

10) **Arguments in Opposition.** Fieldstead and Company argues that, “Taking private property for the purpose of giving it to other private owners is simply wrong. AB 1476 contemplates exactly such takings, not being limited to taking property for infrastructure but including takings for private development such as "transit priority projects" and "projects that implement a sustainable communities strategy." Eminent domain abuse is not redevelopment’s exception; it is its oft repeated legacy. We expressed similar concerns to Senator Kamlager in 2021 and she agreed to amend her SB 679--Los Angeles County Affordable Housing Solutions Agency--to bar the use of eminent domain (Gov Code section 64722).”

11) **Double-Referral.** This bill is double-referred to the Assembly Committee on Housing and Community Development.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Association of Realtors (if amended)

### **Opposition**

Fieldstead and Company (unless amended)

**Analysis Prepared by:** Jimmy MacDonald / L. GOV. / (916) 319-3958