

ASSEMBLY BILL

No. 1080

Introduced by Assembly Member Obernolte

February 27, 2015

An act to amend Section 34171 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1080, as introduced, Obernolte. Redevelopment: enforceable obligations: military base reuse.

Existing law dissolved redevelopment agencies and community development agencies as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies, subject to review by oversight boards, and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Existing law defines "enforceable obligation" for these purposes to generally exclude any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency.

The Military Base Reuse Authority Act authorizes the creation of a military base reuse authority to plan, finance, and manage the transition of a military base from military to civilian use, as specified.

This bill would authorize the Department of Finance to find that an agreement between a former redevelopment agency and a joint powers authority that was created to exercise the powers provided by the Military Base Reuse Authority Act is an enforceable obligation.

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 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 on the Recognized Obligation
10 Payment Schedule covering the period January 1, 2012, through
11 June 30, 2012, and up to 3 percent of the property tax allocated to
12 the Redevelopment Obligation Retirement Fund money that is
13 allocated to the successor agency for each fiscal year thereafter;
14 provided, however, that the amount shall not be less than two
15 hundred fifty thousand dollars (\$250,000), unless the oversight
16 board reduces this amount, for any fiscal year or such lesser amount
17 as agreed to by the successor agency. However, the allowance
18 amount shall exclude, and shall not apply to, any administrative
19 costs that can be paid from bond proceeds or from sources other
20 than property tax. Administrative cost allowances shall exclude
21 any litigation expenses related to assets or obligations, settlements
22 and judgments, and the costs of maintaining assets prior to
23 disposition. Employee costs associated with work on specific
24 project implementation activities, including, but not limited to,
25 construction inspection, project management, or actual
26 construction, shall be considered project-specific costs and shall
27 not constitute administrative costs.

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

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

31 (A) Bonds, as defined by Section 33602 and bonds issued
32 pursuant to Chapter 10.5 (commencing with Section 5850) of
33 Division 6 of Title 1 of the Government Code, including the
34 required debt service, reserve set-asides, and any other payments
35 required under the indenture or similar documents governing the
36 issuance of the outstanding bonds of the former redevelopment
37 agency. A reserve may be held when required by the bond
38 indenture or when the next property tax allocation will be

1 insufficient to pay all obligations due under the provisions of the
2 bond for the next payment due in the following half of the calendar
3 year.

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

8 (C) Payments required by the federal government, preexisting
9 obligations to the state or obligations imposed by state law, other
10 than passthrough payments that are made by the county
11 auditor-controller pursuant to Section 34183, or legally enforceable
12 payments required in connection with the agencies' employees,
13 including, but not limited to, pension payments, pension obligation
14 debt service, unemployment payments, or other obligations
15 conferred through a collective bargaining agreement. Costs incurred
16 to fulfill collective bargaining agreements for layoffs or
17 terminations of city employees who performed work directly on
18 behalf of the former redevelopment agency shall be considered
19 enforceable obligations payable from property tax funds. The
20 obligations to employees specified in this subparagraph shall
21 remain enforceable obligations payable from property tax funds
22 for any employee to whom those obligations apply if that employee
23 is transferred to the entity assuming the housing functions of the
24 former redevelopment agency pursuant to Section 34176. The
25 successor agency or designated local authority shall enter into an
26 agreement with the housing entity to reimburse it for any costs of
27 the employee obligations.

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

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

1 required compensation or remediation for such termination. Titles
2 of or headings used on or in a document shall not be relevant in
3 determining the existence of an enforceable obligation.

4 (F) Contracts or agreements necessary for the administration or
5 operation of the successor agency, in accordance with this part,
6 including, but not limited to, agreements concerning litigation
7 expenses related to assets or obligations, settlements and
8 judgments, and the costs of maintaining assets prior to disposition,
9 and agreements to purchase or rent office space, equipment and
10 supplies, and pay-related expenses pursuant to Section 33127 and
11 for carrying insurance pursuant to Section 33134.

12 (G) Amounts borrowed from, or payments owing to, the Low
13 and Moderate Income Housing Fund of a redevelopment agency,
14 which had been deferred as of the effective date of the act adding
15 this part; provided, however, that the repayment schedule is
16 approved by the oversight board. Repayments shall be transferred
17 to the Low and Moderate Income Housing Asset Fund established
18 pursuant to subdivision (d) of Section 34176 as a housing asset
19 and shall be used in a manner consistent with the affordable
20 housing requirements of the Community Redevelopment Law (Part
21 1 (commencing with Section 33000)).

22 (2) For purposes of this part, “enforceable obligation” does not
23 include any agreements, contracts, or arrangements between the
24 city, county, or city and county that created the redevelopment
25 agency and the former redevelopment agency. However, written
26 agreements entered into (A) at the time of issuance, but in no event
27 later than December 31, 2010, of indebtedness obligations, and
28 (B) solely for the purpose of securing or repaying those
29 indebtedness obligations may be deemed enforceable obligations
30 for purposes of this part. Notwithstanding this paragraph, loan
31 agreements entered into between the redevelopment agency and
32 the city, county, or city and county that created it, within two years
33 of the date of creation of the redevelopment agency, may be
34 deemed to be enforceable obligations.

35 (3) Contracts or agreements between the former redevelopment
36 agency and other public agencies, to perform services or provide
37 funding for governmental or private services or capital projects
38 outside of redevelopment project areas that do not provide benefit
39 to the redevelopment project and thus were not properly authorized
40 under Part 1 (commencing with Section 33000) shall be deemed

1 void on the effective date of this part; provided, however, that such
2 contracts or agreements for the provision of housing properly
3 authorized under Part 1 (commencing with Section 33000) shall
4 not be deemed void.

5 (4) *The department may determine that an agreement between*
6 *a former redevelopment agency and a joint powers authority that*
7 *was created to exercise the powers provided by the Military Base*
8 *Reuse Authority Act (Title 7.86 (commencing with Section 67800)*
9 *of the Government Code) is an enforceable obligation.*

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

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

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

22 (h) “Recognized Obligation Payment Schedule” means the
23 document setting forth the minimum payment amounts and due
24 dates of payments required by enforceable obligations for each
25 six-month fiscal period as provided in subdivision (m) of Section
26 34177.

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

29 (j) “Successor agency” means the successor entity to the former
30 redevelopment agency as described in Section 34173.

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

36 (l) “Property taxes” include all property tax revenues, including
37 those from unitary and supplemental and roll corrections applicable
38 to tax increment.

39 (m) “Department” means the Department of Finance unless the
40 context clearly refers to another state agency.

1 (n) “Sponsoring entity” means the city, county, or city and
2 county, or other entity that authorized the creation of each
3 redevelopment agency.

4 (o) “Final judicial determination” means a final judicial
5 determination made by any state court that is not appealed, or by
6 a court of appellate jurisdiction that is not further appealed, in an
7 action by any party.

8 (p) From July 1, 2014, to July 1, 2018, inclusive, “housing entity
9 administrative cost allowance” means an amount of up to 1 percent
10 of the property tax allocated to the Redevelopment Obligation
11 Retirement Fund on behalf of the successor agency for each
12 applicable fiscal year, but not less than one hundred fifty thousand
13 dollars (\$150,000) per fiscal year.

14 (1) If a local housing authority assumed the housing functions
15 of the former redevelopment agency pursuant to paragraph (2) or
16 (3) of subdivision (b) of Section 34176, then the housing entity
17 administrative cost allowance shall be listed by the successor
18 agency on the Recognized Obligation Payment Schedule. Upon
19 approval of the Recognized Obligation Payment Schedule by the
20 oversight board and the department, the housing entity
21 administrative cost allowance shall be remitted by the successor
22 agency on each January 2 and July 1 to the local housing authority
23 that assumed the housing functions of the former redevelopment
24 agency pursuant to paragraph (2) or (3) of subdivision (b) of
25 Section 34176.

26 (2) If there are insufficient moneys in the Redevelopment
27 Obligations Retirement Fund in a given fiscal year to make the
28 payment authorized by this subdivision, the unfunded amount may
29 be listed on each subsequent Recognized Obligation Payment
30 Schedule until it has been paid in full. In these cases the five-year
31 time limit on the payments shall not apply.