

**Role of the Oversight Board**  
**(Part 1.85 of Assembly Bill No. X1 26)**

Introduction:

Part 1.85 of Assembly Bill No. 26 (1<sup>st</sup> Ex. Sess.) (“AB 26”) is set forth at California Health and Safety Code Sections 34170 through 34191. Pursuant to Part 1.85 of AB 26, all redevelopment agencies in California were dissolved on February 1, 2012 and successor agencies were designated successor entities of the former redevelopment agencies and vested with the responsibility of winding down the business and fiscal affairs of the former redevelopment agency.

Section 34179 of AB 26 establishes a seven (7) member local entity with respect to each successor agency and such entity is titled the “oversight board.” The purpose of the oversight board is to generally oversee the activities of the successor agency and to approve certain actions of the successor agency in connection with the successor agency’s wind down of the affairs of the former redevelopment agency. The primary regulations that govern the oversight board are set forth at Sections 34179 through 34181 of AB 26.

Background:

Pursuant to Part 1.85 of AB 26, the City Council of the City of Imperial Beach (“City”) adopted Resolution No. 2012-7136 on January 5, 2012 electing for the City to serve as the successor agency to the Imperial Beach Redevelopment Agency (“RDA”) upon the dissolution of the RDA on February 1, 2012 under AB 26.

On February 15, 2012, the Board of Directors of the Successor Agency adopted Resolution No. SA-12-01 naming itself the “Imperial Beach Redevelopment Agency Successor Agency” (“Successor Agency”), the sole name by which the Successor Agency will exercise its powers and fulfill its duties pursuant to Part 1.85 of AB 26, and establishing itself as a separate legal entity with rules and regulations that will apply to the governance and operations of the Successor Agency.

The oversight board has been established for the Successor Agency (hereinafter referred to as the “Oversight Board”) and all seven (7) members have been appointed to the Oversight Board pursuant to Section 34179 of AB 26.

General Regulations of the Oversight Board:

Section 34179 of AB 26 provides the following regulations on the governance and operation of the Oversight Board:

- The Oversight Board includes seven (7) members who were selected as follows:
  - One member was appointed by the San Diego County Board of Supervisors.
  - One member was appointed by the Mayor of the City.

- One member was appointed by the San Diego County Water Authority (representing the largest special district, by tax share, with territory in the territorial jurisdiction of the former RDA).
  - One member was appointed by the County Board of Education.
  - One member was appointed by the Chancellor of the California Community Colleges from the Southwest Community College District to represent community college districts in the County.
  - One member of the public was appointed by the County Board of Supervisors.
  - One member was appointed by the Mayor of the City to represent the employees of the former RDA.
- The members of the Oversight Board shall elect one of their members to serve as the Chairperson and shall report the name of the Chairperson and other members of Oversight Board to the State Department of Finance on or before May 1, 2012.
  - The California Governor may appoint any Oversight Board member position that remains vacant for more than sixty (60) days.
  - A member of the Oversight Board may simultaneously be appointed to up to five (5) oversight boards and may hold an office in a city, county, city and county, special district, school district or community college district.
  - Commencing on and after July 1, 2016, there will only be one oversight board appointed for all successor agencies in San Diego County with the members appointed in accordance with Section 34179 of AB 26.
  - The Oversight Board shall cease to exist when all of the indebtedness of the former RDA has been repaid.
  - The Oversight Board may direct the staff of the Successor Agency to perform work in furtherance of the Oversight Board's duties and responsibilities under AB 26. The Successor Agency shall pay for all of the costs of meetings of the Oversight Board and may include such costs in its administrative budget.
  - Members of the Oversight Board shall serve without compensation or reimbursement for expenses.
  - Members of the Oversight Board shall have personal immunity from suit for their actions taken within the scope of their responsibilities under AB 26.
  - A majority of the total membership of the Oversight Board shall constitute a quorum for the transaction of business.
  - A majority vote of the total membership of the Oversight Board is required for the Oversight Board to take action.

- The Oversight Board is deemed a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974.
- All notices required by law for proposed Oversight Board actions shall also be posted on the Successor Agency's internet website or the Oversight Board's internet website.
- Each member of the Oversight Board shall serve at the pleasure of the entity that appointed such member.
- The State Department of Finance may review an Oversight Board action taken pursuant to AB 26. All Oversight Board actions shall not be effective for three (3) business days, pending a request for review by the State Department of Finance.
- If the State Department of Finance requests a review of a given Oversight Board action, the State Department of Finance shall have ten (10) days from the date of its request to approve the Oversight Board action or return it to the Oversight Board for reconsideration and such Oversight Board action shall not be effective until approved by the State Department of Finance. In the event that the State Department of Finance returns the Oversight Board action to the Oversight Board for reconsideration, the Oversight Board shall resubmit the modified action for the State Department of Finance approval and the modified Oversight Board action shall not become effective until approved by the State Department of Finance.
- The Oversight Board shall designate an official to whom the State Department of Finance may make requests to review an Oversight Board action and with whom the State Department of Finance may communicate in connection with such requests.
- The Oversight Board has a fiduciary responsibility to both the holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues.
- The Oversight Board has the authority and standing to appeal any judgment entered by a competent court of law or to set aside any settlement or arbitration decision against the former RDA.

Successor Agency Actions/Matters Requiring Oversight Board Approval:

- Section 34180 of AB 26 specifically requires that each of the following actions of the Successor Agency be first approved by the Oversight Board:
  - Establishing new repayment terms for outstanding loans where the terms have not been specified prior to February 1, 2012.
  - Refunding of outstanding bonds or other debt of the former RDA by the Successor Agency in order to provide for savings or to finance debt service spikes; provided, however, that no additional debt is created and debt service is not accelerated.

- Setting aside of amounts in reserves as required by indentures, trust indentures, or similar documents governing the issuance of outstanding bonds of the former RDA.
  - Merging of redevelopment project areas.
  - Continuing the acceptance of federal or state grants, or other forms of financial assistance from either public or private sources, where assistance is conditioned upon the provision of matching funds by the Successor Agency in an amount greater than five percent (5%).
  - If the City wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax for the value of the property retained. If no other agreement is reached on valuation of the retained assets, the value will be the fair market value as of the 2011 property tax lien date as determined by the County Assessor.
  - Establishing the Recognized Obligation Payment Schedule prepared by the Successor Agency for each upcoming six (6) month fiscal period.
  - A request by the Successor Agency to enter into an agreement with the City.
  - A request by the Successor Agency or taxing entity to pledge, or to enter into an agreement for the pledge of, property tax revenues pursuant to AB 26.
- In addition to the above, various sections of Part 1.85 of AB 26 require the Oversight Board's approval of the following actions of the Successor Agency:
- Amendments to the Enforceable Obligation Payment Schedule as may be adopted by the Successor Agency.
  - The Administrative Budget prepared by the Successor Agency for each upcoming six (6) month fiscal period.
  - The Administrative Cost Allowance amount, as estimated by the Successor Agency, that is payable to the Successor Agency from property tax revenues of up to five percent (5%) of the property tax allocated to the Successor Agency for the 2011–2012 fiscal year and up to three percent (3%) of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the Successor Agency for each fiscal year thereafter; provided, however, that the amount shall not be less than \$250,000 for any fiscal year or such lesser amount as agreed to by the Successor Agency.
  - The termination of any existing legally binding and enforceable agreements or contracts and providing any necessary and required compensation or remediation for such termination.
  - The repayment schedule of amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund of the former RDA, which had been deferred as of June 28, 2011.
  - Making payments for enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

- The use of other revenues not specified in Section 34177(l)(1), derived from the former RDA, as a source of payment for enforceable obligations listed on the Recognized Obligation Payment Schedule.
- Agreements with the City which the Successor Agency desires to enter, or reenter if previously entered by the former RDA.

Oversight Board Direction of the Successor Agency:

➤ Section 34181 of AB 26 requires the Oversight Board to direct the Successor Agency to do all of the following:

- Dispose of all assets and properties of the former RDA that were funded by tax increment revenues of the former RDA; provided, however, that the Oversight Board may instead direct the Successor Agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, and fire stations, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset.
- Cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations.
- Transfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the Imperial Beach Housing Authority as the successor housing entity under AB 26.
- Terminate any agreement, between the former RDA and any public entity located in the same County, obligating the former RDA to provide funding for any debt service obligations of the public entity or for the construction, or operation of facilities owned or operated by such public entity, in any instance where the Oversight Board has found that early termination would be in the best interests of the taxing entities.
- Determine whether any contracts, agreements, or other arrangements between the former RDA and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the Oversight Board for its approval. The Oversight Board may approve any amendments to or early termination of such agreements where it finds that amendments or early termination would be in the best interests of the taxing entities.

Duties of the Successor Agency:

Since the primary purpose of the Oversight Board, pursuant to AB 26, is to generally oversee activities of the Successor Agency in connection with the Successor Agency's wind down of the affairs of the former RDA, the following outlines the primary statutory duties of the Successor Agency under AB 26. However, not all actions taken by the Successor Agency in furtherance of its duties under AB 26 require Oversight Board approval or direction, which such approval or direction is limited to the actions of the Successor Agency stated above.

➤ Specifically, Section 34177 of AB 26 requires the Successor Agency to do all of the following:

- Continue to make payments due for enforceable obligations.
- Maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of bonds of the former RDA.
- Perform obligations required pursuant to enforceable obligations.
- Remit unencumbered balances of former RDA funds to the County Auditor-Controller for distribution to the taxing entities.
- Dispose of assets and properties of the former RDA as directed by the Oversight Board or otherwise transfer ownership of certain assets as directed by the Oversight Board.
- Enforce all former RDA rights for the benefit of the taxing entities.
- Effectuate the transfer of housing functions and assets to the Imperial Beach Housing Authority, as the successor housing entity under AB 26.
- Expeditiously wind down the affairs of the former RDA, in accordance with direction from the Oversight Board.
- Continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the former RDA can be transferred to other parties.
- Use bond proceeds for the purposes for which the bonds were sold unless the purposes can no longer be achieved.
- Prepare a proposed administrative budget for each upcoming six-month fiscal period and submit said budget to the Oversight Board for approval.
- Provide to the County Auditor-Controller the administrative cost estimates from the approved administrative budget for each upcoming six-month fiscal period that are to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund.
- Prepare a Recognized Obligation Payment Schedule before each six-month fiscal period and submit said schedule to the Oversight Board for approval. Once the Recognized Obligation Payment Schedule is approved, submit a copy of the approved Recognized Obligation Payment Schedule to the County Auditor-Controller, the State Controller's Office and the State Department of Finance, and post the approved Recognized Obligation Payment Schedule on the Successor Agency's internet website.