

**OVERSIGHT BOARD OF THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY**

**A G E N D A**

**APRIL 11, 2012**

**City of Imperial Beach Council Chambers  
825 Imperial Beach Boulevard  
Imperial Beach, CA 91932**

**SPECIAL MEETING – 9:00 A.M.**

The Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency is endeavoring to be in total compliance with the Americans with Disabilities Act (ADA). If you require assistance or auxiliary aids in order to participate at Oversight Board meetings, please contact the City Clerk's/Secretary's Office at (619) 423-8301, as far in advance of the meeting as possible.

**I. CALL TO ORDER**

**II. ROLL CALL BY CITY CLERK/SECRETARY**

**III. PUBLIC COMMENT** - Each person wishing to address the Oversight Board regarding items not on the posted agenda may do so at this time. In accordance with State law, the Oversight Board may not take action on an item not scheduled on the agenda. If appropriate, the item will be referred to the Successor Agency staff or placed on a future agenda.

**IV. NEW BUSINESS**

**A. INTRODUCTIONS AND OATH OF OFFICE ADMINISTERED TO OVERSIGHT BOARD MEMBERS.**

Recommendation: Following introductions of Board Members, City Clerk of the City of Imperial Beach/Secretary of the Imperial Beach Redevelopment Agency Successor Agency administers the Oath of Office.

**B. ELECTION OF OFFICERS AND OTHER ADMINISTRATIVE ACTIONS.**

Recommendation:

1. Elect a Chair and Vice Chair for the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency and
2. Adopt Resolution No. OB-12-01 regarding election of officers and
  - a. Authorizing the Secretary of the Imperial Beach Redevelopment Agency Successor Agency to notify the State Department of Finance of the elections and Members of the Oversight Board; and
  - b. Designating the Executive Director or his designee of the Imperial Beach Redevelopment Agency Successor Agency as the contact person to the State Department of Finance for inquiries regarding Oversight Board actions.

**C. GENERAL OVERVIEW OF CALIFORNIA REDEVELOPMENT AND TAX INCREMENT FINANCING.**

Recommendation: Receive the report on California Redevelopment and Tax Increment Financing.

**Any writings or documents provided to a majority of the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency regarding any item on this agenda will be made available for public inspection in the office of the City Clerk/Secretary located at 825 Imperial Beach Blvd., Imperial Beach, CA 91932 during normal business hours.**

**IV. NEW BUSINESS (CONTINUED)**

**D. REPORT REGARDING OVERVIEW OF AB X1 26 AND THE ROLE OF OVERSIGHT BOARD.**

Recommendation: Receive report regarding summary of legislation AB X1 26, role of the Oversight Board, discussion of legal counsel and applicability of the Brown Act and Political Reform Act.

**E. REQUEST FOR APPROVAL OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY ADMINISTRATIVE BUDGET FOR THE PERIOD OF JANUARY 1, 2012 THROUGH JUNE 30, 2012.**

Recommendation: Adopt Resolution No. OB-12-02 approving the Administrative Budget of the Imperial Beach Redevelopment Agency Successor Agency for January 1, 2012 through June 30, 2012 and related actions, as presented.

**F. REQUEST FOR APPROVAL OF THE AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS) FOR THE PERIOD OF JANUARY 1, 2012 THROUGH JUNE 30, 2012.**

Recommendation: Adopt Resolution No. OB-12-03 approving the amended ROPS for the period ending June 30, 2012, as presented.

**G. REQUEST FOR APPROVAL OF THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS) FOR THE PERIOD OF JULY 1, 2012 THROUGH DECEMBER 31, 2012.**

Recommendation: Adopt Resolution No. OB-12-04 approving the ROPS for the period of July 1, 2012 through December 31, 2012, as presented.

**H. OVERSIGHT BOARD MEETING SCHEDULE.**

Recommendation: Adopt Resolution No. OB-12-05, establishing the time, day, and place of regular meetings of the Oversight Board.

**V. OLD BUSINESS**

None.

**VI. ADJOURNMENT**

**For your convenience, a copy of the agenda and meeting packet may be viewed in the office of the City Clerk at City Hall or on our website at [www.cityofib.com](http://www.cityofib.com). Go to the Imperial Beach Redevelopment Agency Successor Agency page located under the Government Section.**

\_\_\_\_\_  
/s/  
Jacqueline M. Hald, MMC  
Secretary

**STAFF REPORT  
OVERSIGHT BOARD TO THE IMPERIAL BEACH REDEVELOPMENT AGENCY  
SUCCESSOR AGENCY**

**TO:** CHAIR AND MEMBERS OF THE OVERSIGHT BOARD TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR  
AGENCY

**FROM:** GARY BROWN, EXECUTIVE DIRECTOR

**MEETING DATE:** April 11, 2012

**SUBJECT:** INTRODUCTIONS AND OATH OF OFFICE ADMINISTERED TO  
OVERSIGHT BOARD MEMBERS

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**BACKGROUND:**

On Wednesday, June 15, 2011, the state legislature passed ABX1 26 ("AB 26") and ABX1 27 ("AB 27") relating to the dissolution and voluntary continuance of redevelopment agencies throughout the state. These bills were signed by Governor Brown on June 28, 2011. On July 18, 2011, the California Redevelopment Association, et al, filed a petition for Writ of Mandate and Application for Temporary Stay with the Supreme Court of the State of California (the "Petition"). On December 29, 2011, the Supreme Court largely upheld AB 26, invalidated AB 27, and held that AB 26 may be severed from AB 27 and enforced independently. The Supreme Court generally revised the effective dates and deadlines for performance of obligations in Part 1.85 (the dissolution provisions) arising before May 1, 2012 to take effect four months later. As a result of the Supreme Court's decision, on February 1, 2012, all redevelopment agencies were dissolved and replaced by successor agencies established pursuant to AB 26.

**DISCUSSION:**

The City Council adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85, electing for the City to serve as the successor agency to the Agency upon its dissolution under AB 26 ("Successor Agency"). Section 1.85 of the Health and Safety Code obligates the Successor Agency to perform certain powers and duties, including but not limited to, making payments and performing obligations required by enforceable obligations and expeditiously winding down the affairs of the former Redevelopment Agency.

AB 26 requires that each successor agency have an oversight board ("Oversight Board") composed of seven members appointed by specific governmental agencies. Each member of the Oversight Board serves at the pleasure of the entity that appointed such member. The appointees to the Oversight Board, listed alphabetically by last name are as follows:

- Deric Fernandez, Employee Benefits Advisor, Benefit Pro Insurance Services, Inc.  
(Appointed by the Mayor of the City of Imperial Beach)
- Tyler Foltz, Associate Planner, City of Imperial Beach  
(Mayoral appointee from the employee organization representing the former Imperial Beach Redevelopment Agency employees)
- Valerie Goodwin-Colbert, Professor, Academic Senate Office  
(Appointed by Southwestern Community College District Governing Board)
- Daniel S. Hentschke, General Counsel, San Diego County Water Authority  
(Appointed by San Diego County Water Authority)
- Abdollah "Abby" Saadat, Assistant Superintendent, South Bay Union School District  
(Appointed by South Bay Union School District)
- Mark West, Career Naval Officer  
(Appointed by the County of San Diego Board of Supervisors)
- Mayda Winter, Project/Grant Administrator, Southwest Wetlands Interpretive Association  
(Appointed by the County of San Diego Board of Supervisors)

**ENVIRONMENTAL DETERMINATION:**

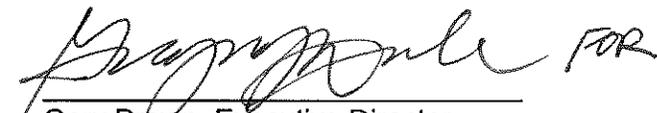
This activity is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**FISCAL IMPACT:**

None related to this report.

**EXECUTIVE DIRECTOR'S RECOMMENDATION:**

Following the introductions of Board Members, it is recommended that the Oath of Office be administered by the City Clerk.

  
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 Gary Brown, Executive Director,

Imperial Beach Redevelopment Agency Successor Agency

STAFF REPORT  
OVERSIGHT BOARD TO THE IMPERIAL BEACH REDEVELOPMENT AGENCY  
SUCCESSOR AGENCY

TO: CHAIR AND MEMBERS OF THE OVERSIGHT BOARD TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR  
AGENCY

FROM: GARY BROWN, EXECUTIVE DIRECTOR

MEETING DATE: APRIL 11, 2012

SUBJECT: ELECTION OF OFFICERS AND OTHER ADMINISTRATIVE  
ACTIONS

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**BACKGROUND:**

AB 26 requires that there shall be an oversight board ("Oversight Board") established for each of the former California redevelopment agency's successor agencies to supervise the activities of the Successor Agency and the wind down of the dissolved Redevelopment Agency's affairs pursuant to AB 26.

**DISCUSSION:**

The Oversight Board must elect one of its members as Chair to preside over the Oversight Board meetings. It is also recommended that a Vice Chair be elected to preside over meetings in the absence of the Chair.

A majority of the total membership of the Oversight Board constitutes a quorum (four members) for the transaction of business. Four (4) affirmative votes are required to approve any action taken by the Oversight Board. Given the lack of a Chair or Vice Chair, it is recommended that the Deputy Executive Director open and close nominations to the Oversight Board for the election of Chair. The nominee receiving at least four affirmative votes will be elected as Chair. The same process would be facilitated by the Chair for the election of a Vice Chair.

**ENVIRONMENTAL DETERMINATION:**

This activity is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

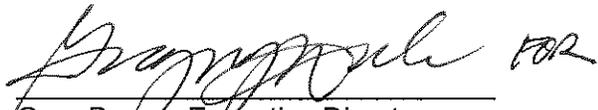
**FISCAL IMPACT:**

None related to this report.

**EXECUTIVE DIRECTOR'S RECOMMENDATION:**

It is recommended that the Oversight Board:

1. Elect a Chair and Vice Chair for the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency; and
2. Adopt Resolution No. OB-12-01 regarding election of officers and:
  - a. Authorizing the Secretary of the Imperial Beach Redevelopment Agency Successor Agency to notify the State Department of Finance of the elections and Members of the Oversight Board; and
  - b. Designating the Executive Director or his designee of the Imperial Beach Redevelopment Agency Successor Agency as the contact person to the State Department of Finance for inquiries regarding Oversight Board actions.



Gary Brown, Executive Director,  
Imperial Beach Redevelopment Agency Successor Agency

ATTACHMENT 1 RESOLUTION NO. OB-12-01

## RESOLUTION NO. OB-12-01

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY REGARDING ELECTION OF OFFICERS AND OTHER ADMINISTRATIVE ACTIONS**

**WHEREAS**, the Imperial Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Imperial Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

**WHEREAS**, A.B. No. 26 (1st Ex. Sess.) ("AB 26") and A.B. No. 27 (1st Ex. Sess.) ("AB 27") were signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the California Health and Safety Code ("Health and Safety Code"); and

**WHEREAS**, the California Redevelopment Association and League of California Cities filed a *lawsuit in the Supreme Court of California (California Redevelopment Association, et al. v. Matosantos, et al., Case No. S194861)* alleging that AB 26 and AB 27 were unconstitutional; and

**WHEREAS**, on December 29, 2011, the Supreme Court issued its opinion in the *Matosantos* case largely upholding AB 26, invalidating AB 27, and holding that AB 26 may be severed from AB 27 and enforced independently; and

**WHEREAS**, the Supreme Court generally revised the effective dates and deadlines for performance of obligations in Part 1.85 arising before May 1, 2012 to take effect four months later; and

**WHEREAS**, as a result of the Supreme Court's decision, on February 1, 2012, all redevelopment agencies were dissolved and replaced by successor agencies established pursuant to Health and Safety Code Section 34173; and

**WHEREAS**, the City Council of the City adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

**WHEREAS**, 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," the sole name by which it 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; and

**WHEREAS**, AB 26 requires that there shall be an oversight board ("Oversight Board") established for each of the former California redevelopment agency's successor agencies to supervise the activities of the Successor Agency and the wind down of the dissolved Redevelopment Agency's affairs pursuant to AB 26; and

**WHEREAS**, on April 11, 2012, the first meeting of the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency took place and Oversight Board Members were duly sworn into office.

**NOW, THEREFORE, BE IT RESOLVED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency, as follows:

SECTION 1. The Oversight Board hereby elects \_\_\_\_\_ as the Chairperson and \_\_\_\_\_ as the Vice Chairperson of the Oversight Board.

SECTION 2. The Oversight Board hereby authorizes the Secretary of the Imperial Beach Redevelopment Agency Successor Agency to notify the State Department of Finance of such elections.

SECTION 3. The Oversight Board hereby designates the Executive Director of the Imperial Beach Redevelopment Agency Successor Agency, or his designee as the contact person for the State Department of Finance for inquiries regarding Oversight Board actions.

**PASSED, APPROVED, AND ADOPTED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency at its meeting held on the 11th day of April 2012, by the following vote:

**AYES:           BOARD MEMBERS:**  
**NOES:           BOARD MEMBERS:**  
**ABSENT:       BOARD MEMBERS:**

\_\_\_\_\_  
**CHAIRPERSON**

**ATTEST:**

\_\_\_\_\_  
**JACQUELINE M. HALD, MMC**  
**SECRETARY**

**STAFF REPORT  
OVERSIGHT BOARD  
TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY**

**TO:** CHAIR AND MEMBERS OF THE OVERSIGHT BOARD TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR  
AGENCY

**FROM:** GARY BROWN, EXECUTIVE DIRECTOR  
GREGORY WADE, DEPUTY DIRECTOR *BN*

**MEETING DATE:** APRIL 11, 2012

**SUBJECT:** GENERAL OVERVIEW OF CALIFORNIA REDEVELOPMENT AND  
TAX INCREMENT FINANCING

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**BACKGROUND:**

On Wednesday, June 15, 2011, the state legislature passed AB X1 26 ("AB 26") and AB x1 27 ("AB 27") relating to the dissolution and voluntary continuance of redevelopment agencies throughout the state. These bills were signed by Governor Brown on June 28, 2011. On July 18, 2011, the California Redevelopment Association, et al, filed a petition for Writ of Mandate and Application for Temporary Stay with the Supreme Court of the State of California (the "Petition"). On December 29, 2011, the Supreme Court largely upheld AB 26, invalidated AB 27, and held that AB 26 may be severed from AB 27 and enforced independently. The Supreme Court generally revised the effective dates and deadlines for performance of obligations in Part 1.85 (the dissolution provisions) arising before May 1, 2012 to take effect four months later. As a result of the Supreme Court's decision, on February 1, 2012, all redevelopment agencies were dissolved and replaced by successor agencies that were established pursuant to AB 26.

**DISCUSSION:**

At the first meeting of the Oversight Board for the Imperial Beach Redevelopment Agency Successor Agency, staff will provide a brief overview of Redevelopment in California and give a brief overview of how Tax Increment Financing under California Redevelopment Law previously worked.

**ENVIRONMENTAL DETERMINATION:**

This activity is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**FISCAL IMPACT:**

None related to this report.

**EXECUTIVE DIRECTOR'S RECOMMENDATION:**

It is recommended that the Chair and Members of the Oversight Board receive the report on California Redevelopment and Tax Increment Financing.

 FOR

Gary Brown, Executive Director  
Imperial Beach Redevelopment Agency Successor Agency

Attachments: None.

**STAFF REPORT  
OVERSIGHT BOARD  
TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY**

**TO:** CHAIR AND MEMBERS OF THE OVERSIGHT BOARD TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR  
AGENCY

**FROM:** GARY BROWN, EXECUTIVE DIRECTOR  
GREGORY WADE, DEPUTY DIRECTOR *GW*

**MEETING DATE:** APRIL 11, 2012

**SUBJECT:** REPORT REGARDING OVERVIEW OF AB X1 26 AND THE ROLE  
OF OVERSIGHT BOARD

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**BACKGROUND:**

On Wednesday, June 15, 2011, the state legislature passed AB X1 26 ("AB 26") and AB x1 27 ("AB 27") relating to the dissolution and voluntary continuance of redevelopment agencies throughout the state. These bills were signed by Governor Brown on June 28, 2011. On July 18, 2011, the California Redevelopment Association, et al, filed a petition for Writ of Mandate and Application for Temporary Stay with the Supreme Court of the State of California (the "Petition"). On December 29, 2011, the Supreme Court largely upheld AB 26, invalidated AB 27, and held that AB 26 may be severed from AB 27 and enforced independently. The Supreme Court generally revised the effective dates and deadlines for performance of obligations in Part 1.85 (the dissolution provisions) arising before May 1, 2012 to take effect four months later. As a result of the Supreme Court's decision, on February 1, 2012, all redevelopment agencies were dissolved and replaced by successor agencies that were established pursuant to AB 26.

**DISCUSSION:**

The City Council adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85, electing for the City to serve as the successor agency to the Agency upon the dissolution of the Agency under AB 26 ("Successor Agency"). Section 1.85 of the Health and Safety Code obligates the Successor Agency to perform certain powers and duties, including but not limited to, making payments and performing obligations required by enforceable obligations and expeditiously winding down the affairs of the former Redevelopment Agency.

AB 26 requires that there shall be an oversight board ("Oversight Board") established for each of the former California redevelopment agency's successor agencies. The Oversight Board supervises the activities of the Successor Agency and the wind down of the dissolved redevelopment agency's affairs pursuant to AB 26. It approves certain actions of the Successor Agency and provides direction to the Successor Agency. It has a fiduciary responsibility to

holders of enforceable obligations and taxing entities that benefit from the distributions of property tax and other revenues of the Successor Agency.

Other considerations of which the Oversight Board must be made aware are as follows:

#### Legal Counsel

It is important to note for the Oversight Board's information that, due to ethical and legal considerations in connection with the provision of legal advice and services, the designated legal counsel for the City of Imperial Beach and the Imperial Beach Redevelopment Agency Successor Agency cannot also serve as legal counsel for the Oversight Board. Should the Oversight Board desire legal counsel in order to receive legal advice and services in connection with the Oversight Board's performance of its duties and obligations pursuant to AB 26, the Oversight Board will need to retain separate legal counsel.

#### The Brown Act

Pursuant to Section 34179(e) of AB 26, the Oversight Board is subject to the regulations of the Ralph M. Brown Act (the "Brown Act") set forth at California Government Code § 54950 et. seq. A primary purpose of the Brown Act is to ensure that public agencies deliberate and conduct their business in open public meetings that are open and accessible to the public.

#### The Political Reform Act

Pursuant to Section 34179(e) of AB 26, members of the Oversight Board are subject to the regulations of the Political Reform Act of 1974 (the "Political Reform Act") set forth at California Government Code § 81000 et. seq. (including the California Fair Political Practices Commission regulations implementing the Political Reform Act at California Code of Regulations, Title 2, Division 6, § 18110 et. seq. In this regard, Oversight Board members must file Form 700 (Assuming Office Statement) with the City Clerk/Secretary within thirty (30) calendar days of the first meeting of the Oversight Board, if not already filing as an officer of the City of Imperial Beach. A primary purpose of the Political Reform Act is to ensure that public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them.

#### The Public Records Act

Pursuant to Section 34179(e) of AB 26, the Oversight Board is subject to the regulations of the California Public Records Act (the "Public Records Act") set forth at California Government Code § 6250 et. seq. A primary purpose of the Public Records Act is to provide the public access to governmental records that enables them to monitor the functioning of their government.

The attached materials are provided to the Chair and Members of the Oversight Board as instructional materials on the scope and nature of their responsibilities, duties and obligations under AB X1 26.

#### **ENVIRONMENTAL DETERMINATION:**

This activity is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**FISCAL IMPACT:**

None related to this report.

**EXECUTIVE DIRECTOR'S RECOMMENDATION:**

It is recommended that the Chair and Members of the Oversight Board receive this report.

A handwritten signature in black ink, appearing to read "Gary Brown FOR". The signature is written in a cursive style and is positioned above a horizontal line.

Gary Brown, Executive Director  
Imperial Beach Redevelopment Agency Successor Agency

Attachments:

1. AB X1 26
2. Ralph M. Brown Act information (open meetings)
3. Form 700 Statement of Economic Interests Reference Pamphlet



**Assembly Bill No. 26**

CHAPTER 5

An act to amend Sections 33500, 33501, 33607.5, and 33607.7 of, and to add Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of, the Health and Safety Code, and to add Sections 97.401 and 98.2 to the Revenue and Taxation Code, relating to redevelopment, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 28, 2011. Filed with  
Secretary of State June 29, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 26, Blumenfeld. Community redevelopment.

(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law provides that an action may be brought to review the validity of the adoption or amendment of a redevelopment plan by an agency, to review the validity of agency findings or determinations, and other agency actions.

This bill would revise the provisions of law authorizing an action to be brought against the agency to determine or review the validity of specified agency actions.

(2) Existing law also requires that if an agency ceases to function, any surplus funds existing after payment of all obligations and indebtedness vest in the community.

The bill would suspend various agency activities and prohibit agencies from incurring indebtedness commencing on the effective date of this act. Effective October 1, 2011, the bill would dissolve all redevelopment agencies and community development agencies in existence and designate successor agencies, as defined, as successor entities. The bill would impose various requirements on the successor agencies and subject successor agency actions to the review of oversight boards, which the bill would establish.

The bill would require county auditor-controllers to conduct an agreed-upon procedures audit of each former redevelopment agency by March 1, 2012. The bill would require the county auditor-controller to determine the amount of property taxes that would have been allocated to each redevelopment agency if the agencies had not been dissolved and deposit this amount in a Redevelopment Property Tax Trust Fund in the county. Revenues in the trust fund would be allocated to various taxing entities in the county and to cover specified expenses of the former agency. By imposing additional duties upon local public officials, the bill would create a state-mandated local program.

(3) The bill would prohibit a redevelopment agency from issuing new bonds, notes, interim certificates, debentures, or other obligations if any legal challenge to invalidate a provision of this act is successful.

(4) The bill would appropriate \$500,000 to the Department of Finance from the General Fund for administrative costs associated with the bill.

(5) The bill would provide that its provisions take effect only if specified legislation is enacted in the 2011–12 First Extraordinary Session of the Legislature.

(6) 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.

(7) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(8) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The economy and the residents of this state are slowly recovering from the worst recession since the Great Depression.

(b) State and local governments are still facing incredibly significant declines in revenues and increased need for core governmental services.

(c) Local governments across this state continue to confront difficult choices and have had to reduce fire and police protection among other services.

(d) Schools have faced reductions in funding that have caused school districts to increase class size and layoff teachers, as well as make other hurtful cuts.

(e) Redevelopment agencies have expanded over the years in this state. The expansion of redevelopment agencies has increasingly shifted property taxes away from services provided to schools, counties, special districts, and cities.

(f) Redevelopment agencies take in approximately 12 percent of all of the property taxes collected across this state.

(g) It is estimated that under current law, redevelopment agencies will divert \$5 billion in property tax revenue from other taxing agencies in the 2011–12 fiscal year.

(h) The Legislature has all legislative power not explicitly restricted to it. The California Constitution does not require that redevelopment agencies must exist and, unlike other entities such as counties, does not limit the Legislature’s control over that existence. Redevelopment agencies were created by statute and can therefore be dissolved by statute.

(i) Upon their dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment. Instead, those taxes will be deemed property tax revenues and will be allocated first to successor agencies to make payments on the indebtedness incurred by the dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions.

(j) It is the intent of the Legislature to do all of the following in this act:

(1) Bar existing redevelopment agencies from incurring new obligations, prior to their dissolution.

(2) Allocate property tax revenues to successor agencies for making payments on indebtedness incurred by the redevelopment agency prior to its dissolution and allocate remaining balances in accordance with applicable constitutional and statutory provisions.

(3) Beginning October 1, 2011, allocate these funds according to the existing property tax allocation within each county to make the funds available for cities, counties, special districts, and school and community college districts.

(4) Require successor agencies to expeditiously wind down the affairs of the dissolved redevelopment agencies and to provide the successor agencies with limited authority that extends only to the extent needed to implement a winddown of redevelopment agency affairs.

SEC. 2. Section 33500 of the Health and Safety Code is amended to read:

33500. (a) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within 90 days after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred prior to January 1, 2011.

(b) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within 90 days after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred prior to January 1, 2011.

(c) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a

redevelopment plan at any time within two years after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred after January 1, 2011.

(d) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within two years after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred after January 1, 2011.

SEC. 3. Section 33501 of the Health and Safety Code is amended to read:

33501. (a) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including without limiting the generality of the foregoing, the legality and validity of all proceedings theretofore taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds, and for the payment of the principal thereof and interest thereon.

(b) Notwithstanding subdivision (a), an action to determine the validity of a redevelopment plan, or amendment to a redevelopment plan that was adopted prior to January 1, 2011, may be brought within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(c) Any action that is commenced on or after January 1, 2011, which is brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity or legality of any issue, document, or action described in subdivision (a), may be brought within two years after any triggering event that occurred after January 1, 2011.

(d) For the purposes of protecting the interests of the state, the Attorney General and the Department of Finance are interested persons pursuant to Section 863 of the Code of Civil Procedure in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

(e) For purposes of contesting the inclusion in a project area of lands that are enforceably restricted, as that term is defined in Sections 422 and 422.5 of the Revenue and Taxation Code, or lands that are in agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, the Department of Conservation, the county agricultural commissioner, the

county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice, are interested persons pursuant to Section 863 of the Code of Civil Procedure, in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

SEC. 4. Section 33607.5 of the Health and Safety Code is amended to read:

33607.5. (a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan which contains the provisions required by Section 33670, is either: (A) adopted on or after January 1, 1994, including later amendments to these redevelopment plans; or (B) adopted prior to January 1, 1994, but amended, after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 has been deducted from the total amount of tax increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. The payments made pursuant to this section to the affected taxing entities, including the community, shall be allocated among the affected taxing entities, including the community if the community elects to receive payments, in proportion to the percentage share of property taxes each affected taxing entity, including the community, receives during the fiscal year the funds are allocated, which percentage share shall be determined without regard to any amounts allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code, and without regard to any allocation reductions to a city, a city and county, a county, a special district, or a redevelopment agency pursuant to Sections 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and Section 33681.12. The agency shall reduce its payments pursuant to this section to an affected taxing entity by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, 33445.6, 33446, or any other provision of law other than this section for, or in connection with, a public facility owned or leased by that affected taxing agency, except: (A) any amounts the agency has paid directly or indirectly pursuant to an agreement with a taxing entity adopted prior to January 1, 1994; or (B) any amounts that are unrelated to the specific project area or amendment governed by this section. The reduction in a payment by an agency to a school district, community college district, or county office of education, or for special education, shall be subtracted only from the amount that otherwise would be available for use by those entities for educational facilities pursuant to paragraph (4). If the amount of the reduction exceeds the amount that otherwise would have been available for use for educational

facilities in any one year, the agency shall reduce its payment in more than one year.

(3) If an agency reduces its payment to a school district, community college district, or county office of education, or for special education, the agency shall do all of the following:

(A) Determine the amount of the total payment that would have been made without the reduction.

(B) Determine the amount of the total payment without the reduction which: (i) would have been considered property taxes; and (ii) would have been available to be used for educational facilities pursuant to paragraph (4).

(C) Reduce the amount available to be used for educational facilities.

(D) Send the payment to the school district, community college district, or county office of education, or for special education, with a statement that the payment is being reduced and including the calculation required by this subdivision showing the amount to be considered property taxes and the amount, if any, available for educational facilities.

(4) (A) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to school districts, 43.3 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 56.7 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(B) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(C) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of Section 2558 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(D) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section for special education, 19 percent shall be considered to be property taxes for the purposes of Section 56712 of the

Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for education facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(E) If, pursuant to paragraphs (2) and (3), an agency reduces its payments to an educational entity, the calculation made by the agency pursuant to paragraph (3) shall determine the amount considered to be property taxes and the amount available to be used for educational facilities in the year the reduction was made.

(5) Local education agencies that use funds received pursuant to this section for school facilities shall spend these funds at schools that are: (A) within the project area, (B) attended by students from the project area, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, or (D) determined by the governing board of a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, including the community if the community elects to receive a payment, an amount equal to 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. In any fiscal year in which the agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive the amount authorized by this paragraph.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivision (b) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 21 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment revenues.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivisions (b) and (c) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 14 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate

against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) Prior to incurring any loans, bonds, or other indebtedness, except loans or advances from the community, the agency may subordinate to the loans, bonds, or other indebtedness the amount required to be paid to an affected taxing entity by this section, provided that the affected taxing entity has approved these subordinations pursuant to this subdivision.

(2) At the time the agency requests an affected taxing entity to subordinate the amount to be paid to it, the agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service and the payments required by this section, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the agency will not be able to pay the debt payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(f) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected taxing entities may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected taxing entities during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected taxing entities, or to pay for public facilities that will be owned or leased to an affected taxing entity.

(g) As used in this section, a "local education agency" is a school district, a community college district, or a county office of education.

SEC. 5. Section 33607.7 of the Health and Safety Code is amended to read:

33607.7. (a) This section shall apply to a redevelopment plan amendment for any redevelopment plans adopted prior to January 1, 1994, that increases the limitation on the number of dollars to be allocated to the redevelopment agency or that increases, or eliminates pursuant to paragraph (1) of subdivision (e) of Section 33333.6, the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1)

and (2) of subdivision (a) of Section 33333.6, as those paragraphs read on December 31, 2001, or that lengthens the period during which the redevelopment plan is effective if the redevelopment plan being amended contains the provisions required by subdivision (b) of Section 33670. However, this section shall not apply to those redevelopment plans that add new territory.

(b) If a redevelopment agency adopts an amendment that is governed by the provisions of this section, it shall pay to each affected taxing entity either of the following:

(1) If an agreement exists that requires payments to the taxing entity, the amount required to be paid by an agreement between the agency and an affected taxing entity entered into prior to January 1, 1994.

(2) If an agreement does not exist, the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5, until termination of the redevelopment plan, calculated against the amount of assessed value by which the current year assessed value exceeds an adjusted base year assessed value. The amounts shall be allocated between property taxes and educational facilities, including, in the case of amounts paid during the 2011–12 fiscal year through the 2015–16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance, according to the appropriate formula in paragraph (3) of subdivision (a) of Section 33607.5. In determining the applicable amount under Section 33607.5, the first fiscal year shall be the first fiscal year following the fiscal year in which the adjusted base year value is determined.

(c) The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment. The agency shall commence making these payments pursuant to the terms of the agreement, if applicable, or, if an agreement does not exist, in the first fiscal year following the fiscal year in which the adjusted base year value is determined.

SEC. 6. Part 1.8 (commencing with Section 34161) is added to Division 24 of the Health and Safety Code, to read:

PART 1.8. RESTRICTIONS ON REDEVELOPMENT AGENCY OPERATIONS

CHAPTER 1. SUSPENSION OF AGENCY ACTIVITIES AND PROHIBITION ON CREATION OF NEW DEBTS

34161. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, no agency shall incur new or expand existing monetary or legal obligations except as provided in this

part. All of the provisions of this part shall take effect and be operative on the effective date of the act adding this part.

34162. (a) Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this act, an agency shall be unauthorized and shall not take any action to incur indebtedness, including, but not limited to, any of the following:

(1) Issue or sell bonds, for any purpose, regardless of the source of repayment of the bonds. As used in this section, the term “bonds,” includes, but is not limited to, any bonds, notes, bond anticipation notes, interim certificates, debentures, certificates of participation, refunding bonds, or other obligations issued by an agency pursuant to Part 1 (commencing with Section 33000), and Section 53583 of the Government Code, pursuant to any charter city authority or any revenue bond law.

(2) Incur indebtedness payable from prohibited sources of repayment, which include, but are not limited to, income and revenues of an agency’s redevelopment projects, taxes allocated to the agency, taxes imposed by the agency pursuant to Section 7280.5 of the Revenue and Taxation Code, assessments imposed by the agency, loan repayments made to the agency pursuant to Section 33746, fees or charges imposed by the agency, other revenues of the agency, and any contributions or other financial assistance from the state or federal government.

(3) Refund, restructure, or refinance indebtedness or obligations that existed as of January 1, 2011, including, but not limited to, any of the following:

(A) Refund bonds previously issued by the agency or by another political subdivision of the state, including, but not limited to, those issued by a city, a housing authority, or a nonprofit corporation acting on behalf of a city or a housing authority.

(B) Exercise the right of optional redemption of any of its outstanding bonds or elect to purchase any of its own outstanding bonds.

(C) Modify or amend the terms and conditions, payment schedules, amortization or maturity dates of any of the agency’s bonds or other obligations that are outstanding or exist as of January 1, 2011.

(4) Take out or accept loans or advances, for any purpose, from the state or the federal government, any other public agency, or any private lending institution, or from any other source. For purposes of this section, the term “loans” include, but are not limited to, agreements with the community or any other entity for the purpose of refinancing a redevelopment project and moneys advanced to the agency by the community or any other entity for the expenses of redevelopment planning, expenses for dissemination of redevelopment information, other administrative expenses, and overhead of the agency.

(5) Execute trust deeds or mortgages on any real or personal property owned or acquired by it.

(6) Pledge or encumber, for any purpose, any of its revenues or assets. As used in this part, an agency's "revenues and assets" include, but are not limited to, agency tax revenues, redevelopment project revenues, other agency revenues, deeds of trust and mortgages held by the agency, rents, fees, charges, moneys, accounts receivable, contracts rights, and other rights to payment of whatever kind or other real or personal property. As used in this part, to "pledge or encumber" means to make a commitment of, by the grant of a lien on and a security interest in, an agency's revenues or assets, whether by resolution, indenture, trust agreement, loan agreement, lease, installment sale agreement, reimbursement agreement, mortgage, deed of trust, pledge agreement, or similar agreement in which the pledge is provided for or created.

(b) Any actions taken that conflict with this section are void from the outset and shall have no force or effect.

(c) Notwithstanding subdivision (a), a redevelopment agency may issue refunding bonds, which are referred to in this part as Emergency Refunding Bonds, only where all of the following conditions are met:

(1) The issuance of Emergency Refunding Bonds is the only means available to the agency to avoid a default on outstanding agency bonds.

(2) Both the county treasurer and the Treasurer have approved the issuance of Emergency Refunding Bonds.

(3) Emergency Refunding Bonds are issued only to provide funds for any single debt service payment that is due prior to October 1, 2011, and that is more than 20 percent larger than a level debt service payment would be for that bond.

(4) The principal amount of outstanding agency bonds is not increased. 34163. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following:

(a) Make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose, including, but not limited to, all of the following:

(1) Loans of moneys or any other thing of value or commitments to provide financing to nonprofit organizations to provide those organizations with financing for the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing or the acquisition of commercial property for lease, each pursuant to Chapter 7.5 (commencing with Section 33741) of Part 1.

(2) Loans of moneys or any other thing of value for residential construction, improvement, or rehabilitation pursuant to Chapter 8 (commencing with Section 33750) of Part 1. These include, but are not limited to, construction loans to purchasers of residential housing, mortgage loans to purchasers of residential housing, and loans to mortgage lenders, or any other entity, to aid in financing pursuant to Chapter 8 (commencing with Section 33750).

(3) The purchase, by an agency, of mortgage or construction loans from mortgage lenders or from any other entities.

(b) Enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private, or any individual or groups of individuals for any purpose, including, but not limited to, loan agreements, passthrough agreements, regulatory agreements, services contracts, leases, disposition and development agreements, joint exercise of powers agreements, contracts for the purchase of capital equipment, agreements for redevelopment activities, including, but not limited to, agreements for planning, design, redesign, development, demolition, alteration, construction, reconstruction, rehabilitation, site remediation, site development or improvement, removal of graffiti, land clearance, and seismic retrofits.

(c) Amend or modify existing agreements, obligations, or commitments with any entity, for any purpose, including, but not limited to, any of the following:

(1) Renewing or extending term of leases or other agreements, except that the agency may extend lease space for its own use to a date not to exceed six months after the effective date of the act adding this part and for a rate no more than 5 percent above the rate the agency currently pays on a monthly basis.

(2) Modifying terms and conditions of existing agreements, obligations, or commitments.

(3) Forgiving all or any part of the balance owed to the agency on existing loans or extend the term or change the terms and conditions of existing loans.

(4) Increasing its deposits to the Low and Moderate Income Housing Fund created pursuant to Section 33334.3 beyond the minimum level that applied to it as of January 1, 2011.

(5) Transferring funds out of the Low and Moderate Income Housing Fund, except to meet the minimum housing-related obligations that existed as of January 1, 2011, to make required payments under Sections 33690 and 33690.5, and to borrow funds pursuant to Section 34168.5.

(d) Dispose of assets by sale, long-term lease, gift, grant, exchange, transfer, assignment, or otherwise, for any purpose, including, but not limited to, any of the following:

(1) Assets, including, but not limited to, real property, deeds of trust, and mortgages held by the agency, moneys, accounts receivable, contract rights, proceeds of insurance claims, grant proceeds, settlement payments, rights to receive rents, and any other rights to payment of whatever kind.

(2) Real property, including, but not limited to, land, land under water and waterfront property, buildings, structures, fixtures, and improvements on the land, any property appurtenant to, or used in connection with, the land, every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens.

(e) Acquire real property by any means for any purpose, including, but not limited to, the purchase, lease, or exercising of an option to purchase or lease, exchange, subdivide, transfer, assume, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise acquire any real property, any interest in real property, and any improvements on it, including the repurchase of developed property previously owned by the agency and the acquisition of real property by eminent domain; provided, however, that nothing in this subdivision is intended to prohibit the acceptance or transfer of title for real property acquired prior to the effective date of this part.

(f) Transfer, assign, vest, or delegate any of its assets, funds, rights, powers, ownership interests, or obligations for any purpose to any entity, including, but not limited to, the community, the legislative body, another member of a joint powers authority, a trustee, a receiver, a partner entity, another agency, a nonprofit corporation, a contractual counterparty, a public body, a limited-equity housing cooperative, the state, a political subdivision of the state, the federal government, any private entity, or an individual or group of individuals.

(g) Accept financial or other assistance from the state or federal government or any public or private source if the acceptance necessitates or is conditioned upon the agency incurring indebtedness as that term is described in this part.

34164. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, engage in any of the following redevelopment activities:

(a) Prepare, approve, adopt, amend, or merge a redevelopment plan, including, but not limited to, modifying, extending, or otherwise changing the time limits on the effectiveness of a redevelopment plan.

(b) Create, designate, merge, expand, or otherwise change the boundaries of a project area.

(c) Designate a new survey area or modify, extend, or otherwise change the boundaries of an existing survey area.

(d) Approve or direct or cause the approval of any program, project, or expenditure where approval is not required by law.

(e) Prepare, formulate, amend, or otherwise modify a preliminary plan or cause the preparation, formulation, modification, or amendment of a preliminary plan.

(f) Prepare, formulate, amend, or otherwise modify an implementation plan or cause the preparation, formulation, modification, or amendment of an implementation plan.

(g) Prepare, formulate, amend, or otherwise modify a relocation plan or cause the preparation, formulation, modification, or amendment of a relocation plan where approval is not required by law.

(h) Prepare, formulate, amend, or otherwise modify a redevelopment housing plan or cause the preparation, formulation, modification, or amendment of a redevelopment housing plan.

(i) Direct or cause the development, rehabilitation, or construction of housing units within the community, unless required to do so by an enforceable obligation.

(j) Make or modify a declaration or finding of blight, blighted areas, or slum and blighted residential areas.

(k) Make any new findings or declarations that any areas of blight cannot be remedied or redeveloped by private enterprise alone.

(l) Provide or commit to provide relocation assistance, except where the provision of relocation assistance is required by law.

(m) Provide or commit to provide financial assistance.

34165. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, do any of the following:

(a) Enter into new partnerships, become a member in a joint powers authority, form a joint powers authority, create new entities, or become a member of any entity of which it is not currently a member, nor take on nor agree to any new duties or obligations as a member or otherwise of any entity to which the agency belongs or with which it is in any way associated.

(b) Impose new assessments pursuant to Section 7280.5 of the Revenue and Taxation Code.

(c) Increase the pay, benefits, or contributions of any sort for any officer, employee, consultant, contractor, or any other goods or service provider that had not previously been contracted.

(d) Provide optional or discretionary bonuses to any officers, employees, consultants, contractors, or any other service or goods providers.

(e) Increase numbers of staff employed by the agency beyond the number employed as of January 1, 2011.

(f) Bring an action pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of revenue bonds under this chapter and the legality and validity of all proceedings previously taken or proposed in a resolution of an agency to be taken for the authorization, issuance, sale, and delivery of the revenue bonds and for the payment of the principal thereof and interest thereon.

(g) Begin any condemnation proceeding or begin the process to acquire real property by eminent domain.

(h) Prepare or have prepared a draft environmental impact report. This subdivision shall not alter or eliminate any requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

34166. No legislative body or local governmental entity shall have any statutory authority to create or otherwise establish a new redevelopment

agency or community development commission. No chartered city or chartered county shall exercise the powers granted in Part 1 (commencing with Section 33000) to create or otherwise establish a redevelopment agency.

34167. (a) This part is intended to preserve, to the maximum extent possible, the revenues and assets of redevelopment agencies so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools. It is the intent of the Legislature that redevelopment agencies take no actions that would further deplete the corpus of the agencies' funds regardless of their original source. All provisions of this part shall be construed as broadly as possible to support this intent and to restrict the expenditure of funds to the fullest extent possible.

(b) For purposes of this part, "agency" or "redevelopment agency" means a redevelopment agency created or formed pursuant to Part 1 (commencing with Section 33000) or its predecessor or a community development commission created or formed pursuant to Part 1.7 (commencing with Section 34100) or its predecessor.

(c) Nothing in this part in any way impairs the authority of a community development commission, other than in its authority to act as a redevelopment agency, to take any actions in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates.

(d) For purposes of this part, "enforceable obligation" means any of the following:

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

(2) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, including, but not limited to, moneys borrowed from the Low and Moderate Income Housing Fund, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(3) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, and unemployment payments.

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

(5) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy.

(6) Contracts or agreements necessary for the continued administration or operation of the redevelopment agency to the extent permitted by this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(e) To the extent that any provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) conflicts with this part, the provisions of this part shall control. Further, if any provision in Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) provides an authority that this part is restricting or eliminating, the restriction and elimination provisions of this part shall control.

(f) Nothing in this part shall be construed to interfere with a redevelopment agency's authority, pursuant to enforceable obligations as defined in this chapter, to (1) make payments due, (2) enforce existing covenants and obligations, or (3) perform its obligations.

(g) The existing terms of any memorandum of understanding with an employee organization representing employees of a redevelopment agency adopted pursuant to the Meyers-Milias-Brown Act that is in force on the effective date of this part shall continue in force until September 30, 2011, unless a new agreement is reached with a recognized employee organization prior to that date.

(h) After the enforceable obligation payment schedule is adopted pursuant to Section 34169, or after 60 days from the effective date of this part, whichever is sooner, the agency shall not make a payment unless it is listed in an adopted enforceable obligation payment schedule, other than payments required to meet obligations with respect to bonded indebtedness.

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

(j) For purposes of this part, "auditor-controller" means the officer designated in subdivision (c) of Section 24000 of the Government Code.

34167.5. Commencing on the effective date of the act adding this part, the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency. If such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the

extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). Upon receiving such an order from the Controller, an affected local agency shall, as soon as practicable, reverse the transfer and return the applicable assets to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in the furtherance of the Community Redevelopment Law and is thereby unauthorized.

34168. (a) Notwithstanding any other law, any action contesting the validity of this part or Part 1.85 (commencing with Section 34170) or challenging acts taken pursuant to these parts shall be brought in the Superior Court of the County of Sacramento.

(b) If any provision of this part or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end, the provisions of this part are severable.

#### CHAPTER 2. REDEVELOPMENT AGENCY RESPONSIBILITIES

34169. Until successor agencies are authorized pursuant to Part 1.85 (commencing with Section 34170), redevelopment agencies shall do all of the following:

(a) Continue to make all scheduled payments for enforceable obligations, as defined in subdivision (d) of Section 34167.

(b) Perform obligations required pursuant to any enforceable obligations, including, but not limited to, observing covenants for continuing disclosure obligations and those aimed at preserving the tax-exempt status of interest payable on any outstanding agency bonds.

(c) Set aside or maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Consistent with the intent declared in subdivision (a) of Section 34167, preserve all assets, minimize all liabilities, and preserve all records of the redevelopment agency.

(e) Cooperate with the successor agencies, if established pursuant to Part 1.85 (commencing with Section 34170), and provide all records and information necessary or desirable for audits, making of payments required by enforceable obligations, and performance of enforceable obligations by the successor agencies.

(f) Take all reasonable measures to avoid triggering an event of default under any enforceable obligations as defined in subdivision (d) of Section 34167.

(g) (1) Within 60 days of the effective date of this part, adopt an Enforceable Obligation Payment Schedule that lists all of the obligations that are enforceable within the meaning of subdivision (d) of Section 34167 which includes the following information about each obligation:

(A) The project name associated with the obligation.

(B) The payee.

(C) A short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made.

(D) The amount of payments obligated to be made, by month, through December 2011.

(2) Payment schedules for issued bonds may be aggregated, and payment schedules for payments to employees may be aggregated. This schedule shall be adopted at a public meeting and shall be posted on the agency's Internet Web site or, if no Internet Web site exists, on the Internet Web site of the legislative body, if that body has an Internet Web site. The schedule may be amended at any public meeting of the agency. Amendments shall be posted to the Internet Web site for at least three business days before a payment may be made pursuant to an amendment. The Enforceable Obligation Payment Schedule shall be transmitted by mail or electronic means to the county auditor-controller, the Controller, and the Department of Finance. A notification providing the Internet Web site location of the posted schedule and notifications of any amendments shall suffice to meet this requirement.

(h) Prepare a preliminary draft of the initial recognized obligation payment schedule, no later than September 30, 2011, and provide it to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170).

(i) The Department of Finance may review a redevelopment agency action taken pursuant to subdivision (g) or (h). As such, all agency actions shall not be effective for three business days, pending a request for review by the department. Each agency shall designate an official to whom the department may make these requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. In the event that the department requests a review of a given agency action, the department shall have 10 days from the date of its request to approve the agency action or return it to the agency for reconsideration and this action shall not be effective until approved by the department. In the event that the department returns the agency action to the agency for reconsideration, the agency must resubmit the modified action for department approval and the modified action shall not become effective until approved by the department. This subdivision shall apply to a successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170), as a successor entity to a dissolved redevelopment agency, with

respect to the preliminary draft of the initial recognized obligation payment schedule.

CHAPTER 3. APPLICATION OF PART TO FORMER PARTICIPANTS OF THE  
ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

34169.5. (a) It is the intent of the Legislature that a redevelopment agency, that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), but that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

(b) For purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, the following shall apply:

(1) Any reference to “January 1, 2011,” shall be construed to mean January 1 of the year preceding the year that the redevelopment agency became subject to this part, but no earlier than January 1, 2011.

(2) Any reference to a date “60 days from the effective date of this part” shall be construed to mean 60 days from the date that the redevelopment agency becomes subject to this part.

(3) Except as provided in paragraphs (1) and (2), any reference to a date certain shall be construed to be the date, measured from the date that the redevelopment agency became subject to this part, that is equivalent to the duration of time between the effective date of this part and the date certain identified in statute.

SEC. 7. Part 1.85 (commencing with Section 34170) is added to Division 24 of the Health and Safety Code, to read:

PART 1.85. DISSOLUTION OF REDEVELOPMENT AGENCIES AND  
DESIGNATION OF SUCCESSOR AGENCIES

CHAPTER 1. EFFECTIVE DATE, CREATION OF FUNDS, AND DEFINITION  
OF TERMS

34170. (a) Unless otherwise specified, all provisions of this part shall become operative on October 1, 2011.

(b) If any provision of this part or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end, the provisions of this part are severable.

34170.5. (a) The successor agency shall create within its treasury a Redevelopment Obligation Retirement Fund to be administered by the successor agency.

(b) The county auditor-controller shall create within the county treasury a Redevelopment Property Tax Trust Fund for the property tax revenues related to each former redevelopment agency, for administration by the county auditor-controller.

34171. The following terms shall have the following meanings:

(a) “Administrative budget” means the budget for administrative costs of the successor agencies as provided in Section 34177.

(b) “Administrative cost allowance” means an amount that, subject to the approval of the oversight board, is payable from property tax revenues of up to 5 percent of the property tax allocated to the successor agency for the 2011–12 fiscal year and up to 3 percent 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 two hundred fifty thousand dollars (\$250,000) for any fiscal year or such lesser amount as agreed to by the successor agency. However, the allowance amount shall exclude any administrative costs that can be paid from bond proceeds or from sources other than property tax.

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

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

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

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

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

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

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

any necessary and required compensation or remediation for such termination.

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

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

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

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

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

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

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

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

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

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

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

#### CHAPTER 2. EFFECT OF REDEVELOPMENT AGENCY DISSOLUTION

34172. (a) (1) All redevelopment agencies and redevelopment agency components of community development agencies created under Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) that were in existence on the effective date of this part are hereby dissolved and shall no longer exist as a public body, corporate or politic. Nothing in this part dissolves or otherwise affects the authority of a community redevelopment commission, other than in its authority to act as a redevelopment agency, in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates. For those other nonredevelopment purposes, the community development commission derives its authority solely from federal or local laws, or from state laws other than the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(2) A community in which an agency has been dissolved under this section may not create a new agency pursuant to Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100). However, a community in which the agency has been dissolved and the successor entity has paid off all of the former agency’s enforceable obligations may create a new agency pursuant to Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100), subject to the tax increment provisions contained in Chapter 3.5 (commencing with Section 34194.5) of Part 1.9 (commencing with Section 34192).

(b) All authority to transact business or exercise powers previously granted under the Community Redevelopment Law (Part 1 (commencing with Section 33000)) is hereby withdrawn from the former redevelopment agencies.

(c) Solely for purposes of Section 16 of Article XVI of the California Constitution, the Redevelopment Property Tax Trust Fund shall be deemed to be a special fund of the dissolved redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness,

whether funded, refunded, assumed, or otherwise incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment projects of each redevelopment agency dissolved pursuant to this part.

(d) Revenues equivalent to those that would have been allocated pursuant to subdivision (b) of Section 16 of Article XVI of the California Constitution shall be allocated to the Redevelopment Property Tax Trust Fund of each successor agency for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies. Amounts in excess of those necessary to pay obligations of the former redevelopment agency shall be deemed to be property tax revenues within the meaning of subdivision (a) of Section 1 of Article XIII A of the California Constitution.

34173. (a) Successor agencies, as defined in this part, are hereby designated as successor entities to the former redevelopment agencies.

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

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

(2) Where the redevelopment agency was in the form of a joint powers authority, and where the joint powers agreement governing the formation of the joint powers authority does not address the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part, a proportionate share of the assets and liabilities shall be based on the assessed value in the project areas within each entity's jurisdiction, as determined by the county assessor, in its jurisdiction as compared to the assessed value of land within the boundaries of the project areas of the former redevelopment agency.

(d) (1) A city, county, city and county, or the entities forming the joint powers authority that authorized the creation of each redevelopment agency may elect not to serve as a successor agency under this part. A city, county, city and county, or any member of a joint powers authority that elects not to serve as a successor agency under this part must file a copy of a duly authorized resolution of its governing board to that effect with the county auditor-controller no later than one month prior to the effective date of this part.

(2) The determination of the first local agency that elects to become the successor agency shall be made by the county auditor-controller based on

the earliest receipt by the county auditor-controller of a copy of a duly adopted resolution of the local agency's governing board authorizing such an election. As used in this section, "local agency" means any city, county, city and county, or special district in the county of the former redevelopment agency.

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

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

34174. (a) Solely for the purposes of Section 16 of Article XVI of the California Constitution, commencing on the effective date of this part, all agency loans, advances, or indebtedness, and interest thereon, shall be deemed extinguished and paid; provided, however, that nothing herein is intended to absolve the successor agency of payment or other obligations due or imposed pursuant to the enforceable obligations; and provided further, that nothing in the act adding this part is intended to be construed as an action or circumstance that may give rise to an event of default under any of the documents governing the enforceable obligations.

(b) Nothing in this part, including, but not limited to, the dissolution of the redevelopment agencies, the designation of successor agencies, and the transfer of redevelopment agency assets and properties, shall be construed as a voluntary or involuntary insolvency of any redevelopment agency for purposes of the indenture, trust indenture, or similar document governing its outstanding bonds.

34175. (a) It is the intent of this part that pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. It is intended that the cessation of any redevelopment agency shall not affect either the pledge, the legal existence of that pledge, or the stream of revenues available to meet the requirements of the pledge.

(b) All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on October 1, 2011, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of October 1, 2011.

34176. (a) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city,

county, or city and county elects to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the city, county, or city and county.

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

(1) Where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.

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

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

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

CHAPTER 3. SUCCESSOR AGENCIES

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

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

(1) On and after October 1, 2011, and until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligations payment schedule shall be made. The initial enforceable obligation payment schedule shall be the last schedule adopted by the redevelopment agency under Section 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision (e) of Section 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under Section 34169 prior to the successor agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision. The enforceable obligation payment schedule may be amended by the successor agency at any public meeting and shall be subject to the approval of the oversight board as soon as the board has sufficient members to form a quorum.

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

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

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

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

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

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

(d) Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency. In making the distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

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

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

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

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

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

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

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

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

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

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

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

(A) Low and Moderate Income Housing Fund.

(B) Bond proceeds.

(C) Reserve balances.

(D) Administrative cost allowance.

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

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

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

(A) A draft Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency by November 1, 2011. From October 1, 2011, to July 1, 2012, the initial draft of that schedule shall project the dates and amounts of scheduled

payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had such a redevelopment agency not been dissolved, and shall be reviewed and certified, as to its accuracy, by an external auditor designated pursuant to Section 34182.

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

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

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

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

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

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

(2) A written agreement between a redevelopment agency and the city, county, or city and county that created it that provided loans or other startup funds for the redevelopment agency that were entered into within two years of the formation of the redevelopment agency.

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

34178.7. For purposes of this chapter with regard to a redevelopment agency that becomes subject to this part pursuant to Section 34195, only references to "October 1, 2011," and to the "operative date of this part"

shall be modified in the manner described in Section 34191. All other dates shall be modified only as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

CHAPTER 4. OVERSIGHT BOARDS

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

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

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

(3) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.

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

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

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

(7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time.

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

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

(10) Where a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, where such appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by

property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city where such an appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

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

(c) 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 this part. 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. Oversight board members shall serve without compensation or reimbursement for expenses.

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

(e) 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 shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974.

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

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

(h) The Department of Finance may review an oversight board action taken pursuant to the act adding this part. As such, all oversight board actions shall not be effective for three business days, pending a request for review by the department. Each oversight board shall designate an official to whom the department may make such requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. In the event that the department requests a review of a given oversight board action, it shall have 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 department. In the event that the department returns the

oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Refunding of outstanding bonds or other debt of the former redevelopment agency by successor agencies 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.

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

(d) Merging of project areas.

(e) 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 entity as successor to the former redevelopment agency, in an amount greater than 5 percent.

(f) (1) If a city, county, or city and county 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, as determined pursuant to Section 34188, for the value of the property retained.

(2) 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.

(g) Establishment of the Recognized Obligation Payment Schedule.

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

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

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

(a) Dispose of all assets and properties of the former redevelopment agency that were funded by tax increment revenues of the dissolved redevelopment agency; 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. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value.

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

(c) 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 appropriate entity pursuant to Section 34176.

(d) Terminate any agreement, between the dissolved redevelopment agency and any public entity located in the same county, obligating the redevelopment agency 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.

(e) Determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency 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 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.

#### CHAPTER 5. DUTIES OF THE AUDITOR-CONTROLLER

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

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

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

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

(c) (1) The county auditor-controller shall determine the amount of property taxes that would have been allocated to each redevelopment agency in the county had the redevelopment agency not been dissolved pursuant to the operation of the act adding this part. These amounts are deemed property tax revenues within the meaning of subdivision (a) of Section 1 of Article XIII A of the California Constitution and are available for allocation and distribution in accordance with the provisions of the act adding this part.

The county auditor-controller shall calculate the property tax revenues using current assessed values on the last equalized roll on August 20, pursuant to Section 2052 of the Revenue and Taxation Code, and pursuant to statutory formulas or contractual agreements with other taxing agencies, as of the effective date of this section, and shall deposit that amount in the Redevelopment Property Tax Trust Fund.

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

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

(4) Each county auditor-controller shall disburse proceeds of asset sales or reserve balances, which have been received from the successor entities pursuant to Sections 34177 and 34187, to the taxing entities. In making such a distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

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

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

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

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

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

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

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

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

(f) The Controller may audit and review any county auditor-controller action taken pursuant to the act adding this part. As such, all county auditor-controller actions shall not be effective for three business days, pending a request for review by the Controller. In the event that the Controller requests a review of a given county auditor-controller action, he or she shall have 10 days from the date of his or her request to approve the

county auditor-controller's action or return it to the county auditor-controller for reconsideration and such county auditor-controller action shall not be effective until approved by the Controller. In the event that the Controller returns the county auditor-controller's action to the county auditor-controller for reconsideration, the county auditor-controller must resubmit the modified action for Controller approval and such modified county auditor-controller action shall not become effective until approved by the Controller.

34183. (a) Notwithstanding any other law, from October 1, 2011, to July 1, 2012, and for each fiscal year thereafter, the county auditor-controller shall, after deducting administrative costs allowed under Section 34182 and Section 95.3 of the Revenue and Taxation Code, allocate moneys in each Redevelopment Property Tax Trust Fund as follows:

(1) Subject to any prior deductions required by subdivision (b), first, the county auditor-controller shall remit from the Redevelopment Property Tax Trust Fund to each local agency and school entity an amount of property tax revenues in an amount equal to that which would have been received under Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections read on January 1, 2011, or pursuant to any passthrough agreement between a redevelopment agency and a taxing jurisdiction that was entered into prior to January 1, 1994, that would be in force during that fiscal year, had the redevelopment agency existed at that time. The amount of the payments made pursuant to this paragraph shall be calculated solely on the basis of passthrough payment obligations, existing prior to the effective date of this part and continuing as obligations of successor entities, shall occur no later than January 16, 2012, and no later than June 1, 2012, and each January 16 and June 1 thereafter. Notwithstanding subdivision (e) of Section 33670, that portion of the taxes in excess of the amount identified in subdivision (a) of Section 33670, which are attributable to a tax rate levied by a taxing agency 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 taxing agency.

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

(A) Debt service payments scheduled to be made for tax allocation bonds.

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

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

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

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

(b) If the successor agency reports, no later than December 1, 2011, and May 1, 2012, and each December 1 and May 1 thereafter, to the county auditor-controller that the total amount available to the successor agency from the Redevelopment Property Tax Trust Fund allocation to that successor agency's Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, are insufficient to fund the payments required by paragraphs (1) to (3), inclusive, of subdivision (a) in the next six-month fiscal period, the county auditor-controller shall notify the Controller and the Department of Finance no later than 10 days from the date of that notification. The county auditor-controller shall verify whether the successor agency will have sufficient funds from which to service debts according to the Recognized Obligation Payment Schedule and shall report the findings to the Controller. If the Controller concurs that there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the amount remaining to be distributed to taxing entities pursuant to paragraph (4), and if that amount is exhausted, from amounts available for distribution for administrative costs in paragraph (3). If an agency, pursuant to the provisions of Section 33492.15, 33492.72, 33607.5, 33671.5, 33681.15, or 33688, made passthrough payment obligations subordinate to debt service payments required for enforceable obligations, funds for servicing bond debt may be deducted from the amounts for passthrough payments under paragraph (1), as provided in those sections, but only to the extent that the amounts remaining to be distributed to taxing entities pursuant to paragraph (4) and the amounts available for distribution for administrative costs in paragraph (3) have all been exhausted.

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

(d) The Controller may recover the costs of audit and oversight required under this part from the Redevelopment Property Tax Trust Fund by presenting an invoice therefor to the county auditor-controller who shall set aside sufficient funds for and disburse the claimed amounts prior to making the next distributions to the taxing jurisdictions pursuant to Section 34188. Subject to the approval of the Director of Finance, the budget of the

Controller may be augmented to reflect the reimbursement, pursuant to Section 28.00 of the Budget Act.

34185. Commencing on January 16, 2012, and on each January 16 and June 1 thereafter, the county auditor-controller shall transfer, from the Redevelopment Property Tax Trust Fund of each successor agency into the Redevelopment Obligation Retirement Fund of that agency, an amount of property tax revenues equal to that specified in the Recognized Obligation Payment Schedule for that successor agency as payable from the Redevelopment Property Tax Trust Fund subject to the limitations of Sections 34173 and 34183.

34186. Differences between actual payments and past estimated obligations on recognized obligation payment schedules must be reported in subsequent recognized obligation payment schedules and shall adjust the amount to be transferred to the Redevelopment Obligation Retirement Fund pursuant to this part. These estimates and accounts shall be subject to audit by county auditor-controllers and the Controller.

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

34188. For all distributions of property tax revenues and other moneys pursuant to this part, the distribution to each taxing entity shall be in an amount proportionate to its share of property tax revenues in the tax rate area in that fiscal year, as follows:

(a) (1) For distributions from the Redevelopment Property Tax Trust Fund, the share of each taxing entity shall be applied to the amount of property tax available in the Redevelopment Property Tax Trust Fund after deducting the amount of any distributions under paragraphs (2) and (3) of subdivision (a) of Section 34183.

(2) For each taxing entity that receives passthrough payments, that agency shall receive the amount of any passthrough payments identified under paragraph (1) of subdivision (a) of Section 34183, in an amount not to exceed the amount that it would receive pursuant to this section in the absence of the passthrough agreement. However, to the extent that the passthrough payments received by the taxing entity are less than the amount that the taxing entity would receive pursuant to this section in the absence of a passthrough agreement, the taxing entity shall receive an additional payment that is equivalent to the difference between those amounts.

(b) Property tax shares of local agencies shall be determined based on property tax allocation laws in effect on the date of distribution, without the revenue exchange amounts allocated pursuant to Section 97.68 of the Revenue and Taxation Code, and without the property taxes allocated pursuant to Section 97.70 of the Revenue and Taxation Code.

(c) The total school share, including passthroughs, shall be the share of the property taxes that would have been received by school entities, as

defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, in the jurisdictional territory of the former redevelopment agency, including, but not limited to, the amounts specified in Sections 97.68 and 97.70 of the Revenue and Taxation Code.

34188.8. For purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, a date certain identified in this chapter shall not be subject to Section 34191, except for dates certain in Section 34182 and references to “October 1, 2011,” or to the “operative date of this part.” However, for purposes of those redevelopment agencies, a date certain identified in this chapter shall be appropriately modified, as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

CHAPTER 6. EFFECT OF THE ACT ADDING THIS PART ON THE COMMUNITY  
REDEVELOPMENT LAW

34189. (a) Commencing on the effective date of this part, all provisions of the Community Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies, including, but not limited to, Sections 33445, 33640, 33641, 33645, and subdivision (b) of Section 33670, shall be inoperative, except as those sections apply to a redevelopment agency operating pursuant to Part 1.9 (commencing with Section 34192).

(b) The California Law Revision Commission shall draft a Community Redevelopment Law cleanup bill for consideration by the Legislature no later than January 1, 2013.

(c) To the extent that a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) conflicts with this part, the provisions of this part shall control. Further, if a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) provides an authority that the act adding this part is restricting or eliminating, the restriction and elimination provisions of the act adding this part shall control.

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

CHAPTER 7. STABILIZATION OF LABOR AND EMPLOYMENT RELATIONS

34190. (a) It is the intent of the Legislature to stabilize the labor and employment relations of redevelopment agencies and successor agencies in furtherance of and connection with their responsibilities under the act adding this part.

(b) Nothing in the act adding this part is intended to relieve any redevelopment agency of its obligations under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code. Subject to the limitations set forth in Section 34165, prior to its dissolution, a

redevelopment agency shall retain the authority to meet and confer over matters within the scope of representation.

(c) A successor agency, as defined in Sections 34171 and 34173, shall constitute a public agency within the meaning of subdivision (c) of Section 3501 of the Government Code.

(d) Subject to the limitations set forth in Section 34165, redevelopment agencies, prior to and during their winding down and dissolution, shall retain the authority to bargain over matters within the scope of representation.

(e) In recognition that a collective bargaining agreement represents an enforceable obligation, a successor agency shall become the employer of all employees of the redevelopment agency as of the date of the redevelopment agency's dissolution. If, pursuant to this provision, the successor agency becomes the employer of one or more employees who, as employees of the redevelopment agency, were represented by a recognized employee organization, the successor agency shall be deemed a successor employer and shall be obligated to recognize and to meet and confer with such employee organization. In addition, the successor agency shall retain the authority to bargain over matters within the scope of representation and shall be deemed to have assumed the obligations under any memorandum of understanding in effect between the redevelopment agency and recognized employee organization as of the date of the redevelopment agency's dissolution.

(f) The Legislature finds and declares that the duties and responsibilities of local agency employer representatives under this chapter are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs. Furthermore, the Legislature also finds and declares that to the extent the act adding this part provides the funding with which to accomplish the obligations provided herein, the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs.

(g) The transferred memorandum of understanding and the right of any employee organization representing such employees to provide representation shall continue as long as the memorandum of understanding would have been in force, pursuant to its own terms. One or more separate bargaining units shall be created in the successor agency consistent with the bargaining units that had been established in the redevelopment agency. After the expiration of the transferred memorandum of understanding, the successor agency shall continue to be subject to the provisions of the Meyers-Milias-Brown Act.

(h) Individuals formerly employed by redevelopment agencies that are subsequently employed by successor agencies shall, for a minimum of two years, transfer their status and classification in the civil service system of the redevelopment agency to the successor agency and shall not be required

to requalify to perform the duties that they previously performed or duties substantially similar in nature and in required qualification to those that they previously performed. Any such individuals shall have the right to compete for employment under the civil service system of the successor agency.

CHAPTER 8. APPLICATION OF PART TO FORMER PARTICIPANTS OF THE  
ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

34191. (a) It is the intent of the Legislature that a redevelopment agency that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

(b) Except as otherwise provided by law, for purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, the following shall apply:

(1) Any reference to “January 1, 2011,” shall be construed to mean January 1 of the year preceding the year that the redevelopment agency became subject to this part, but no earlier than January 1, 2011.

(2) Any reference to “October 1, 2011,” or to the “operative date of this part,” shall mean the date that is the equivalent to the “October 1, 2011,” identified in Section 34167.5 for that redevelopment agency as determined pursuant to Section 34169.5.

(3) Except as provided in paragraphs (1) and (2), any reference to a date certain shall be construed to be the date, measured from the date that the redevelopment agency became subject to this part, that is equivalent to the duration of time between the operative date of this part and the date certain identified in statute.

SEC. 8. Section 97.401 is added to the Revenue and Taxation Code, to read:

97.401. Commencing October 1, 2011, the county auditor shall make the calculations required by Section 97.4 based on the amount deposited on behalf of each former redevelopment agency into the Redevelopment Property Tax Trust Fund pursuant to paragraph (1) of subdivision (c) of Section 34182 of the Health and Safety Code. The calculations required by Section 97.4 shall result in cities, counties, and special districts annually remitting to the Educational Revenue Augmentation Fund the same amounts they would have remitted but for the operation of Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.

SEC. 9. Section 98.2 is added to the Revenue and Taxation Code, to read:

98.2. For the 2011–12 fiscal year, and each fiscal year thereafter, the computations provided for in Sections 98 and 98.1 shall be performed in a manner which recognizes that passthrough payments formerly required under the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code) are continuing to be made under the authority of Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code and those payments shall be recognized in the TEA calculations as though they were made under the Community Redevelopment Law. Additionally, the computations provided for in Sections 98 and 98.1 shall be performed in a manner that recognizes payments to a Redevelopment Property Tax Trust Fund, established pursuant to Section 34170.5 of the Health and Safety Code as if they were payments to a redevelopment agency as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

SEC. 10. If a legal challenge to invalidate any provision of this act is successful, a redevelopment agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

SEC. 11. The sum of five hundred thousand dollars (\$500,000) is hereby appropriated to the Department of Finance from the General Fund for allocation to the Treasurer, Controller, and Department of Finance for administrative costs associated with this act. The department shall notify the Joint Legislative Budget Committee and the fiscal committees in each house of any allocations under this section no later than 10 days following that allocation.

SEC. 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end, the provisions of this act are severable. The Legislature expressly intends that the provisions of Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code are severable from the provisions of Part 1.8 (commencing with Section 34161) of Division 24 of the Health and Safety Code, and if Part 1.85 is held invalid, then Part 1.8 shall continue in effect.

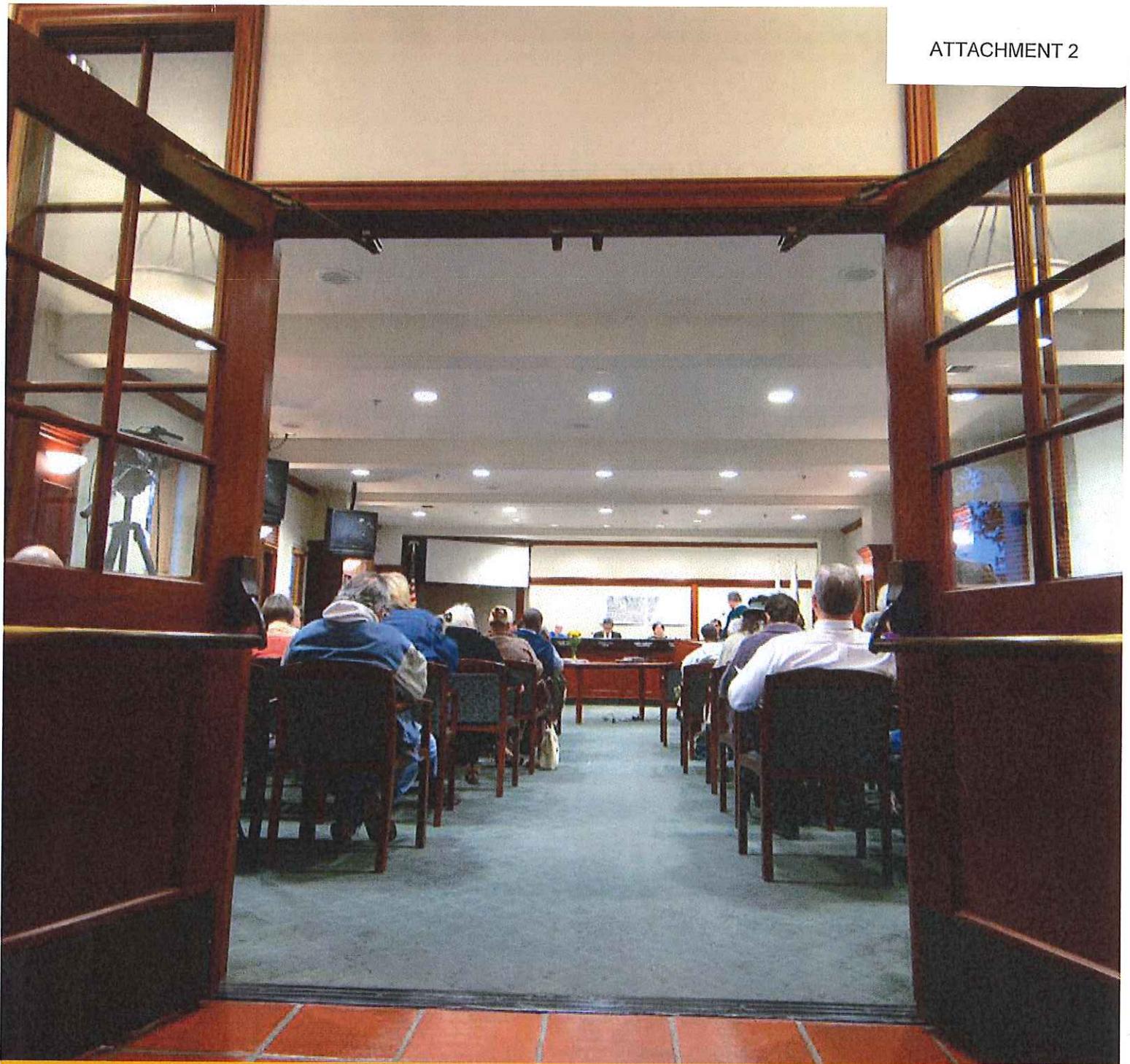
SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 14. This act shall take effect contingent on the enactment of Assembly Bill 27 of the 2011–12 First Extraordinary Session or Senate Bill 15 of in the 2011–12 First Extraordinary Session and only if the enacted bill adds Part 1.9 (commencing with Section 34192) to Division 24 of the Health and Safety Code.

SEC. 15. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 16. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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# OPEN & PUBLIC IV:

*A Guide to the Ralph M. Brown Act*

— 2ND EDITION, REVISED JULY 2010 —

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**OPEN & PUBLIC IV:  
A GUIDE TO THE RALPH M. BROWN ACT, 2ND EDITION**  
Revised July 2010



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League of California Cities

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## FOREWORD

The goal of this publication is to explain the requirements of the Ralph M. Brown Act, California's open meeting law, in lay language so that it can be readily understood by local government officials and employees, the public and the news media. We offer practical advice—especially in areas where the Brown Act is unclear or has been the subject of controversy—to assist local agencies in complying with the requirements of the law.

A number of organizations representing diverse views and constituencies have contributed to this publication in an effort to make it reflect as broad a consensus as possible among those who daily interpret and implement the Brown Act. The League thanks the following organizations for their contributions:

Association of California Healthcare Districts  
Association of California Water Agencies  
California Association of Sanitation Agencies (CASA)  
California Attorney General—Department of Justice  
City Clerks Association of California  
California Municipal Utilities Association  
California Redevelopment Association  
California School Boards Association  
California Special Districts Association  
California State Association of Counties  
Community College League of California  
California First Amendment Project  
California Newspaper Publishers Association  
Common Cause  
League of Women Voters of California

This publication is current as of June 2010. Updates to the publication responding to changes in the Brown Act or new court interpretations are available at [www.cacities.org/opengovernment](http://www.cacities.org/opengovernment).

This publication is not intended to provide legal advice. A public agency's legal counsel is responsible for advising its governing body and staff and should always be consulted when legal issues arise.

### ***To improve the readability of this publication:***

- Most text will look like this;
- Practice tips are in the margins;
- Hypothetical examples are printed in blue; and
- Frequently asked questions, along with our answers, are in shaded text.

Additional copies of this publication may be purchased by visiting CityBooks online at [www.cacities.org/store](http://www.cacities.org/store).

# CHAPTER 3:

## MEETINGS



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# CHAPTER 3:

## MEETINGS



The Brown Act only applies to meetings of local legislative bodies. The Brown Act defines a meeting as: "... any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains."<sup>1</sup> Under the Brown Act, the term "meeting" is not limited to gatherings at which action is taken but includes deliberative gatherings as well.

### ■ BROWN ACT MEETINGS

Brown Act gatherings include a legislative body's regular meetings, special meetings, emergency meetings and adjourned meetings.

- "Regular meetings" are meetings occurring at the dates, times, and location set by resolution, ordinance, or other formal action by the legislative body and are subject to 72-hour posting requirements.<sup>2</sup>
- "Special meetings" are meetings called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda under the Brown Act's notice requirements for special meetings.<sup>3</sup>
- "Emergency meetings" are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and are held on little notice.<sup>4</sup>
- "Adjourned meetings" are regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment, with no agenda required for regular meetings adjourned for less than five calendar days as long as no additional business is transacted.<sup>5</sup>

### ■ SIX EXCEPTIONS TO THE MEETING DEFINITION

The Brown Act creates six exceptions to the meeting definition: <sup>6</sup>

#### ***Individual Contacts***

The first exception involves individual contacts between a member of the legislative body and any other person. The Brown Act does not limit a legislative body member acting on his or her own. This exception recognizes the right to confer with constituents, advocates, consultants, news reporters, local agency staff or a colleague.

Individual contacts, however, cannot be used to do in stages what would be prohibited in one step. For example, a series of individual contacts that leads to discussion, deliberation or action among a majority of the members of a legislative body is prohibited. Such serial meetings are discussed below.

### **Conferences**

The second exception allows a legislative body majority to attend a conference or similar gathering open to the public that addresses issues of general interest to the public or to public agencies of the type represented by the legislative body.

Among other things, this exception permits legislative body members to attend annual association conferences of city, county, school, community college, and other local agency officials, so long as those meetings are open to the public. However, a majority of members cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction.



### **Community Meetings**

The third exception allows a legislative body majority to attend an open and publicized meeting held by another organization to address a topic of local community concern. Again, a majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction. Under this exception, a legislative body majority may attend a local service club meeting or a local candidates' night if the meetings are open to the public.

"I see we have four distinguished members of the city council at our meeting tonight," said the chair of the Environmental Action Coalition.

"I wonder if they have anything to say about the controversy over enacting a slow growth ordinance?"

*The Brown Act permits a majority of a legislative body to attend and speak at an open and publicized meeting conducted by another organization. The Brown Act may nevertheless be violated if a majority discusses, deliberates, or takes action on an item during the meeting of the other organization. There is a fine line between what is permitted and what is not; hence, members should exercise caution when participating in these types of events.*

- Q.** The local chamber of commerce sponsors an open and public candidate debate during an election campaign. Three of the five agency members are up for re-election and all three participate. All of the candidates are asked their views of a controversial project scheduled for a meeting to occur just after the election. May the three incumbents answer the question?
- A.** Yes, because the Brown Act does not constrain the incumbents from expressing their views regarding important matters facing the local agency as part of the political process the same as any other candidates.



### ***Other Legislative Bodies***

The fourth exception allows a majority of a legislative body to attend an open and publicized meeting of: (1) another body of the local agency and (2) a legislative body of another local agency.<sup>7</sup> Again, the majority cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within their local agency's subject matter jurisdiction. This exception allows, for example, a city council or a majority of a board of supervisors to attend a controversial meeting of the planning commission.

Nothing in the Brown Act prevents the majority of a legislative body from sitting together at such a meeting. They may choose not to, however, to preclude any possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation. Further, aside from the Brown Act, there may be other reasons, such as due process considerations, why the members should avoid giving public testimony or trying to influence the outcome of proceedings before a subordinate body.

- Q.** The entire legislative body intends to testify against a bill before the Senate Local Government Committee in Sacramento. Must this activity be noticed as a meeting of the body?
- A.** *No, because the members are attending and participating in an open meeting of another governmental body which the public may attend.*
- Q.** The members then proceed upstairs to the office of their local Assembly member to discuss issues of local interest. Must this session be noticed as a meeting and be open to the public?
- A.** *Yes, because the entire body may not meet behind closed doors except for proper closed sessions. The same answer applies to a private lunch or dinner with the Assembly member.*

### ***Standing Committees***

The fifth exception authorizes the attendance of a majority at an open and noticed meeting of a standing committee of the legislative body, provided that the legislative body members who are not members of the standing committee attend only as observers (meaning that they cannot speak or otherwise participate in the meeting).<sup>8</sup>

- Q.** The legislative body establishes a standing committee of two of its five members, which meets monthly. A third member of the legislative body wants to attend these meetings and participate. May she?
- A.** *She may attend, but only as an observer; she may not participate.*

### ***Social or Ceremonial Events***

The sixth and final exception permits a majority of a legislative body to attend a purely social or ceremonial occasion. Once again, a majority cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the local agency.

Nothing in the Brown Act prevents a majority of members from attending the same football game, party, wedding, funeral, reception, or farewell. The test is not whether a majority of a legislative body attends the function, but whether business of a specific nature within the subject matter jurisdiction of the local agency is discussed. So long as no local agency business is discussed, there is no violation of the Brown Act.

## ■ COLLECTIVE BRIEFINGS

None of these six exceptions permits a majority of a legislative body to meet together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements.

## ■ RETREATS OR WORKSHOPS OF LEGISLATIVE BODIES

There is consensus among local agency attorneys that gatherings by a majority of legislative body members at the legislative body's retreats, study sessions, or workshops are covered under the Brown Act. This is the case whether the retreat, study session, or workshop focuses on long-range agency planning, discussion of critical local issues, or on team building and group dynamics.<sup>9</sup>

- Q.** The legislative body wants to hold a team-building session to improve relations among its members. May such a session be conducted behind closed doors?
- A.** *No, this is not a proper subject for a closed session, and there is no other basis to exclude the public. Council relations are a matter of public business.*

## ■ SERIAL MEETINGS

One of the most frequently asked questions about the Brown Act involves serial meetings. At any one time, such meetings involve only a portion of a legislative body, but eventually involve a majority.

The problem with serial meetings is the process, which deprives the public of an opportunity for meaningful participation in legislative body decision-making. The Brown Act provides that "[a] majority of the members of a legislative body shall not, outside a meeting...use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body."<sup>10</sup>

The serial meeting may occur by either a "daisy-chain" or a "hub-and-spoke" sequence. In the daisy-chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D and so on, until a quorum has discussed, deliberated or taken action on an item within the legislative body's subject matter jurisdiction. The hub-and-spoke process involves, for example, a staff member (the hub) communicating with members of a legislative body (the spokes) one-by-one for a decision on a proposed action,<sup>11</sup> or a chief executive officer briefing a majority of redevelopment agency members prior to a formal meeting and, in the process, information about the members' respective views is revealed. Each of these scenarios violates the Brown Act.

A legislative body member has the right, if not the duty, to meet with constituents to address their concerns. That member also has the right to confer with a colleague or appropriate staff about local agency business. An employee or official of a local agency may engage in separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body."<sup>12</sup>

The Brown Act has been violated however, if several one-on-one meetings or conferences leads to a discussion, deliberation or action by a majority. In one case, a violation occurred when a quorum of a city council directed staff by letter on an eminent domain action.<sup>13</sup>



A unilateral written communication to the legislative body, such as an informational or advisory memorandum, does not violate the Brown Act.<sup>14</sup> Such a memo, however, may be a public record.<sup>15</sup>

The phone call was from a lobbyist. "Say, I need your vote for that project in the south area. How about it?"

"Well, I don't know," replied Board Member Aletto. "That's kind of a sticky proposition. You sure you need my vote?"

"Well, I've got Bradley and Cohen lined up and another vote leaning. With you I'd be over the top."

Moments later, the phone rings again. "Hey, I've been hearing some rumbles on that south area project," said the newspaper reporter. "I'm counting noses. How are you voting on it?"

*Neither the lobbyist nor the reporter has violated the Brown Act, but they are facilitating a violation. The board member may have violated the Brown Act by hearing about the positions of other board members and indeed coaxing the lobbyist to reveal the other board members' positions by asking "You sure you need my vote?" The prudent course is to avoid such leading conversations and to caution lobbyists, staff and news media against revealing such positions of others.*

The mayor sat down across from the city manager. "From now on," he declared, "I want you to provide individual briefings on upcoming agenda items. Some of this material is very technical, and the council members don't want to sound like idiots asking about it in public. Besides that, briefings will speed up the meeting."

*Agency employees or officials may have separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body."<sup>16</sup> Members should always be vigilant when discussing local agency business with anyone to avoid conversations that could lead to a discussion, deliberation or action taken among the majority of the legislative body.*

"Thanks for the information," said Council Member Kim. "These zoning changes can be tricky, and now I think I'm better equipped to make the right decision."

"Glad to be of assistance," replied the planning director. "Any idea what the other council members think of the problem?"

*The planning director should not ask, and the member should not answer. A one-on-one meeting that involves communicating the comments or position of other members violates the Brown Act.*

#### **Practice Tip:**

When briefing legislative body members, staff must exercise care not to disclose other members' views and positions.

- Q.** The agency's Web site includes a chat room where agency employees and officials participate anonymously and often discuss issues of local agency business. Members of the legislative body participate regularly. Does this scenario present a potential for violation of the Brown Act?
- A.** Yes, because it is a technological device that may serve to allow for a majority of members to discuss, deliberate or take action on matters of agency business.
- Q.** A member of a legislative body contacts two other members on a five-member body relative to scheduling a special meeting. Is this an illegal serial meeting?
- A.** No, the Brown Act expressly allows this kind of communication, though the members should avoid discussing the merits of what is to be taken up at the meeting.

Particular care should be exercised when staff briefings of legislative body members occur by email because of the ease of using the “reply to all” button that may inadvertently result in a Brown Act violation.

### ■ INFORMAL GATHERINGS

Often members are tempted to mix business with pleasure—for example, by holding a post meeting gathering. Informal gatherings at which local agency business is discussed or transacted violate the law if they are not conducted in conformance with the Brown Act.<sup>17</sup> A luncheon gathering in a crowded dining room violates the Brown Act if the public does not have an adequate opportunity to hear or participate in the deliberations of members.

Thursday at 11:30 a.m., as they did every week, the board of directors of the Dry Gulch Irrigation District trooped into Pop’s Donut Shoppe for an hour of talk and fellowship. They sat at the corner window, fronting on Main and Broadway, to show they had nothing to hide. Whenever he could, the managing editor of the weekly newspaper down the street hurried over to join the board.

*A gathering like this would not violate the Brown Act if board members scrupulously avoided talking about irrigation district issues. But it is the kind of situation that should be avoided. The public is unlikely to believe the board members could meet regularly without discussing public business. A newspaper executive’s presence in no way lessens the potential for a violation of the Brown Act.*

- Q.** The agency has won a major victory in the Supreme Court on an issue of importance. The presiding officer decides to hold an impromptu press conference in order to make a statement to the print and broadcast media. All the other members show up in order to make statements of their own and be seen by the media. Is this gathering illegal?
- A.** *Technically there is no exception for this sort of gathering, but as long as members do not state their intentions as to future action to be taken and the press conference is open to the public, it seems harmless.*

### ■ TECHNOLOGICAL CONFERENCING

In an effort to keep up with information age technologies, the Brown Act now specifically allows a legislative body to use any type of teleconferencing to meet, receive public comment and testimony, deliberate, or conduct a closed session.<sup>18</sup> While the Brown Act contains specific requirements for conducting a teleconference, the decision to use teleconferencing is entirely discretionary within the body.

“Teleconference” is defined as “a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.”<sup>19</sup> In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the Brown Act otherwise applicable. The Brown Act contains the following specific requirements:<sup>20</sup>

- Teleconferencing may be used for all purposes during any meeting;
- At least a quorum of the legislative body must participate from locations within the local agency’s jurisdiction;
- Additional teleconference locations may be made available for the public;



**Practice Tip:**

Legal counsel for the local agency should be consulted before teleconferencing a meeting.

- Each teleconference location must be specifically identified in the notice and agenda of the meeting, including a full address and room number, as may be applicable;
- Agendas must be posted at each teleconference location, even if a hotel room or a residence;
- Each teleconference location must be accessible to the public and have technology, such as a speakerphone, to enable the public to participate;
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location; and
- All votes must be by roll call.

- Q.** A member on vacation wants to participate in a meeting of the legislative body and vote by cellular phone from her car while driving from Washington, D.C. to New York. May she?
- A.** *She may not participate or vote because she is not in a noticed and posted teleconference location.*

The use of teleconferencing to conduct a legislative body meeting presents a variety of new issues beyond the scope of this guide to discuss in detail. Therefore, before teleconferencing a meeting, legal counsel for the local agency should be consulted.

**■ LOCATION OF MEETINGS**

The Brown Act generally requires all regular and special meetings of a legislative body, including retreats and workshops, to be held within the boundaries of the territory over which the local agency exercises jurisdiction.<sup>21</sup>

An open and publicized meeting of a legislative body may be held outside of agency boundaries if the purpose of the meeting is one of the following:

- Comply with state or federal law or a court order, or for a judicial conference or administrative proceeding in which the local agency is a party;
- Inspect real or personal property, which cannot be conveniently brought into the local agency's territory, provided the meeting is limited to items relating to that real or personal property;

- Q.** The agency is considering approving a major retail mall. The developer has built other similar malls, and invites the entire legislative body to visit a mall outside the jurisdiction. May the entire body go?
- A.** *Yes, the Brown Act permits meetings outside the boundaries of the agency for specified reasons and inspection of property is one such reason. The field trip must be treated as a meeting and the public must be able to attend.*

- Participate in multiagency meetings or discussions, however, such meetings must be held within the boundaries of one of the participating agencies, and all involved agencies must give proper notice;
- Meet in the closest meeting facility if the local agency has no meeting facility within its boundaries or at its principal office if that office is located outside the territory over which the agency has jurisdiction;

- Meet with elected or appointed federal or California officials when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction;
- Meet in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility; or
- Visit the office of its legal counsel for a closed session on pending litigation, when to do so would reduce legal fees or costs.<sup>22</sup>

In addition, the governing board of a school or community college district may hold meetings outside of its boundaries to attend a conference on nonadversarial collective bargaining techniques, interview candidates for school district superintendent, or interview a potential employee from another district.<sup>23</sup> A school board may also interview members of the public residing in another district if the board is considering employing that district's superintendent.

Similarly, meetings of a joint powers authority can occur within the territory of at least one of its member agencies, and a joint powers authority with members throughout the state may meet anywhere in the state.<sup>24</sup>

Finally, if a fire, flood, earthquake, or other emergency makes the usual meeting place unsafe, the presiding officer can designate another meeting place for the duration of the emergency. News media that have requested notice of meetings must be notified of the designation by the most rapid means of communication available.<sup>25</sup>

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**Endnotes:**

- 1 California Government Code section 54952.2(a)
- 2 California Government Code section 54954(a)
- 3 California Government Code section 54956
- 4 California Government Code section 54956.5
- 5 California Government Code section 54955
- 6 California Government Code section 54952.2(c)
- 7 California Government Code section 54952.2(c)(4)
- 8 California Government Code section 54952.2(c)(6)
- 9 “The Brown Act,” California Attorney General (2003), p. 10
- 10 California Government Code section 54952.2(b)(1)
- 11 *Stockton Newspaper Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95
- 12 California Government Code section 54952.2(b)(2)
- 13 *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518
- 14 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363
- 15 California Government Code section 54957.5(a)
- 16 California Government Code section 54952.2(b)(2)
- 17 California Government Code section 54952.2; 43 Ops.Cal.Atty.Gen. 36 (1964)
- 18 California Government Code section 54953(b)(1)
- 19 California Government Code section 54953(b)(4)
- 20 California Government Code section 54953
- 21 California Government Code section 54954(b)
- 22 California Government Code section 54954(b)(1)-(7)
- 23 California Government Code section 54954(c)
- 24 California Government Code section 54954(d)
- 25 California Government Code section 54954(e)

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# CHAPTER 4:

## AGENDAS, NOTICES, AND PUBLIC PARTICIPATION



AGENDAS FOR REGULAR MEETINGS

MAILED AGENDA UPON WRITTEN REQUEST

NOTICE REQUIREMENTS FOR SPECIAL MEETINGS

NOTICES AND AGENDAS FOR ADJOURNED AND  
CONTINUED MEETINGS AND HEARINGS

NOTICE REQUIREMENTS FOR EMERGENCY  
MEETINGS

EDUCATIONAL AGENCY MEETINGS

NOTICE REQUIREMENTS FOR TAX OR  
ASSESSMENT MEETINGS AND HEARINGS

NON-AGENDA ITEMS

RESPONDING TO THE PUBLIC

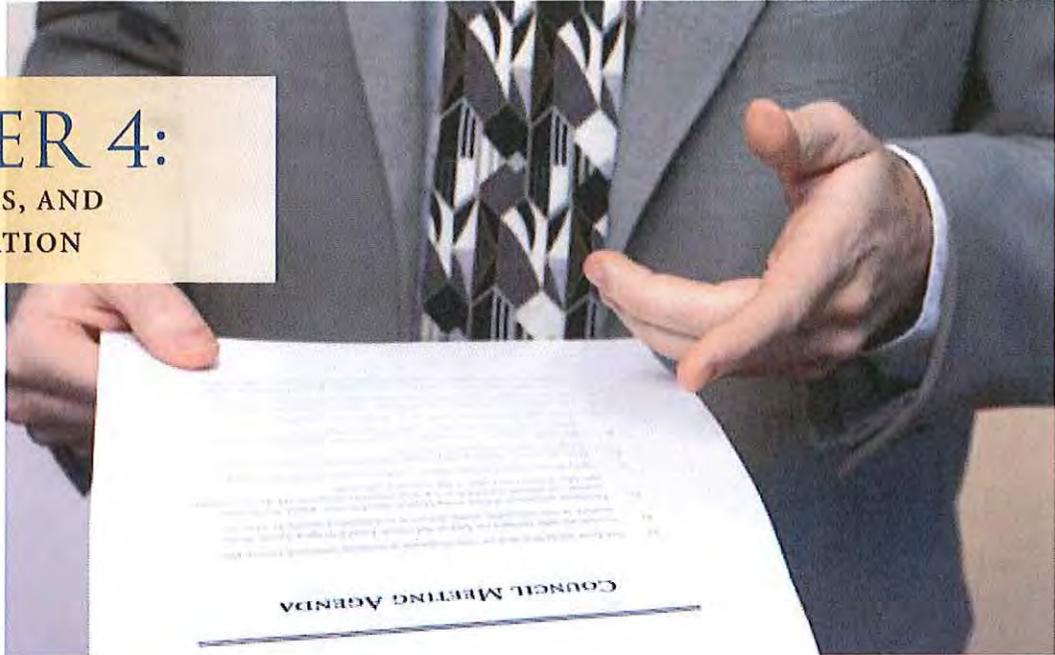
THE RIGHT TO ATTEND MEETINGS

RECORDS AND RECORDINGS

THE PUBLIC'S PLACE ON THE AGENDA

# CHAPTER 4:

## AGENDAS, NOTICES, AND PUBLIC PARTICIPATION



Effective notice is essential for an open and public meeting. Whether a meeting is open or how the public may participate in that meeting is academic if nobody knows about the meeting.

### ■ AGENDAS FOR REGULAR MEETINGS

Every regular meeting of a legislative body of a local agency—including advisory committees, commissions, or boards, as well as standing committees of legislative bodies—must be preceded by a posted agenda that advises the public of the meeting and the matters to be transacted or discussed.

The agenda must be posted at least 72 hours before the regular meeting in a location “freely accessible to members of the public.”<sup>1</sup> The courts have not definitively interpreted the “freely accessible” requirement. The California Attorney General has interpreted this provision to require posting in locations accessible to the public 24 hours a day during the 72-hour period, but any of the 72 hours may fall on a weekend.<sup>2</sup> Posting may also be made on a touch screen electronic kiosk accessible without charge to the public 24 hours a day during the 72-hour period.<sup>3</sup> However, only posting an agenda on an agency’s Web site is inadequate since there is no universal access to the internet. The agenda must state the meeting time and place and must contain “a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session.”<sup>4</sup>

#### **Practice Tip:**

Putting together a meeting agenda requires careful thought.

**Q.** The agenda for a regular meeting contains the following items of business:

- “Consideration of a report regarding traffic on Eighth Street”
- “Consideration of contract with ABC Consulting”

Are these descriptions adequate?

**A.** *If the first is, it is barely adequate. A better description would provide the reader with some idea of what the report is about and what is being recommended. The second is not adequate. A better description might read “consideration of a contract with ABC Consulting in the amount of \$50,000 for traffic engineering services regarding traffic on Eighth Street.”*

**Q.** The agenda includes an item entitled “City Manager’s Report,” during which time the city manager provides a brief report on notable topics of interest, none of which are listed on the agenda.

Is this permissible?

**A.** Yes, so long as it does not result in extended discussion or action by the body.

A brief general description may not be sufficient for closed session agenda items. The Brown Act provides safe harbor language for the various types of permissible closed sessions. Substantial compliance with the safe harbor language is recommended to protect legislative bodies and elected officials from legal challenges.

### ■ MAILED AGENDA UPON WRITTEN REQUEST

The legislative body, or its designee, must mail a copy of the agenda or, if requested, the entire agenda packet, to any person who has filed a written request for such materials. These copies shall be mailed at the time the agenda is posted. If requested, these materials must be made available in appropriate alternative formats to persons with disabilities.

A request for notice is valid for one calendar year and renewal requests must be filed Jan. 1 of each year. The legislative body may establish a fee to recover the cost of providing the service. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the meeting.<sup>5</sup>

### ■ NOTICE REQUIREMENTS FOR SPECIAL MEETINGS

There is no express agenda requirement for special meetings, but the notice of the special meeting effectively serves as the agenda and limits the business that may be transacted or discussed. Written notice must be sent to each member of the legislative body (unless waived in writing by that member) and to each local newspaper of general circulation, and radio or television station that has requested such notice in writing. This notice must be delivered by personal delivery or any other means that ensures receipt, at least 24 hours before the time of the meeting.

The notice must state the time and place of the meeting, as well as all business to be transacted or discussed. It is recommended that the business to be transacted or discussed be described in the same manner that an item for a regular meeting would be described on the agenda—with a brief general description. As noted above, closed session items should be described in accordance with the Brown Act’s safe harbor provisions to protect legislative bodies and elected officials from challenges of noncompliance with notice requirements. The special meeting notice must also be posted at least 24 hours prior to the special meeting in a site freely accessible to the public. The body cannot consider business not in the notice.<sup>6</sup>

### ■ NOTICES AND AGENDAS FOR ADJOURNED AND CONTINUED MEETINGS AND HEARINGS

A regular or special meeting can be adjourned and re-adjourned to a time and place specified in the order of adjournment.<sup>7</sup> If no time is stated, the meeting is continued to the hour for regular meetings. Whoever is present (even if they are less than a quorum) may so adjourn a meeting; if no member of the legislative body is present, the clerk or secretary may adjourn the meeting. If a meeting is adjourned for less than five calendar days, no new agenda need be posted so long as a new item of business is not introduced.<sup>8</sup> A copy of the order of adjournment must be posted within 24 hours after the adjournment, at or near the door of the place where the meeting was held.



A hearing can be continued to a subsequent meeting. The process is the same as for continuing adjourned meetings, except that if the hearing is continued to a time less than 24 hours away, a copy of the order or notice of continuance must be posted immediately following the meeting.<sup>9</sup>

### ■ NOTICE REQUIREMENTS FOR EMERGENCY MEETINGS

The special meeting notice provisions apply to emergency meetings, except for the 24-hour notice.<sup>10</sup> News media that have requested written notice of special meetings must be notified by telephone at least one hour in advance of an emergency meeting, and all telephone numbers provided in that written request must be tried. If telephones are not working, the notice requirements are deemed waived. However, the news media must be notified as soon as possible of the meeting and any action taken.

News media may make a practice of having written requests on file for notification of special or emergency meetings. Absent such a request, a local agency has no legal obligation to notify news media of special or emergency meetings—although notification may be advisable in any event to avoid controversy.

### ■ EDUCATIONAL AGENCY MEETINGS

The Education Code contains some special agenda and special meeting provisions,<sup>11</sup> however, they are generally consistent with the Brown Act. An item is probably void if not posted.<sup>12</sup> A school district board must also adopt regulations to make sure the public can place matters affecting district's business on meeting agendas and to address the board on those items.<sup>13</sup>

### ■ NOTICE REQUIREMENTS FOR TAX OR ASSESSMENT MEETINGS AND HEARINGS

The Brown Act prescribes specific procedures for adoption by a city, county, special district, or joint powers authority of any new or increased general tax or assessment.<sup>14</sup> At least one public meeting must be held to allow public testimony on the tax or assessment. In addition, there must also be at least 45 days notice of a public hearing at which public testimony may be given before the legislative body proposes to act on the tax or assessment. The agency may recover the reasonable costs of the public meetings, hearings, and notice.<sup>15</sup>

The Brown Act exempts certain fees, standby or availability charges, recurring assessments, and new or increased assessments that are subject to the notice and hearing requirements of the Constitution.<sup>16</sup> As a practical matter, the Constitution's notice requirements have preempted this section of the Brown Act.

### ■ NON-AGENDA ITEMS

The Brown Act generally prohibits any action or discussion of items not on the posted agenda. However, there are three specific situations in which a legislative body can act on an item not on the agenda:<sup>17</sup>

- When a majority decides there is an "emergency situation" (as defined for emergency meetings);
- When two-thirds of the members present (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action "came to the attention of the local agency subsequent to the agenda being posted." This exception requires a degree of urgency. Further, an item cannot be considered under this provision if the legislative body or the staff knew about the need to take immediate action before the agenda was posted. A new need does not arise because staff forgot to put an item on the agenda or because an applicant missed a deadline; or
- When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.



#### **Practice Tip:**

Subject to very limited exceptions, the Brown Act prohibits any action or discussion of an item not on the posted agenda.

The exceptions are narrow, as indicated by this list. The first two require a specific determination by the legislative body. That determination can be challenged in court and, if unsubstantiated, can lead to invalidation of an action.

“I’d like a two-thirds vote of the board, so we can go ahead and authorize commencement of phase two of the East Area Project,” said Chair Lopez.

“It’s not on the agenda. But we learned two days ago that we finished phase one ahead of schedule—believe it or not—and I’d like to keep it that way. Do I hear a motion?”

*The desire to stay ahead of schedule generally would not satisfy “a need for immediate action.” Too casual an action could invite a court challenge by a disgruntled resident. The prudent course is to place an item on the agenda for the next meeting and not risk invalidation.*



“We learned this morning of an opportunity for a state grant,” said the chief engineer at the regular board meeting, “but our application has to be submitted in two days. We’d like the board to give us the go ahead tonight, even though it’s not on the agenda.”

*A legitimate immediate need can be acted upon even though not on the posted agenda by following a two-step process:*

- First, make two determinations: (a) that there is an immediate need to take action and (b) that the need arose after the posting of the agenda. The matter is then placed on the agenda.
- Second, discuss and act on the added agenda item.

## ■ RESPONDING TO THE PUBLIC

The public can talk about anything within the jurisdiction of the legislative body, but the legislative body generally cannot act on or discuss an item not on the agenda. What happens when a member of the public raises a subject not on the agenda?

While the Brown Act does not allow discussion or action on items not on the agenda, it does allow members of the legislative body, or its staff, to “briefly respond” to comments or questions from members of the public, provide a reference to staff or other resources for factual information, or direct staff to place the issue on a future agenda. In addition, even without a comment from the public, a legislative body member or a staff member may ask for information, request a report back, request to place a matter on the agenda for a subsequent meeting (subject to the body’s rules or procedures), ask a question for clarification, make a brief announcement, or briefly report on his or her own activities.<sup>18</sup> However, caution should be used to avoid any discussion or action on such items.

**Council Member A:** I would like staff to respond to Resident Joe’s complaints during public comment about the repaving project on Elm Street—are there problems with this project?

**City Manager:** The public works director has prepared a 45-minute power point presentation for you on the status of this project and will give it right now.

**Council Member B:** Take all the time you need; we need to get to the bottom of this. Our residents are unhappy.

*It is clear from this dialogue that the Elm Street project was not on the council's agenda, but was raised during the public comment period for items not on the agenda. Council Member A properly asked staff to respond; the city manager should have given at most a brief response. If a lengthy report from the public works director was warranted, the city manager should have stated that it would be placed on the agenda for the next meeting. Otherwise, both the long report and the likely discussion afterward will improperly embroil the council in a matter that is not listed on the agenda.*

## ■ THE RIGHT TO ATTEND AND OBSERVE MEETINGS

A number of other Brown Act provisions protect the public's right to attend, observe, and participate in meetings.

Members of the public cannot be required to register their names, provide other information, complete a questionnaire, or otherwise "fulfill any condition precedent" to attending a meeting. Any attendance list, questionnaire, or similar document posted at or near the entrance to the meeting room or circulated at a meeting must clearly state that its completion is voluntary and that all persons may attend whether or not they fill it out.<sup>19</sup>

No meeting can be held in a facility that prohibits attendance based on race, religion color, national origin, ethnic group identification, age, sex, sexual orientation, or disability, or that is inaccessible to the disabled. Nor can a meeting be held where the public must make a payment or purchase in order to be present.<sup>20</sup> This does not mean however that the public is entitled to free entry to a conference attended by a majority of the legislative body.<sup>21</sup>

While a legislative body may use teleconferencing in connection with a meeting, the public must be given notice of and access to the teleconference location. Members of the public must be able to address the legislative body from the teleconference location.<sup>22</sup>

Action by secret ballot, whether preliminary or final, is flatly prohibited.<sup>23</sup>

**Q:** The agenda calls for election of the legislative body's officers. Members of the legislative body want to cast unsigned written ballots that would be tallied by the clerk, who would announce the results. Is this voting process permissible?

**A:** *No. The possibility that a public vote might cause hurt feelings among members of the legislative body or might be awkward—or even counterproductive—does not justify a secret ballot.*

There can be no semi-closed meetings, in which some members of the public are permitted to attend as spectators while others are not; meetings are either open or closed.<sup>24</sup>

The legislative body may remove persons from a meeting who willfully interrupt proceedings. If order still cannot be restored, the meeting room may be cleared. Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting. The legislative body may establish a procedure to re-admit an individual or individuals not responsible for the disturbance.<sup>25</sup>



## ■ RECORDS AND RECORDINGS

The public has the right to review agendas and other writings distributed by any person to a majority of the legislative body in connection with a matter subject to discussion or consideration at a meeting. Except for privileged documents, those materials are public records and must be made available upon request without delay.<sup>26</sup> A fee or deposit as permitted by the California Public Records Act may be charged for a copy of a public record.<sup>27</sup>

- Q:** In connection with an upcoming hearing on a discretionary use permit, counsel for the legislative body transmits a memorandum to all members of the body outlining the litigation risks in granting or denying the permit. Must this memorandum be included in the packet of agenda materials available to the public?
- A:** *No. The memorandum is a privileged attorney-client communication.*
- Q:** In connection with an agenda item calling for the legislative body to approve a contract, staff submits to all members of the body a financial analysis explaining why the terms of the contract favor the local agency. Must this memorandum be included in the packet of agenda materials available to the public?
- A:** *Yes. The memorandum has been distributed to the majority of the legislative body, relates to the subject matter of a meeting, and is not a privileged communication.*

A legislative body may discuss or act on some matters without considering written materials. But if writings are distributed to a majority of a legislative body in connection with an agenda item, they must also be available to the public. A writing distributed to a majority of the legislative body less than 72 hours before the meeting must be made available for inspection at the time of distribution at a public office or location designated for that purpose; and the agendas for all meetings of the legislative body must include the address of this office or location.<sup>28</sup> A writing distributed during a meeting must be made public:

- At the meeting if prepared by the local agency or a member of its legislative body; or
- After the meeting if prepared by some other person.<sup>29</sup>

Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency is subject to the Public Records Act; however, it may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording is to be provided without charge on a video or tape player made available by the local agency.<sup>30</sup> The agency may impose its ordinary charge for copies.<sup>31</sup>

In addition, the public is specifically allowed to use audio or video tape recorders or still or motion picture cameras at a meeting to record the proceedings, absent a reasonable finding by the legislative body that noise, illumination, or obstruction of view caused by recorders or cameras would persistently disrupt the proceedings.<sup>32</sup>

Similarly, a legislative body cannot prohibit or restrict the public broadcast of its open and public meetings without making a reasonable finding that the noise, illumination, or obstruction of view would persistently disrupt the proceedings.<sup>33</sup>

## ■ THE PUBLIC'S PLACE ON THE AGENDA

Every agenda for a regular meeting must allow members of the public to speak on any item of interest, so long as the item is within the subject matter jurisdiction of the legislative body. Further, the public must be allowed to speak on a specific item of business before or during the legislative body's consideration of it.<sup>34</sup>

- Q.** Must the legislative body allow members of the public to show videos or make a power point presentation during the public comment part of the agenda, as long as the subject matter is relevant to the agency and is within the established time limit?
- A.** *Probably, although the agency is under no obligation to provide equipment.*

### **Practice Tip:**

Public speakers cannot be compelled to give their name or address as a condition of speaking. The clerk or presiding officer may request speakers to complete a speaker card or identify themselves for the record, but must respect a speaker's desire for anonymity.

Moreover, the legislative body cannot prohibit public criticism of policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body itself. But, the Brown Act provides no immunity for defamatory statements.<sup>35</sup>

- Q.** May the presiding officer prohibit a member of the audience from publicly criticizing an agency employee by name during public comments?
- A.** *No, as long as the criticism pertains to job performance.*
- Q.** During the public comment period of a regular meeting of the legislative body, a resident urges the public to support and vote for a candidate vying for election to the body. May the presiding officer gavel the speaker out of order for engaging in political campaign speech?
- A.** *There is no case law on this subject. Some would argue that campaign issues are outside the subject matter jurisdiction of the body within the meaning of Section 54954.3(a). Others take the view that the speech must be allowed under paragraph (c) of that section because it is relevant to the governing of the agency and an implicit criticism of the incumbents.*

The legislative body may adopt reasonable regulations, including time limits, on public comments. Such regulations should be enforced fairly and without regard to speakers' viewpoints. The legislative body has discretion to modify its regulations regarding time limits on public comment if necessary. For example, the time limit could be shortened to accommodate a lengthy agenda or lengthened to allow additional time for discussion on a complicated matter.<sup>36</sup>

The public does not need to be given an opportunity to speak on an item that has already been considered by a committee made up exclusively of members of the legislative body at a public meeting, if all interested members of the public had the opportunity to speak on the item before or during its consideration, and if the item has not been substantially changed.<sup>37</sup>

Notices and agendas for special meetings must also give members of the public the opportunity to speak before or during consideration of an item on the agenda but need not allow members of the public an opportunity to speak on other matters within the jurisdiction of the legislative body.<sup>38</sup>

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**Endnotes**

- 1 California Government Code section 54954.2(a)(1)
- 2 78 Ops.Cal.Atty.Gen. 327 (1995)
- 3 88 Ops.Cal.Atty.Gen. 218 (2005)
- 4 California Government Code section 54954.2(a)(1)
- 5 California Government Code section 54954.1
- 6 California Government Code section 54956
- 7 California Government Code section 54955
- 8 California Government Code section 54954.2(b)(3)
- 9 California Government Code section 54955.1
- 10 California Government Code section 54956.5
- 11 Education Code sections 35144, 35145 and 72129
- 12 *Carlson v. Paradise Unified School District* (1971) 18 Cal.App.3d 196
- 13 California Education Code section 35145.5
- 14 California Government Code section 54954.6
- 15 California Government Code section 54954.6(g)
- 16 See: Cal.Const.Art.XIII C, XIII D and California Government Code section 54954.6(h)
- 17 California Government Code section 54954.2(b)
- 18 California Government Code section 54954.2(a)(2)
- 19 California Government Code section 54953.3
- 20 California Government Code section 54961(a); California Government Code section 11135(a)
- 21 California Government Code section 54952.2(c)(2)
- 22 California Government Code section 54953(b)
- 23 California Government Code section 54953(c)
- 24 46 Ops.Cal.Atty.Gen. 34 (1965)
- 25 California Government Code section 54957.9
- 26 California Government Code section 54957.5
- 27 California Government Code section 54957.5(d)
- 28 California Government Code section 54957.5(b)
- 29 California Government Code section 54957.5(c)
- 30 California Government Code section 54953.5(b)
- 31 California Government Code section 54957.5(d)
- 32 California Government Code section 54953.5(a)
- 33 California Government Code section 54953.6
- 34 California Government Code section 54954.3(a)
- 35 California Government Code section 54954.3(c)
- 36 California Government Code section 54954.3(b); *Chaffee v. San Francisco Public Library Com.* (2005) 134 Cal. App.4th 109; 75 Ops.Cal.Atty.Gen. 89 (1992)
- 37 California Government Code section 54954.3(a)
- 38 California Government Code section 54954.3(a)

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at [www.cacities.org/opengovernment](http://www.cacities.org/opengovernment). A current version of the Brown Act may be found at [www.leginfo.ca.gov](http://www.leginfo.ca.gov).



**2011/2012  
Form 700  
Statement of  
Economic Interests**



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**Reference  
Pamphlet**

**California Fair Political Practices Commission**

428 J Street, Suite 620 • Sacramento, CA 95814

Toll-free advice line: 1 (866) ASK-FPPC • (866) 275-3772

Telephone: (916) 322-5660 • Website: [www.fppc.ca.gov](http://www.fppc.ca.gov)

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## What's New

**Reporting Investments – Exchange traded funds and similar financial investments that resemble mutual funds are not reportable for most individuals.** The term “investment” no longer includes certain exchange traded funds, closed-end funds, or funds held in an Internal Revenue Code qualified plan. These non-reportable investment funds (1) must be bona fide investment funds that pool money from more than 100 investors, (2) must hold securities of more than 15 issuers, and (3) cannot have a stated policy of concentrating their holdings in the same industry or business (“sector funds”). In addition, the filer may not influence or control the decision to purchase or sell the specific fund on behalf of his or her agency during the reporting period or influence or control the selection of any specific investment purchased or sold by the fund. (Regulation 18237)

**Reportable investments, such as stock, held in a brokerage account or other type of managed account continue to be reportable regardless of whether you have control over those investments.**

**Beginning January 1, 2012, certain gifts you receive may not be reportable. In other cases, gift rules changed and are stricter. See the FPPC Gift Fact Sheets for more information.**

# Who Must File

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## **1. Officials and Candidates Specified in Gov. Code Section 87200 and Members of Boards and Commissions of Newly Created Agencies**

The Act requires the following individuals to fully disclose their personal assets and income described in Form 700, Statement of Economic Interests:

### State Offices

- Governor
- Lieutenant Governor
- Attorney General
- Controller
- Insurance Commissioner
- Secretary of State
- Treasurer
- Members of the State Legislature
- Superintendent of Public Instruction
- State Board of Equalization Members
- Public Utilities Commissioners
- State Energy Resources Conservation and Development Commissioners
- State Coastal Commissioners
- Fair Political Practices Commissioners
- State public officials (including employees and consultants) who manage public investments
- Elected members of and candidates for the Board of Administration of the California Public Employees' Retirement System
- Elected members of and candidates for the Teachers' Retirement Board

Other officials and employees of state boards, commissions, agencies, and departments file Form 700 as described in Part 2 on this page.

### Judicial Offices

- Supreme, Appellate, and Superior Court Judges
- Court Commissioners
- Retired Judges, Pro-Tem Judges, and part-time Court Commissioners who serve or expect to serve 30 days or more in a calendar year

### County and City Offices

- Members of Boards of Supervisors
- Mayors and Members of City Councils
- Chief Administrative Officers
- District Attorneys
- County Counsels
- City Attorneys
- City Managers
- Planning Commissioners
- County and City Treasurers
- County and city public officials (including employees and consultants) who manage public investments

### Members of Boards and Commissions of Newly Created Agencies

Members must fully disclose their investments, interests in real property, business positions, and income (including loans, gifts, and travel payments) until the positions are covered under a conflict-of-interest code.

## **2. State and Local Officials, Employees, Candidates, and Consultants Designated in a Conflict-of-Interest Code ("Code Filers")**

The Act requires every state and local government agency to adopt a unique conflict-of-interest code. The code lists each position within the agency filled by individuals who make or participate in making governmental decisions that could affect their personal economic interests.

The code requires individuals holding those positions to periodically file Form 700 disclosing certain personal economic interests as determined by the code's "disclosure categories." These individuals are called "designated employees" or "code filers."

Obtain your disclosure categories from your agency – they are not contained in the Form 700. Persons with broad decisionmaking authority must disclose more interests than those in positions with limited discretion. For example, you may be required to disclose only investments and business positions in or income (including loans, gifts, and travel payments) from businesses of the type that contract with your agency, or you may not be required to disclose real property interests.

In addition, certain consultants to public agencies may qualify as public officials because they make, participate in making, or act in a staff capacity for governmental decisions.

Note: An official who holds a position specified in Gov. Code Section 87200 is not required to file statements under the conflict-of-interest code of any agency that has the same or a smaller jurisdiction (for example, a state legislator who also sits on a state or local board or commission).

### Employees in Newly Created Positions of Existing Agencies

An individual hired for a position not yet covered under an agency's conflict-of-interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the agency's broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement.

# Types of Statements

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## Assuming Office Statement:

If you are a newly appointed official or are newly employed in a position designated, or that will be designated, in a state or local agency's conflict-of-interest code, your assuming office date is the date you were sworn in or otherwise authorized to serve in the position. If you are a newly elected official, your assuming office date is the date you were sworn in.

- Investments, interests in real property, and business positions held on the date you assumed the office or position must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the office or position is reportable.

For positions subject to confirmation by the State Senate or the Commission on Judicial Performance, your assuming office date is the date you were appointed or nominated to the position.

## Example:

Maria Lopez was nominated by the Governor to serve on a state agency board that is subject to state Senate confirmation. The assuming office date is the date Maria's nomination is submitted to the Senate. Maria must report investments, interests in real property, and business positions she holds on that date, and income (including loans, gifts, and travel payments) received during the 12 months prior to that date.

If your office or position has been added to a newly adopted or newly amended conflict-of-interest code, use the effective date of the code or amendment, whichever is applicable.

- Investments, interests in real property, and business positions held on the effective date of the code or amendment must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the code or amendment is reportable.

## Annual Statement:

Generally, the period covered is January 1, 2011, through December 31, 2011. If the period covered by the statement is different than January 1, 2011, through December 31, 2011, (for example, you assumed office between October 1, 2010, and December 31, 2010, or you are combining statements), you must specify the period covered.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the

preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2011.

- If your disclosure category changes during a reporting period, disclose under the old category until the effective date of the conflict-of-interest code amendment and disclose under the new disclosure category through the end of the reporting period.

## Leaving Office Statement:

Generally, the period covered is January 1, 2011, through the date you stopped performing the duties of your position. If the period covered differs from January 1, 2011, through the date you stopped performing the duties of your position (for example, you assumed office between October 1, 2010, and December 31, 2010, or you are combining statements), the period covered must be specified.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2011.

## Candidate Statement:

If you are filing a statement in connection with your candidacy for state or local office, investments, interests in real property, and business positions held on the date of filing your declaration of candidacy must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date of filing your declaration of candidacy is reportable. Do not change the preprinted dates on Schedules A-1, A-2, and B.

Candidates running for local elective offices (e.g., county sheriffs, city clerks, school board trustees, and water district board members) must file candidate statements, as required by the conflict-of-interest code for the elected position. The code may be obtained from the agency of the elected position.

## Amendments:

If you discover errors or omissions on any statement, file an amendment as soon as possible. You are only required to amend the schedule that needs to be revised; it is not necessary to refile the entire form. To obtain amendment schedules, contact the FPPC, your filing official, or go to the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

# Where to File

## 1. Officials Specified in Gov. Code Section 87200 (See Reference Pamphlet, page 3):

In most cases, the filing officials listed below will retain a copy of your statement and forward the original to the FPPC.

Filers	Where to File
<b>87200 Filers</b>	
State offices	Your agency
Judicial offices	The clerk of your court
Retired Judges	Directly with FPPC
County offices	Your county filing official
City offices	Your city clerk
Multi-County offices	Your agency
<b>87200 Candidates</b>	
State offices	County elections official with whom you file your declaration of candidacy
Judicial offices	
Multi-County offices	
County offices	County elections official
City offices	City Clerk
Public Employees' Retirement System (CalPERS)	CalPERS
State Teachers' Retirement Board (CalSTRS)	CalSTRS

## 2. Code Filers — State and Local Officials, Employees, Candidates, and Consultants Designated in a Conflict-of-Interest Code:

File with your agency, board, or commission unless otherwise specified in your agency's conflict-of-interest code. In most cases, the agency, board, or commission will retain the statements.

Candidates for local elective offices designated in a conflict-of-interest code file with the elections office where the declaration of candidacy or other nomination documents are filed.

## 3. Members of Boards and Commissions of Newly Created Agencies:

File with your newly created agency or with your agency's code reviewing body as provided by your code reviewing body.

State Senate and Assembly staff members file statements directly with the FPPC.

Exceptions:

- Elected state officers are not required to file statements under any agency's conflict-of-interest code.
- Filers listed in Section 87200 are not required to file statements under any agency's conflict-of-interest code in the same jurisdiction. For example, a county supervisor who is appointed to serve in an agency with jurisdiction in the same county has no additional filing obligations.

## 4. Positions Not Yet Covered Under a Conflict-of-Interest Code

Effective January 1, 2010, an individual hired for a position not yet covered under an agency's conflict-of-interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. Such individuals are referred to as "code filers." See Regulation 18734.

# When to File

## Assuming Office Statements:

Filer	Deadline
Elected officials	<b>30 days</b> after assuming office
Appointed positions specified in Gov. Code Section 87200  <b>or</b> Newly created board and commission members not covered by a conflict-of-interest code	<b>30 days</b> after assuming office  <b>or</b> <b>10 days</b> after appointment or nomination if subject to Senate or judicial confirmation
Other appointed positions (including those held by newly-hired employees) that are or will be designated in a conflict-of-interest code	<b>30 days</b> after assuming office (30 days after appointment or nomination if subject to Senate confirmation)
Positions newly added to a new or amended conflict-of-interest code	<b>30 days</b> after the effective date of the code or code amendment

### Exceptions:

- Elected state officers who assume office in December or January are not required to file an assuming office statement, but will file the next annual statement due.
- If you complete a term of office and, within 30 days, begin a new term of the same office (for example, you are reelected or reappointed), you are not required to file an assuming office statement. Instead, you will simply file the next annual statement due.
- If you leave an office specified in Gov. Code Section 87200 and, within 45 days, you assume another office or position specified in Section 87200 that has the same jurisdiction (for example, a city planning commissioner elected mayor), you are not required to file an assuming office statement. Instead, you will simply file the next annual statement due.
- If you transfer from one designated position to another designated position within the same agency, contact your filing officer or the FPPC to determine your filing obligations.

**Late statements are subject to a \$10 per day late fine up to \$100 for each day the statement is late.**

## Annual Statements:

1. Elected state officers (including members of the state legislature, members elected to the Board of Administration of the California Public Employees' Retirement System and members elected to the Teachers' Retirement Board);  
Judges and court commissioners; and  
Members of state boards and commissions specified in Gov. Code Section 87200:  
  
File no later than **Thursday, March 1, 2012.**
2. County and city officials specified in Gov. Code Section 87200:  
  
File no later than **Monday, April 2, 2012.**
3. Multi-County officials:  
  
File no later than **Monday, April 2, 2012.**
4. State and local officials and employees designated in a conflict-of-interest code:  
  
File on the date prescribed in the code (April 1 for most filers).

### Exception:

If you assumed office between October 1, 2011, and December 31, 2011, and filed an assuming office statement, you are not required to file an annual statement until March 1, 2013, or April 2, 2013, whichever is applicable. The annual statement will cover the day after you assumed office through December 31, 2012.

Incumbent officeholders who file candidate statements also must file annual statements by the specified deadlines.

## Leaving Office Statements:

Leaving office statements must be filed no later than **30 days** after leaving the office or position.

### Exceptions:

- If you complete a term of office and, within 30 days, begin a new term of the same office (for example, you are reelected or reappointed), you are not required to file a leaving office statement. Instead, you will simply file the next annual statement due.

## Where to File - (continued)

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- If you leave an office specified in Gov. Code Section 87200 and, within 45 days, you assume another office or position specified in Section 87200 that has the same jurisdiction (for example, a city planning commissioner elected mayor), you are not required to file a leaving office statement. Instead, you will simply file the next annual statement due.
- If you transfer from one designated position to another designated position within the same agency, contact your filing officer or the FPPC to determine your filing obligations.

### Candidate Statements

All candidates (including incumbents) for offices specified in Gov. Code Section 87200 must file statements no later than the final filing date for their declaration of candidacy.

Candidates seeking a position designated in a conflict-of-interest code must file no later than the final filing date for the declaration of candidacy or other nomination documents.

#### Exception:

A candidate statement is not required if you filed any statement (other than a leaving office statement) for the same jurisdiction **within 60 days** before filing a declaration of candidacy or other nomination documents.

# Terms & Definitions

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The instructions located on the back of each schedule describe the types of interests that must be reported. The purpose of this section is to explain other terms used in Form 700 that are not defined in the instructions to the schedules or elsewhere.

**Blind Trust:** See Trusts, Reference Pamphlet, page 16.

**Business Entity:** Any organization or enterprise operated for profit, including a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, or association. This would include a business for which you take business deductions for tax purposes (for example, a small business operated in your home).

**Code Filer:** An individual who has been designated in a state or local agency's conflict-of-interest code to file statements of economic interests.

Effective January 1, 2010, an individual hired for a position not yet covered under an agency's conflict-of-interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. See Regulation 18734.

**Commission Income:** "Commission income" means gross payments of \$500 or more received during the period covered by the statement as a broker, agent, or salesperson, including insurance brokers or agents, real estate brokers or agents, travel agents or salespersons, stockbrokers, and retail or wholesale salespersons, among others.

In addition, you may be required to disclose the names of sources of commission income if your pro rata share of the gross income was \$10,000 or more from a single source during the reporting period. If your spouse or registered domestic partner received commission income, you would disclose your community property share (50%) of that income (that is, the names of sources of \$20,000 or more in gross commission income received by your spouse or registered domestic partner).

Report commission income as follows:

- If the income was received through a business entity in which you and your spouse or registered domestic partner had a 10% or greater ownership interest (or if you receive commission income **on a regular basis** as an independent contractor or agent), use Schedule A-2.
- If the income was received through a business entity in which you or your spouse or registered domestic partner **did not receive commission income on a**

**regular basis** or you had a less than 10% ownership interest, use Schedule C.

The "source" of commission income generally includes all parties to a transaction, and each is attributed the full value of the commission.

Examples:

- You are a partner in Smith and Jones Insurance Company and have a 50% ownership interest in the company. You sold two Businessmen's Insurance Company policies to XYZ Company during the reporting period. You received commission income of \$5,000 from the first transaction and \$6,000 from the second. On Schedule A-2, report your partnership interest in and income received from Smith and Jones Insurance Company in Parts 1 and 2. In Part 3, list both Businessmen's Insurance Company and XYZ Company as sources of \$10,000 or more in commission income.
- You are a stockbroker for Prince Investments, but you have no ownership interest in the firm. You receive commission income on a regular basis through the sale of stock to clients. Your total gross income from your employment with Prince Investments was over \$100,000 during the reporting period. On Schedule A-2, report your name as the name of the business entity in Part 1 and the gross income you have received in Part 2. (Because you are an employee of Prince Investments, you do not need to complete the information in the box in Part 1 indicating the general description of business activity, fair market value, or nature of investment.) In Part 3, list Prince Investments and the names of any clients who were sources of \$10,000 or more in commission income to you.
- You are a real estate agent and an independent contractor under Super Realty. On Schedule A-2, Part 1, in addition to your name or business name, complete the business entity description box. In Part 2, identify your gross income. In Part 3, for each transaction that resulted in commission income to you of \$10,000 or more, you must identify the brokerage entity, each person you represented, and any person who received a finder's or other referral fee for referring a party to the transaction to the broker.

Note: If your pro rata share of commission income from a single source is \$500 or more, you may be required to disqualify yourself from decisions affecting that source of income, even though you are not required to report the income. *For information regarding disclosure of "incentive compensation," see Reference Pamphlet, page 12.*

## Terms & Definitions - (continued)

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**Conflict of Interest:** A public official or employee has a conflict of interest under the Act when all of the following occur:

- The official makes, participates in making, or uses his or her official position to influence a governmental decision;
- It is reasonably foreseeable that the decision will affect the official's economic interest;
- The effect of the decision on the official's economic interest will be material; and
- The effect of the decision on the official's economic interest will be different than its effect on the public generally. Check the FPPC website ([www.fppc.ca.gov](http://www.fppc.ca.gov)) for a fact sheet entitled, "Can I Vote? Conflict of Interest Overview."

**Conflict-of-Interest Code:** The Act requires every state and local government agency to adopt a conflict-of-interest code. The code may be contained in a regulation, policy statement, or a city or county ordinance, resolution, or other document.

An agency's conflict-of-interest code must designate all officials and employees of, and consultants to, the agency who make or participate in making governmental decisions that could cause conflicts of interest. These individuals are required by the code to file statements of economic interests and to disqualify themselves when conflicts of interest occur.

The disclosure required under a conflict-of-interest code for a particular designated official or employee should include only the kinds of personal economic interests he or she could significantly affect through the exercise of his or her official duties. For example, an employee whose duties are limited to reviewing contracts for supplies, equipment, materials, or services provided to the agency should be required to report only those interests he or she holds that are likely to be affected by the agency's contracts for supplies, equipment, materials, or services.

**Consultant:** An individual who contracts with or whose employer contracts with state or local government agencies and who makes, participates in making, or acts in a staff capacity for making governmental decisions. Consultants may be required to file Form 700. The obligation to file Form 700 is always imposed on the individual who is providing services to the agency, not on the business or firm that employs the individual.

FPPC Regulation 18701 defines "consultant" as an individual who makes a governmental decision whether to:

- Approve a rate, rule, or regulation
- Adopt or enforce a law
- Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
- Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval
- Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract
- Grant agency approval to a plan, design, report, study, or similar item
- Adopt, or grant agency approval of, policies, standards, or guidelines for the agency or for any of its subdivisions

A consultant also is an individual who serves in a staff capacity with the agency and:

- participates in making a governmental decision; or
- performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's conflict-of-interest code.

**Designated Employee:** An official or employee of a state or local government agency whose position has been designated in the agency's conflict-of-interest code to file statements of economic interests or whose position has not yet been listed in the code but makes or participates in making governmental decisions. Individuals who contract with government agencies (consultants) may also be designated in a conflict-of-interest code.

A federal officer or employee serving in an official federal capacity on a state or local government agency is not a designated employee.

**Disclosure Categories:** The section of an agency's conflict-of-interest code that specifies the types of personal economic interests officials and employees of the agency must disclose on their statements of economic interests. Disclosure categories are usually contained in an appendix or attachment to the conflict-of-interest code. Contact your agency to obtain a copy of your disclosure categories.

## Terms & Definitions - (continued)

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**Diversified Mutual Fund:** Diversified portfolios of stocks, bonds, or money market instruments that are managed by investment companies whose business is pooling the money of many individuals and investing it to seek a common investment goal. Mutual funds are managed by trained professionals who buy and sell securities. A typical mutual fund will own between 75 to 100 separate securities at any given time so they also provide instant diversification. *Only diversified mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 are exempt from disclosure.* In addition, Regulation 18237 provides an exception from reporting other funds that are similar to diversified mutual funds. See Reference Pamphlet, page 12.

**Elected State Officer:** Elected state officers include the Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, State Controller, Secretary of State, State Treasurer, Superintendent of Public Instruction, members of the State Legislature, members of the State Board of Equalization, elected members of the Board of Administration of the California Public Employees' Retirement System and members elected to the Teachers' Retirement Board.

**Enforcement:** The FPPC investigates suspected violations of the Act. Other law enforcement agencies (the Attorney General or district attorney) also may initiate investigations under certain circumstances. If violations are found, the Commission may initiate administrative enforcement proceedings that could result in fines of up to \$5,000 per violation.

Instead of administrative prosecution, a civil action may be brought for negligent or intentional violations by the appropriate civil prosecutor (the Commission, Attorney General, or district attorney), or a private party residing within the jurisdiction. In civil actions, the measure of damages is up to the amount or value not properly reported.

Persons who violate the conflict-of-interest disclosure provisions of the Act also may be subject to agency discipline, including dismissal.

Finally, a knowing or willful violation of any provision of the Act is a misdemeanor. Persons convicted of a misdemeanor may be disqualified for four years from the date of the conviction from serving as a lobbyist or running for elective office, in addition to other penalties that may be imposed. The Act also provides for numerous civil penalties, including monetary penalties and damages, and injunctive relief from the courts.

**Expanded Statement:** Some officials or employees may have multiple filing obligations (for example, a city council member who also holds a designated position with a county agency, board, or commission). Such officials or employees may complete one expanded statement covering the disclosure requirements for all positions and file a complete, originally signed copy with each agency.

**Fair Market Value:** When reporting the value of an investment, interest in real property, or gift, you must disclose the fair market value – the price at which the item would sell for on the open market. This is particularly important when valuing gifts, because the fair market value of a gift may be different from the amount it cost the donor to provide the gift. For example, the wholesale cost of a bouquet of flowers may be \$10, but the fair market value may be \$25 or more. In addition, there are special rules for valuing free tickets and passes. Call the FPPC for assistance.

### Gift and Honoraria Prohibitions:

#### Gifts:

State and local officials who are listed in Gov. Code Section 87200 (except judges – see below), candidates for these elective offices (including judicial candidates), and officials and employees of state and local government agencies who are designated in a conflict-of-interest code are prohibited from accepting a gift or gifts totaling more than \$420 in a calendar year from a single source during 2011-2012.

In addition, elected state officers, candidates for elective state offices, and officials and employees of state agencies are subject to a \$10 per calendar month limit on gifts from lobbyists and lobbying firms registered with the Secretary of State.

#### Honoraria:

State and local officials who are listed in Gov. Code Section 87200 (except judges – see below), candidates for these elective offices (including judicial candidates), and employees of state and local government agencies who are designated in a conflict-of-interest code are prohibited from accepting honoraria for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

## Terms & Definitions - (continued)

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### Exceptions:

- Some gifts are not reportable or subject to the gift and honoraria prohibitions, and other gifts may not be subject to the prohibitions, but are reportable. For detailed information, see the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans," which can be obtained from your filing officer or the FPPC website ([www.fppc.ca.gov](http://www.fppc.ca.gov)).
- The \$420 gift limit and the honorarium prohibition do not apply to a part-time member of the governing board of a public institution of higher education, unless the member is also an elected official.
- If you are designated in a state or local government agency's conflict-of-interest code, the \$420 gift limit and honorarium prohibition are applicable only to sources you would otherwise be required to report on your statement of economic interests. However, this exception is not applicable if you also hold a position listed in Gov. Code Section 87200 (See Reference Pamphlet, page 3.)
- For state agency officials and employees, the \$10 lobbyist/lobbying firm gift limit is applicable only to lobbyists and lobbying firms registered to lobby your agency. This exception is not applicable if you are an elected state officer or a member or employee of the State Legislature.
- Payments for articles published as part of the practice of a bona fide business, trade, or profession, such as teaching, are not considered honoraria. A payment for an "article published" that is customarily provided in connection with teaching includes text book royalties and payments for academic tenure review letters. An official is presumed to be engaged in the bona fide profession of teaching if he or she is employed to teach at an accredited university.

### Judges:

Section 170.9 of the Code of Civil Procedure imposes gift limits on judges and prohibits judges from accepting any honorarium. Section 170.9 is enforced by the Commission on Judicial Performance. The FPPC has no authority to interpret or enforce the Code of Civil Procedure. Court commissioners are subject to the gift limit under the Political Reform Act.

**Income Reporting:** Reporting income under the Act is different than reporting income for tax purposes. The Act requires **gross** income (the amount received before deducting losses, expenses, or taxes, as well as income reinvested in a business entity) to be reported.

**Pro Rata Share:** The instructions for reporting income refer to your pro rata share of the income received. Your pro rata share is normally based on your ownership interest in the entity or property. For example, if you are a sole proprietor, you must disclose 100% of the gross income to the business entity on Schedule A-2. If you own 25% of a piece of rental property, you must report 25% of the gross rental income received. When reporting your community property interest in your spouse's or registered domestic partner's income, your pro rata share is 50% of his or her income.

When you are required to report sources of income to a business entity, sources of rental income, or sources of commission income, you are only required to disclose individual sources of income of \$10,000 or more. However, you may be required to **disqualify** yourself from decisions affecting sources of \$500 or more in income, even though you are not required to report them.

### Examples:

- Alice Ruiz is a partner in a business entity. She has a 25% interest. On Schedule A-2, she must disclose 25% of the fair market value of the business entity; 25% of the gross income to the business entity (even though all of the income received was reinvested in the business and she did not personally receive any income from the business); and the name of each source of \$40,000 or more to the business.
- Cynthia and Mark Johnson, a married couple, own Classic Autos. Income to this business was \$200,000. In determining the amount to report for income on Schedule A-2, Part 2, Mark must include his 50% share (\$100,000) and 50% of his spouse's share (\$50,000). Thus, his reportable income would be \$150,000 and he will check the box indicating \$100,001-\$1,000,000. (Also see Reference Pamphlet, page 13, for an example of how to calculate the value of this investment.)

### You are **not** required to report:

- Salary, reimbursement for expenses or per diem, social security, disability, or other similar benefit payments received by you or your spouse or registered domestic partner from a federal, state, or local government agency
- Campaign contributions
- A cash bequest or cash inheritance
- Returns on a security registered with the Securities and Exchange Commission, including dividends, interest, or proceeds from a sale of stocks or bonds

## Terms & Definitions - (continued)

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- Redemption of a mutual fund
- Payments received under an insurance policy, including an annuity
- Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union, an insurance policy, or a bond or other debt instrument issued by a government agency
- Your spouse's or registered domestic partner's income that is legally "separate" income
- Income of dependent children
- Automobile trade-in allowances from dealers
- Loans and loan repayments received from your spouse or registered domestic partner, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin unless he or she was acting as an intermediary or agent for any person not covered by this provision
- Alimony or child support payments
- Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a)
- Any loan from a commercial lending institution made in the lender's regular course of business on terms available to the public without regard to your official status
- Any retail installment or credit card debts incurred in the creditor's regular course of business on terms available to the public without regard to your official status
- Loans made to others. However, repayments may be reportable on Schedule C
- A loan you co-signed for another person unless you made payments on the loan during the reporting period

**Incentive Compensation:** "Incentive compensation" means income over and above salary that is either ongoing or cumulative, or both, as sales or purchases of goods or services accumulate. Incentive compensation is calculated by a predetermined formula set by the official's employer which correlates to the conduct of the purchaser in direct response to the effort of the official.

Incentive compensation does not include:

- Salary
- Commission income (*For information regarding disclosure of "commission income," see Reference Pamphlet, page 8.*)

- Bonuses for activity not related to sales or marketing, the amount of which is based solely on merit or hours worked over and above a predetermined minimum
- Executive incentive plans based on company performance, provided that the formula for determining the amount of the executive's incentive income does not include a correlation between that amount and increased profits derived from increased business with specific and identifiable clients or customers of the company
- Payments for personal services which are not marketing or sales

The purchaser is a source of income to the official if all three of the following apply:

- the official's employment responsibilities include directing sales or marketing activity toward the purchaser; and
- there is direct personal contact between the official and the purchaser intended by the official to generate sales or business; and
- there is a direct relationship between the purchasing activity of the purchaser and the amount of the incentive compensation received by the official.

Report incentive compensation as follows:

- In addition to salary, reimbursement of expenses, and other income received from your employer, separately report on Schedule C the name of each person who purchased products or services sold, marketed or represented by you if you received incentive compensation of \$500 or more attributable to the purchaser during the period covered by the statement.
- If incentive compensation is paid by your employer in a lump sum, without allocation of amounts to specific customers, you must determine the amount of incentive compensation attributable to each of your customers. This may be based on the volume of sales to those customers.

(See Regulations 18703.3 and 18728.5 for more information.)

**Investment Funds:** The term "investment" no longer includes certain exchange traded funds, closed-end funds, or funds held in an Internal Revenue Code qualified plan. These non-reportable investment funds (1) must be bona fide investment funds that pool money from more than 100 investors, (2) must hold securities of more than 15 issuers, and (3) cannot have a stated policy of concentrating their holdings in the same industry or business ("sector

## Terms & Definitions - (continued)

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funds"). In addition, the filer may not influence or control the decision to purchase or sell the specific fund on behalf of his or her agency during the reporting period or influence or control the selection of any specific investment purchased or sold by the fund. (Regulation 18237)

**Investments and Interests in Real Property:** When disclosing investments on Schedules A-1 or A-2 and interests in real property on Schedules A-2 or B, you must include investments and interests in real property held by your spouse or registered domestic partner, and those held by your dependent children, as if you held them directly.

Examples:

- Terry Pearson, her husband, and two dependent children each own \$600 in stock in General Motors. Because the total value of their holdings is \$2,400, Terry must disclose the stock as an investment on Schedule A-1.
- Cynthia and Mark Johnson, a married couple, jointly own Classic Autos. Mark must disclose Classic Autos as an investment on Schedule A-2. To determine the reportable value of the investment, Mark will aggregate the value of his 50% interest and Cynthia's 50% interest. Thus, if the total value of the business entity is \$150,000, he will check the box \$100,001 - \$1,000,000 in Part 1 of Schedule A-2. (Also see Reference Pamphlet, page 11, for an example of how to calculate reportable income.)

The Johnsons also own the property where Classic Autos is located. To determine the reportable value of the real property, Mark will again aggregate the value of his 50% interest and Cynthia's 50% interest to determine the amount to report in Part 4 of Schedule A-2.

- Katie Smith rents out a room in her home. She receives \$6,000 a year in rental income. Katie will report the fair market value of the rental portion of her residence and the income received on Schedule B.

**Jurisdiction:** Report discloseable investments and sources of income (including loans, gifts, and travel payments) that are located in or doing business in your agency's jurisdiction, are planning to do business in your agency's jurisdiction, or have done business during the previous two years in your agency's jurisdiction, and interests in real property located in your agency's jurisdiction.

A business entity is located in or doing business in your agency's jurisdiction if the entity has business contacts on

a regular or substantial basis with a person who maintains a physical presence in your jurisdiction.

Business contacts include, but are not limited to, manufacturing, distributing, selling, purchasing, or providing services or goods. Business contacts do not include marketing via the Internet, telephone, television, radio, or printed media.

The same criteria are used to determine whether an individual, organization, or other entity is located in or doing business in your jurisdiction.

Exception:

Gifts are reportable regardless of the location of the donor. For example, a state agency official with full disclosure must report gifts from sources located outside of California. (Designated employees/code filers should consult their [disclosure categories](#) to determine if the donor of a gift is of the type that must be disclosed.)

When reporting interests in real property, if your jurisdiction is the state, you must disclose real property located within the state of California unless your agency's conflict-of-interest code specifies otherwise.

For local agencies, an interest in real property is located in your jurisdiction if any part of the property is located in, or within two miles of, the region, city, county, district, or other geographical area in which the agency has jurisdiction, or if the property is located within two miles of any land owned or used by the agency.

See the following explanations to determine what your jurisdiction is:

**State Offices and All Courts:** Your jurisdiction is the state if you are an elected state officer, a state legislator, or a candidate for one of these offices. Judges, judicial candidates, and court commissioners have statewide jurisdiction. (*In re Baty* (1979) 5 FPPC Ops. 10.) If you are an official or employee of, or a consultant to, a state board, commission, or agency, or of any court or the State Legislature, your jurisdiction is the state.

**County Offices:** Your jurisdiction is the county if you are an elected county officer, a candidate for county office, or if you are an official or employee of, or a consultant to, a county agency or any agency with jurisdiction solely within a single county.

**City Offices:** Your jurisdiction is the city if you are an elected city officer, a candidate for city office, or you are an official or employee of, or a consultant to, a city agency or any agency with jurisdiction solely within a single city.

## Terms & Definitions - (continued)

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**Multi-County Offices:** If you are an elected officer, candidate, official or employee of, or a consultant to a multi-county agency, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. (Example: A water district has jurisdiction in a portion of two counties. Members of the board are only required to report interests located or doing business in that portion of each county in which the agency has jurisdiction.)

**Other (for example, school districts, special districts and JPAs):** If you are an elected officer, candidate, official or employee of, or a consultant to an agency not covered above, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. See the multi-county example above.

**Leasehold Interest:** The term "interest in real property" includes leasehold interests. An interest in a lease on real property is reportable if the value of the leasehold interest is \$2,000 or more. The value of the interest is the total amount of rent owed by you during the reporting period or, for a candidate or assuming office statement, during the prior 12 months.

You are not required to disclose a leasehold interest with a value of less than \$2,000 or a month-to-month tenancy.

**Loan Reporting:** Filers are not required to report loans from commercial lending institutions or any indebtedness created as part of retail installment or credit card transactions that are made in the lender's regular course of business, without regard to official status, on terms available to members of the public.

**Loan Restrictions:** State and local elected and appointed public officials are prohibited from receiving any personal loan totaling more than \$250 from an official, employee, or consultant of their government agencies or any government agency over which the official or the official's agency has direction or control. In addition, loans of more than \$250 from any person who has a contract with the official's agency or an agency under the official's control are prohibited unless the loan is from a commercial lending institution or part of a retail installment or credit card transaction made in the regular course of business on terms available to members of the public.

State and local elected officials are also prohibited from receiving any personal loan of \$500 or more unless the loan agreement is in writing and clearly states the terms of the loan, including the parties to the loan agreement, the date, amount, and term of the loan, the date or dates when

payments are due, the amount of the payments, and the interest rate on the loan.

Campaign loans and loans from family members are not subject to the \$250 and \$500 loan prohibitions.

A personal loan made to a public official that is not being repaid or is being repaid below certain amounts will become a gift to the official under certain circumstances. Contact the FPPC for further information, or see the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans," which can be obtained from your filing officer or the FPPC website ([www.fppc.ca.gov](http://www.fppc.ca.gov)).

**Privileged Information:** FPPC Regulation 18740 sets out specific procedures that must be followed in order to withhold the name of a source of income. Under this regulation, you are not required to disclose on Schedule A-2, Part 3, the name of a person who paid fees or made payments to a business entity if disclosure of the name would violate a legally recognized privilege under California law. However, you must provide an explanation for nondisclosure separately stating, for each undisclosed person, the legal basis for the assertion of the privilege, facts demonstrating why the privilege is applicable, and that to the best of your knowledge you have not and will not make, participate in making, or use your official position to influence a governmental decision affecting the undisclosed person in violation of Government Code Section 87100. This explanation may be included with, or attached to, the public official's Form 700.

We note that the name of a source of income is privileged only to a limited extent under California law. For example, a name is protected by attorney-client privilege only when facts concerning an attorney's representation of an anonymous client are publicly known and those facts, when coupled with disclosure of the client's identity, might expose the client to an official investigation or to civil or criminal liability. A patient's name is protected by physician-patient privilege only when disclosure of the patient's name would also reveal the nature of the treatment received by the patient. A patient's name is also protected if the disclosure of the patient's name would constitute a violation by an entity covered under the Federal Health Insurance Portability and Accountability Act (also known as HIPPA).

**Public Officials Who Manage Public Investments:** Individuals who invest public funds in revenue-producing programs must file Form 700. This includes individuals who direct or approve investment transactions, formulate or approve investment policies, and establish guidelines

## Terms & Definitions - (continued)

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for asset allocations. FPPC Regulation 18701 defines "public officials who manage public investments" to include the following:

- Members of boards and commissions, including pension and retirement boards or commissions, and committees thereof, who exercise responsibility for the management of public investments;
- High-level officers and employees of public agencies who exercise primary responsibility for the management of public investments (for example, chief or principal investment officers or chief financial managers); and
- Individuals who, pursuant to a contract with a state or local government agency, perform the same or substantially all the same functions described above.

**Registered Domestic Partners:** Filers must report investments and interests in real property held by, and sources of income to, registered domestic partners. (See Regulation 18229.)

**Retirement Accounts (for example, deferred compensation and individual retirement accounts (IRAs)):** Assets held in retirement accounts must be disclosed if the assets are reportable items, such as common stock (investments) or real estate (interests in real property). For help in determining whether your investments and real property are reportable, see the instructions to Schedules A-1, A-2, and B.

If your retirement account holds reportable assets, disclose only the assets held in the account, not the account itself. You may have to contact your account manager to determine the assets contained in your account.

**Schedule A-1:** Report any business entity in which the value of your investment interest was \$2,000 or more during the reporting period. (Use Schedule A-2 if you have a 10% or greater ownership interest in the business entity.)

**Schedule B:** Report any piece of real property in which the value of your interest was \$2,000 or more during the reporting period.

Examples:

- Alice McSherry deposits \$500 per month into her employer's deferred compensation program. She has chosen to purchase shares in two diversified mutual funds registered with the Securities and Exchange Commission. Because her funds are invested solely in non-reportable mutual funds (see Schedule A-1 instructions), Alice has no disclosure requirements with regard to the deferred compensation program.

- Bob Allison has \$6,000 in an individual retirement account with an investment firm. The account contains stock in several companies doing business in his jurisdiction. One of his stock holdings, Misac Computers, reached a value of \$2,500 during the reporting period. The value of his investment in each of the other companies was less than \$2,000. Bob must report Misac Computers as an investment on Schedule A-1 because the value of his stock in that company was \$2,000 or more.
- Adriane Fisher has \$5,000 in a retirement fund that invests in real property located in her jurisdiction. The value of her interest in each piece of real property held in the fund was less than \$2,000 during the reporting period. Although her retirement fund holds reportable assets, she has no disclosure requirement because she did not have a \$2,000 or greater interest in any single piece of real property. If, in the future, the value of her interest in a single piece of real property reaches or exceeds \$2,000, she will be required to disclose the real property on Schedule B for that reporting period.

**Trusts:** Investments and interests in real property held and income received by a trust (including a living trust) are reported on Schedule A-2 if you, your spouse or registered domestic partner, and your dependent children together had a 10% or greater interest in the trust and your pro rata share of a single investment or interest in real property was \$2,000 or more.

You have an interest in a trust if you are a trustor and:

- Can revoke or terminate the trust;
- Have retained or reserved any rights to the income or principal of the trust or retained any reversionary or remainder interest; or
- Have retained any power of appointment, including the power to change the trustee or the beneficiaries.

Or you are a beneficiary and:

- Presently receive income; or
- Have an irrevocable future right to receive income or principal. (See FPPC Regulation 18234 for more information.)

Examples:

- Sarah Murphy has set up a living trust that holds her principal residence, stock in several companies that do business in her jurisdiction, and a rental home in her agency's jurisdiction. Since Sarah is the trustor and can revoke or terminate the trust, she must disclose

## Terms & Definitions - (continued)

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any stock worth \$2,000 or more and the rental home on Schedule A-2. Sarah's residence is not reportable because it is used exclusively as her personal residence.

- Ben Yee is listed as a beneficiary in his grandparents' trust. However, Ben does not presently receive income from the trust, nor does he have an irrevocable future right to receive income or principal. Therefore, Ben is not required to disclose any assets contained in his grandparents' trust.

### Blind Trusts:

A blind trust is a trust managed by a disinterested trustee who has complete discretion to purchase and sell assets held by the trust. If you have a direct, indirect, or beneficial interest in a blind trust, you may not be required to disclose your pro rata share of the trust's assets or income. However, the trust must meet the standards set out in FPPC Regulation 18235, and you must disclose reportable assets originally transferred into the blind trust and income from those original assets on Schedule A-2 until they have been disposed of by the trustee.

### Trustees:

If you are only a trustee, you do not have a reportable interest in the trust. However, you may be required to report the income you received from the trust for performing trustee services.

**Wedding Gifts:** Wedding gifts must be disclosed if they were received from a reportable source during the period covered by the statement. Gifts valued at \$50 or more are reportable; however, a wedding gift is considered a gift to both spouses equally. Therefore, you would count one-half of the value of a wedding gift to determine if it is reportable and need only report individual gifts with a total value of \$100 or more, unless a particular gift can only be used by you or is intended only for your use.

For example, you receive a place setting of china valued at \$150 from a reportable source as a wedding gift. Because the value to you is \$50 or more, you must report the gift on Schedule D, but may state its value as \$75.

Wedding gifts are not subject to the \$420 gift limit, but they are subject to the \$10 lobbyist/lobbying firm gift limit for state officials.

### Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act

(Gov. Code Sections 81000-91014 and California Code of Regulations Sections 18109-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Notice or how to access your personal information, please contact the FPPC at:

General Counsel  
Fair Political Practices Commission  
428 J Street, Suite 620  
Sacramento, CA 95814  
(916) 322-5660  
(866) 275-3772





STAFF REPORT  
OVERSIGHT BOARD TO THE IMPERIAL BEACH REDEVELOPMENT AGENCY  
SUCCESSOR AGENCY

TO: CHAIR AND MEMBERS OF THE OVERSIGHT BOARD TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR  
AGENCY

FROM: GARY BROWN, EXECUTIVE DIRECTOR

MEETING DATE: APRIL 11, 2012

SUBJECT: ADOPTION OF RESOLUTION NO. OB-12-02 APPROVING THE  
SUCCESSOR AGENCY'S ADMINISTRATIVE BUDGET AND  
RELATED ACTIONS

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**BACKGROUND:**

Section 34177(j) of AB X1 26 ("AB 26") requires the Successor Agency to prepare an Administrative Budget for each six-month fiscal period and submit the Administrative Budget to the Oversight Board for approval. The Administrative Budget shall include all of the following: (i) estimated amounts for Successor Agency administrative costs for the upcoming six-month fiscal period; (ii) proposed sources of payment for Successor Agency administrative costs; and (iii) proposals for arrangements for administrative and operations services provided by the City or other entity.

Section 34177(k) of AB 26 requires the Successor Agency to provide to the San Diego County Auditor-Controller for each six-month fiscal period the administrative cost estimates from its approved Administrative Budget that are to be paid from property tax revenues (i.e. former tax increment revenues) deposited in the County's Redevelopment Property Tax Trust Fund established for the Successor Agency.

This report seeks the Oversight Board's approval of the Administrative Budget and to forward the information required by Section 34177(k) to the County Auditor-Controller.

**FISCAL IMPACT:**

The Administrative Budget for the period of January 1, 2012 through June 30, 2012 totals \$452,930.

**ENVIRONMENTAL DETERMINATION:**

Pursuant to Title 15 of the California Code of Regulations, Section 15378(b)(4), this item is not subject to the California Environmental Quality Act ("CEQA") review because the recommended approvals are not considered a project, and are governmental funding mechanisms and fiscal activities that do not involve any commitment to any specific project which may result in a potentially significant environmental impact.

**EXECUTIVE DIRECTOR'S RECOMMENDATION:**

It is recommended that the Oversight Board adopt Resolution No. OB-12-02 approving the Administrative Budget of the Imperial Beach Redevelopment Agency Successor Agency.

  
\_\_\_\_\_  
Gary Brown, Executive Director,  
Imperial Beach Redevelopment Agency Successor Agency

**Attachments:**

1. Resolution No. OB-12-02 Successor Agency Administrative Budget

## RESOLUTION NO. OB-12-02

**RESOLUTION OF THE OVERSIGHT BOARD OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING THE ADMINISTRATIVE BUDGET AND RELATED ACTIONS**

**WHEREAS**, the Imperial Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Imperial Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

**WHEREAS**, the City Council has adopted redevelopment plans for Imperial Beach's redevelopment project areas, and from time to time, the City Council has amended such redevelopment plans; and

**WHEREAS**, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

**WHEREAS**, AB x1 26 ("AB 26") and AB x1 27 ("AB 27") were signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the California Health and Safety Code ("Health and Safety Code"); and

**WHEREAS**, the California Redevelopment Association and League of California Cities filed a lawsuit in the Supreme Court of California (*California Redevelopment Association, et al. v. Matosantos, et al.*, Case No. S194861) alleging that AB 26 and AB 27 were unconstitutional; and

**WHEREAS**, on December 29, 2011, the Supreme Court issued its opinion in the *Matosantos* case largely upholding as constitutional AB 26, invalidating as unconstitutional AB 27, and holding that AB 26 may be severed from AB 27 and enforced independently; and

**WHEREAS**, the Supreme Court generally reformed and revised the effective dates and deadlines for performance of obligations under Health and Safety Code Part 1.85 of AB 26 arising before May 1, 2012 to take effect four months later, while leaving the effective dates or deadlines for performance of obligations under Health and Safety Code Part 1.8 of AB 26 unchanged; and

**WHEREAS**, as a result of the Supreme Court's decision, and on February 1, 2012, all California redevelopment agencies were dissolved, successor agencies were established as successor agencies to the former redevelopment agencies pursuant to Health and Safety Code Section 34173, and successor agencies are tasked with paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and winding down the affairs of the former redevelopment agencies; and

**WHEREAS**, the City Council of the City adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

**WHEREAS**, 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," the sole name by which it 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; and

**WHEREAS**, 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 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. The duties and responsibilities of the Oversight Board are set forth in Sections 34179 through 34181 of AB 26; and

**WHEREAS**, on April 11, 2012, the first meeting of the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency took place and Oversight Board Members were duly sworn into office.

**WHEREAS**, Section 34177(j) of AB X1 26 ("AB 26") requires the Successor Agency to prepare an administrative budget for each six-month fiscal period and submit the administrative budget to the Oversight Board for approval. The administrative budget shall include all of the following: (i) estimated amounts for Successor Agency administrative costs for the upcoming six-month fiscal period; (ii) proposed sources of payment for Successor Agency administrative costs; and (iii) proposals for arrangements for administrative and operations services provided by the City or other entity; and

**WHEREAS**, Section 34177(k) of AB 26 requires the Successor Agency to provide to the San Diego County Auditor-Controller for each six-month fiscal period the administrative cost estimates from its approved administrative budget that are to be paid from property tax revenues (i.e. former tax increment revenues) deposited in the County's Redevelopment Property Tax Trust Fund established for the Successor Agency; and

**WHEREAS**, the Successor Agency approved the administrative budget for the period of January 1, 2012 through June 30, 2012 ("Administrative Budget"), in the form attached to this Resolution as Exhibit "A", on April 4, 2012 by Resolution SA-12-04 and the Successor Agency authorized the submission of the approved Administrative Budget to the Oversight Board for its approval in order to forward the information required by Section 34177(k) to the San Diego County Auditor-Controller; and

**WHEREAS**, this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines; and

**WHEREAS**, this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines; and

**WHEREAS**, all of the prerequisites with respect to the approval of this Resolution have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The adoption of this Resolution is not intended to and shall not constitute a waiver by the Successor Agency of any rights the Successor Agency may have to challenge the effectiveness and/or legality of all or any portion of AB 26 through administrative or judicial proceedings.
- Section 3.** The Successor Agency's Administrative Budget for the period of January 1, 2012 through June 30, 2012, which is attached hereto as Exhibit "A", is approved and adopted.
- Section 4.** The Executive Director, or designee, is hereby authorized and directed to: i) submit to the San Diego County Auditor-Controller the administrative cost estimates from the Administrative Budget that are to be paid from property tax revenues deposited in the County's Redevelopment Property Tax Trust Fund established for the Successor Agency; and (ii) take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency.
- Section 5.** The Successor Agency determines that this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.
- Section 6.** This Resolution shall take effect upon the date of its adoption.

**PASSED, APPROVED, AND ADOPTED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency at its meeting held on the 11<sup>th</sup> day of April 2012, by the following vote:

**AYES:**            **BOARDMEMBERS:**  
**NOES:**           **BOARDMEMBERS:**  
**ABSENT:**        **BOARDMEMBERS:**

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**CHAIRPERSON**

**ATTEST:**

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**JACQUELINE M. HALD, MMC**  
**SECRETARY**

**EXHIBIT "A"**

**IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY  
ADMINISTRATIVE BUDGET  
FOR THE PERIOD OF JANUARY 1, 2012 THROUGH JUNE 30, 2012**

Position Title	Salary	Total Labor Cost	% Time Working on SA	Monthly SA Cost
ADMINISTRATIVE SECRETARY II	\$3,802	\$5,498	30%	\$1,649
	\$3,752	\$5,499	50%	\$2,750
ASST CM/COMM DEV DIRECTOR	\$10,846	\$14,645	75%	\$10,984
CITY CLERK	\$9,110	\$12,328	50%	\$6,164
CITY MANAGER	\$12,733	\$17,023	70%	\$11,916
CLERK TYPIST	\$2,803	\$4,309	50%	\$2,154
FINANCE DIRECTOR	\$9,649	\$13,230	90%	\$11,907
FINANCE SUPERVISOR	\$5,897	\$8,256	50%	\$4,128
PUBLIC WORKS DIRECTOR	\$9,649	\$12,396	20%	\$2,479
REDEVELOPMENT COORDINATOR	\$6,783	\$9,459	75%	\$7,094
SENIOR ACCOUNT TECHNICIAN	\$3,149	\$4,645	20%	\$929
<b>Total Labor Cost</b>	<b>\$78,172</b>	<b>\$107,289</b>		<b>\$62,155</b>
<b>Total for 6 Month Period</b>				<b>\$372,930</b>
SA General Attorney				\$40,000
SA RDA Attorney				\$40,000
				<b>\$452,930</b>
<b>Source of Funding:</b>				
Property Tax formerly tax increment funds				<b>\$452,930</b>

**STAFF REPORT  
OVERSIGHT BOARD TO THE IMPERIAL BEACH REDEVELOPMENT AGENCY  
SUCCESSOR AGENCY**

**TO:** CHAIR AND MEMBERS OF THE OVERSIGHT BOARD TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR  
AGENCY

**FROM:** GARY BROWN, EXECUTIVE DIRECTOR

**MEETING DATE:** APRIL 11, 2012

**SUBJECT:** ADOPTION OF RESOLUTION NO. OB-12-03 APPROVING THE  
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS)  
FROM JANUARY 1, 2012 THROUGH JUNE 30, 2012

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**BACKGROUND:**

This report seeks Oversight Board adoption of (i) the attached Successor Agency amended Recognized Obligation Payment Schedule (ROPS) for the period ending June 30, 2012; and (ii) the attached Successor Agency approved Recognized Obligation Payment Schedule for the period from July 1, 2012 through December 31, 2012.

The Successor Agency previously adopted the ROPS for the period ending June 30, 2012 on February 15, 2012 by Resolution No. SA-12-02 and amended the ROPS on April 4, 2012 by Resolution No. SA-12-05. If adopted, the ROPS will be reviewed for certification by the San Diego County Auditor-Controller and reviewed by the California Department of Finance. The deadline for submission of the Oversight Board approved ROPS to the County and State Agencies is April 15, 2012.

**FISCAL IMPACT:**

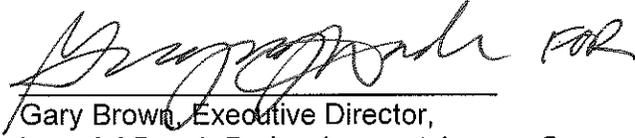
Adoption of ROPS for the period ending June 30, 2012 is in compliance with the provisions of AB 26 and provides funding to pay enforceable obligations.

**ENVIRONMENTAL DETERMINATION:**

Pursuant to Title 15 of the California Code of Regulations, Section 15378(b)(4), this item is not subject to the California Environmental Quality Act ("CEQA") review because the recommended approvals are not considered a project, and are governmental funding mechanisms and fiscal activities that do not involve any commitment to any specific project which may result in a potentially significant environmental impact.

**EXECUTIVE DIRECTOR'S RECOMMENDATION:**

It is recommended that the Oversight Board adopt Resolution No. OB-12-03 approving the Recognized Obligation Payment Schedule (ROPS) for the period of January 1, 2012 through June 30, 2012

A handwritten signature in black ink, appearing to read "Gary Brown", is written over a horizontal line.

Gary Brown, Executive Director,  
Imperial Beach Redevelopment Agency Successor Agency

Attachments:

1. Resolution No. OB-12-03 ROPS January 1, 2012 – June 30, 2012

**RESOLUTION NO. OB-12-03****RESOLUTION OF THE OVERSIGHT BOARD OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING THE AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD ENDING JUNE 30, 2012**

**WHEREAS**, the Imperial Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Imperial Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

**WHEREAS**, the City Council has adopted redevelopment plans for Imperial Beach's redevelopment project areas, and from time to time, the City Council has amended such redevelopment plans; and

**WHEREAS**, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

**WHEREAS**, AB x1 26 ("AB 26") and AB x1 27 ("AB 27") were signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the California Health and Safety Code ("Health and Safety Code"); and

**WHEREAS**, the California Redevelopment Association and League of California Cities filed a lawsuit in the Supreme Court of California (*California Redevelopment Association, et al. v. Matosantos, et al.*, Case No. S194861) alleging that AB 26 and AB 27 were unconstitutional; and

**WHEREAS**, on December 29, 2011, the Supreme Court issued its opinion in the *Matosantos* case largely upholding as constitutional AB 26, invalidating as unconstitutional AB 27, and holding that AB 26 may be severed from AB 27 and enforced independently; and

**WHEREAS**, the Supreme Court generally reformed and revised the effective dates and deadlines for performance of obligations under Health and Safety Code Part 1.85 of AB 26 arising before May 1, 2012 to take effect four months later, while leaving the effective dates or deadlines for performance of obligations under Health and Safety Code Part 1.8 of AB 26 unchanged; and

**WHEREAS**, as a result of the Supreme Court's decision, and on February 1, 2012, all California redevelopment agencies were dissolved, successor agencies were established as successor agencies to the former redevelopment agencies pursuant to Health and Safety Code Section 34173, and successor agencies are tasked with paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and winding down the affairs of the former redevelopment agencies; and

**WHEREAS**, the City Council of the City adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

**WHEREAS**, 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," the sole name by which it 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; and

**WHEREAS**, AB 26 requires that there shall be an oversight board ("Oversight Board") established for each of the former California redevelopment agency's successor agencies to supervise the activities of the Successor Agency and the wind down of the dissolved Redevelopment Agency's affairs pursuant to AB 26; and

**WHEREAS**, on April 11, 2012, the first meeting of the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency took place and Oversight Board Members were duly sworn into office.

**WHEREAS**, pursuant to Health and Safety Code Section 34177(l)(2)(A) of AB 26, the Successor Agency was required to prepare its draft Recognized Obligation Payment Schedule ("ROPS") by March 1, 2012; and

**WHEREAS**, in accordance with Health and Safety Code Section 34177(l)(2)(A) of AB 26, the Successor Agency adopted the draft ROPS on February 15, 2012 by Resolution No. SA-12-02, for the period of January 1, 2012 through June 30, 2012; and

**WHEREAS**, after the Successor Agency's adoption of the draft ROPS, the San Diego County Auditor-Controller requested that the draft ROPS cover the period of October 1, 2011 through June 30, 2012; and

**WHEREAS**, to accommodate the request of the County Auditor-Controller, the Executive Director of the Successor Agency modified the draft ROPS, pursuant to administrative authority provided to the Executive Director by the Successor Agency as set forth in Resolution No. SA-12-02, and included the period of October 1, 2011 through December 31, 2011 to the draft ROPS; and

**WHEREAS**, pursuant to Health and Safety Code Section 34177(l)(3) of AB 26, the first ROPS shall be submitted to the State of California Controller's Office and the State of California Department of Finance by April 15, 2012 for the period of January 1, 2012 through June 30, 2012; and

**WHEREAS**, due to ambiguity in timing and apparent conflict in dates set forth in AB 26 for the certification of the ROPS by the County, the approval of the ROPS by the Oversight Board, and the submission of the first ROPS to the State Controller's Office and the Department of Finance, staff of the Successor Agency has determined that the draft ROPS should be amended as the first ROPS for submission to the State Controller's Office and the Department of Finance by April 15, 2012 and revised to reflect the time period of January 1, 2012 through June 30, 2012 as required by Health and Safety Code Section 34177(l)(3) of AB 26. In addition, staff has determined that certain information relating to the recognized obligations set forth in the ROPS must be added to and clarified in the ROPS; and

**WHEREAS**, the amended ROPS for the period of January 31, 2012 through June 30, 2012 is attached to this Resolution as Exhibit "A" and is substantively the same as the previously approved Successor Agency draft ROPS with the following exceptions: (1) the

exclusion of October 1, 2011 through December 31, 2011; (2) the Administrative Budget has been updated; and (3) the funding source for item 51 on the RDA Projects page has been corrected to read "Non Housing Funds"; and

**WHEREAS**, after adoption by the Successor Agency, the amended ROPS shall thereafter be reviewed and certified by the County, through the use of an external auditor, and submitted to the Oversight Board for review and approval. A copy of the approved amended ROPS shall be submitted to the County Auditor-Controller and both the State Controller's Office and the Department of Finance and shall be posted on the Successor Agency's internet website. The first ROPS shall be submitted to the State Controller's Office and the Department of Finance by April 15, 2012; and

**WHEREAS**, pursuant to Health and Safety Code Section 34177(l)(3) of AB 26, the ROPS shall be forward looking to the next six (6) months and, according to Health and Safety Code Section 34177(l)(1) of AB 26, for each recognized obligation, the ROPS shall identify one or more of the following sources of payment: (i) Low and Moderate Income Housing Funds, (ii) bond proceeds, (iii) reserve balances, (iv) administrative cost allowance, and (v) the Redevelopment Property Tax Trust Fund but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of Part 1.85 of AB 26; and

**WHEREAS**, Health and Safety Code Section 34177(a)(1) of AB 26 requires the Successor Agency to continue to make payments due for enforceable obligations and, from February 1, 2012 until a ROPS becomes operative, only payments required pursuant to the Enforceable Obligations Payment Schedule shall be made; and

**WHEREAS**, it is the intent of AB 26 that the ROPS serve as the designated reporting mechanism for disclosing the Successor Agency's bi-annual payment obligations by amount and source and, subsequent to the audit and approval of the ROPS as specified in AB 26, the County Auditor-Controller will be responsible for ensuring that the Successor Agency receives revenues sufficient to meet the requirements of the ROPS during each bi-annual period; and

**WHEREAS**, notwithstanding the provisions of Health and Safety Code Section 34177(a)(1), agreements between the City and the Redevelopment Agency have been included in the ROPS because, among other things, they have been validated by operation of law prior to the Governor's signature of AB 26 on June 28, 2011; and

**WHEREAS**, the proposed amended ROPS attached to this Resolution as Exhibit "A" is consistent with the requirements of the Health and Safety Code and other applicable law; and

**WHEREAS**, this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines; and

**WHEREAS**, this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines; and

**WHEREAS**, all of the prerequisites with respect to the approval of this Resolution have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The adoption of this Resolution is not intended to and shall not constitute a waiver by the Successor Agency of any rights the Successor Agency may have to challenge the effectiveness and/or legality of all or any portion of AB X1 26 through administrative or judicial proceedings.
- Section 3.** The Successor Agency's amended ROPS, which is attached hereto as Exhibit "A", is approved and adopted.
- Section 4.** The Executive Director, or designee, is hereby authorized and directed to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency.
- Section 5.** The Oversight Board determines that this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.
- Section 6.** This Resolution shall take effect upon the date of its adoption.

**PASSED, APPROVED, AND ADOPTED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency at its meeting held on the 11<sup>th</sup> day of April 2012, by the following vote:

<b>AYES:</b>	<b>BOARDMEMBERS:</b>
<b>NOES:</b>	<b>BOARDMEMBERS:</b>
<b>ABSENT:</b>	<b>BOARDMEMBERS:</b>

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**CHAIRPERSON**

**ATTEST:**

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**JACQUELINE M. HALD, MMC**  
**SECRETARY**

**EXHIBIT "A"**

**IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY  
AMENDED RECOGNIZED OBLIGATION PAYMENT SCHEDULE  
January 1, 2012 through June 30, 2012  
("First ROPS")**

**Approved on February 15, 2012  
Amended on April 4, 2012**

**(See Attachment)**

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2012 (First ROPS)**

	Project Name / Debt Obligation	Payee	Description	Funding	Payments by month 2012						
					January	February	March	April	May	June	Total
<b>Debt Obligations</b>											
1	2003 Tax Allocation Bonds Series	Wells Fargo Bank	Bond Debt Service	Non-Housing & Low Mod					\$ 1,542,394	\$1,542,394	
2	2010 Tax Allocation Bonds Series	Wells Fargo Bank	Bond Debt Service	Non-Housing					\$ 1,051,906	\$1,051,906	
3	City Loan 1995	City of Imperial Beach	Loan to finance start up costs	Non-Housing					\$ 224,286	\$224,286	
4										\$0	
5										\$0	
6										\$0	
7										\$0	
8										\$0	
9										\$0	
10										\$0	
11										\$0	
12										\$0	
13										\$0	
14										\$0	
15										\$0	
16										\$0	
17										\$0	
18										\$0	
19										\$0	
20										\$0	
<b>Totals - Debt Obligations - This Page</b>					\$ -	\$ -	\$ -	\$ -	\$ 2,818,586	\$ -	\$ 2,818,586
<b>Totals - Housing Program Related - Page 2</b>					\$166,983	\$1,139,883	\$132,500	\$132,500	\$132,500	\$3,446,724	\$5,160,890
<b>Totals - RDA Operating - Page 3</b>					\$768,670	\$138,798	\$131,598	\$119,573	\$129,573	\$131,819	\$1,410,031
<b>Totals - RDA Projects - Page 4</b>					\$3,744,540	\$3,640,651	\$1,118,971	\$1,267,129	\$1,102,781	\$1,242,382	\$12,116,454
<b>Totals - Pass Through Obligations- Page 5</b>					\$0	\$0	\$0	\$0	\$576,814	\$0	\$576,814
<b>Total Enforceable Obligations</b>					\$4,670,193	\$4,919,132	\$1,383,069	\$1,519,202	\$4,760,254	\$4,820,925	\$22,072,775

\* Notwithstanding the provisions of California Health and Safety Code section 34177(a)(1), agreements between the City and the Agency have been included in this payment schedule because, among other things, they have been validated by operation of law prior to the Governor's signature of ABx1 28 on June 28, 2011.

Project Area(s): All

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2012 (First ROPS)**

Project Name / Debt Obl.	Payee	Description	Funding	Payments by month 2012						Total	
				Jan	Feb	Mar	Apr	May	Jun		
<b>Housing Programs</b>											
1	Housing Management	See Attached	Mgt costs for Low/Mod Housing Program	Low/Mod funds	\$ 24,544	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 24,544
2	Housing Agreement	Imperial Beach	Support costs	Low/Mod funds		\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 75,000
3	Hemlock Monitoring	Housing Authority/City Finance	South Bay Comm. Svcs Loan	Low/Mod funds						\$ 2,611	\$ 2,611
4	Calla Monitoring	Housing Authority/City Finance	South Bay Comm. Svcs Loan	Low/Mod funds						\$ 2,611	\$ 2,611
5	Beachwind Monitoring	Housing Authority/City Finance	Beachwood Loan	Low/Mod funds						\$ 2,611	\$ 2,611
6	Housing Reporting	Housing Authority/City Finance	RDA Statutory Compliance	Low/Mod funds						\$ 6,765	\$ 6,765
7	Clean & Green Monitoring	Housing Authority	10 yr Contract Compliance	Low/Mod funds						\$ 193	\$ 193
8	Deficit Housing Oblig.	Housing Authority	RDA Statutory Compliance	Low/Mod funds						\$ 5,000	\$ 5,000
9	Age Proportionality	Housing Authority	RDA Statutory Compliance	Low/Mod funds						\$ 5,000	\$ 5,000
10	American Legion	Kane Ballmer	Low/Mod Housing Project	Low/Mod funds		\$ 10,000					\$ 10,000
11	American Legion	Keyser Marston Assoc.	Low/Mod Housing Project	Low/Mod funds		\$ 10,000					\$ 10,000
12	American Legion	Hitzke Development	Low/Mod Housing Project	Low/Mod funds	\$ 91,717	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 3,388,571	\$ 3,880,288
13	American Legion	Project Management	Low/Mod Housing Project	Low/Mod funds	\$ 12,500	\$ 12,500	\$ 12,500	\$ 12,500	\$ 12,500	\$ 12,500	\$ 75,000
14	Housing Element	Tam	Housing Element	Low/Mod funds	\$ 1,396	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,662	\$ 27,258
15	Clean & Green**	A.E. CHARLES CONSTRUCTION	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
16	Clean & Green**	AFORDABLE RAINGUTTERS	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
17	Clean & Green**	A-FRAME CONSTRUCTION, INC.	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
18	Clean & Green**	ALTERNATIVE ENERGY TECHNOLOGIES	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
19	Clean & Green**	BARROWS CONSTRUCTION	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
20	Clean & Green**	CALIFORNIA ALUMINUM & VINYL WINDOWS	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
21	Clean & Green**	CHICAGO TITLE INSUR CO	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
22	Clean & Green**	COOK CONSTRUCTION AND DESIGN, INC.	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
23	Clean & Green**	DELTA SOLAR ELECTRIC	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
24	Clean & Green**	DON MOORE CONSTRUCTION	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
25	Clean & Green**	GB'S FENCE COMPANY	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
26	Clean & Green**	GREGORY HUGHES	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
27	Clean & Green**	HARLAN CONSTRUCTION	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
28	Clean & Green**	HELPERS ELECTRIC COMPANY, INC.	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
29	Clean & Green**	KENNEY ROOFING	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
30	Clean & Green**	MCBREATHY CONSTRUCTION CORP.	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
31	Clean & Green**	MILHOLLAND ELECTRIC, INC.	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
32	Clean & Green**	ROCK AND ROSE LANDSCAPE	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
33	Clean & Green**	RODS ROOTER	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
34	Clean & Green**	SAM & SONS PLUMBING	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
35	Clean & Green**	SIERRA WINDOW CONCEPTS, LTD	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
36	Affordable Housing	SOUTH BAY COMMUNITY SVCS	Tax Exempt Bond Indenture Project	Low/Mod Bond		\$12,183					\$ 12,183
37	Clean & Green**	STORM GENERAL BUILDERS, INC.	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
38	Clean & Green**	SUACCI	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
39	Clean & Green**	U.S. BANK CORPORATE PAYMENT	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
40	Clean & Green**	WEST COAST APPLANCE SERVICES, INC.	Tax Exempt Bond Indenture Project	Low/Mod Bond							\$ -
41	Clean & Green**	WESTERN WINDOW REPLACEMENT	Tax Exempt Bond Indenture Project	Low/Mod Bond	\$21,286						\$ 21,286
42	Clean & Green**	AJ Charles Design	Tax Exempt Bond Indenture Project	Low/Mod Bond	\$2,400						\$ 2,400
43	Clean & Green**	Heifers Electric	Tax Exempt Bond Indenture Project	Low/Mod Bond	\$13,140						\$ 13,140
44	Clean & Green	Various Contractors	Tax Exempt Bond Indenture Project	Low/Mod Bond		\$380,000					\$ 380,000
45	Housing Project	Habitat P.M.	Tax Exempt Bond Indenture Project	Low/Mod Bond		\$500,000					\$ 500,000
46	Housing Project	Project Management for Habitat	Tax Exempt Bond Indenture Project	Low/Mod Bond		\$95,000					\$ 95,000
47											\$ -
<b>Totals - This Page</b>					\$166,983	\$1,139,683	\$132,500	\$132,500	\$132,500	\$3,446,724	\$5,150,890

\* Notwithstanding the provisions of California Health and Safety Code section 34177(a)(1), agreements between the City and the Agency have been included in this payment schedule because, among other things, they have been validated by operation of law prior to the Governor's signature of ABx1 26 on June 28, 2011.  
 \*\* Pursuant to contract with homeowner participant

Project Area(s) All

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2012 (First ROPS)**

Project Name / Debt Obligation	Payee	Description	Funding	Payments by month 2012						Total	
				January	February	March	April	May	June		
<b>RDA Operating</b>											
1	RDA Management	Various	Admin of RDA	Non-Housing	\$100,000						\$100,000
2	Admin Costs ***	City of Imperial Beach	Per AB 26	Non-Housing	\$ 69,273	\$ 69,273	\$ 69,273	\$ 69,273	\$ 69,273	\$ 69,272	\$415,637
3	RDA Accrued Liabilities	City of Imperial Beach	Vacation/Sick Liability as of 1/31/2012	Non-Housing	\$203,233						\$203,233
4	RDA Unfunded PERS Liability	City of Imperial Beach	Unfunded Pension Liability as of 1/31/2012	Non-Housing	\$319,590						\$319,590
5	RDA 30 Layoff Notice Cost	City of Imperial Beach	Labor Contract Requirement	Non-Housing	\$28,646						\$28,646
6	RDA Outstanding WC Liability	City of Imperial Beach	Workers Compensation Liability 1/31/2012	Non-Housing	\$2,928						\$2,928
7	Graffiti Abatement	Various	RDA Staffing and Program Costs	Non-Housing	\$25,000						\$25,000
8	Continuing Disclosure	Wells Fargo	Mandatory Annual Bond Disclosure	Non-Housing		\$3,200					\$3,200
9	Continuing Disclosure	Bond Management/VNBS	Mandatory Annual Bond Disclosure	Non-Housing		\$4,000					\$4,000
10	Continuing Disclosure	HDL	Assessment Information	Non-Housing		\$2,025	\$2,025			\$2,025	\$6,075
11	Continuing Disclosure	Lance Soli	Audit Fees	Non-Housing		\$10,000			\$10,000		\$20,000
12	IBCC Monitoring	City of Imperial Beach	IB Community Clinic Loan	Non-Housing						\$ 2,611	\$2,611
13	RDA Statute Compliance	City of Imperial Beach	Compliance	Non-Housing						\$ 2,611	\$2,611
14	City Service Agreement	City of Imperial Beach	Oversight and related costs	Non-Housing		\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$200,000
15	Hotel DDA Compliance	City of Imperial Beach	DDA Compliance Issues	Non-Housing						\$5,000	\$5,000
16	Capital Trailer Rental	Bert's	Temp Trailer for Project Management	Non-Housing		\$300	\$300	\$300	\$300	\$300	\$1,500
17	Legal	McDougal/Kane Balmer		Non-Housing	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$60,000
18	Interim Audit Management	City of Imperial Beach	Additional Audit Requirement	Non-Housing			\$10,000				\$10,000
19											\$0
20											\$0
21											\$0
22											\$0
23											\$0
24											\$0
25											\$0
26											\$0
27											\$0
28											\$0
29											\$0
30											\$0
<b>Totals - This Page</b>					\$758,670	\$138,798	\$131,598	\$119,673	\$129,573	\$131,819	\$1,410,031

\* Notwithstanding the provisions of California Health and Safety Code section 34177(a)(1), agreements between the City and the Agency have been included in this payment schedule because, among other things, they have been validated by operation of law prior to the Governor's signature of ABx1 26 on June 28, 2011.

\*\* Months October through December were added administratively pursuant to Reso SA 12-02 . The Successor Agency Board ratification is scheduled for March 7, 2012.

\*\*\* Pursuant to AB x1 26 34177 (j) (k) to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund.

RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2012 (First ROPS)

Project Name / Debt Obligation	Payee	Description	Funding	Payments by month 2012						Total	
				January	February	March	April	May	June		
<b>RDA Projects</b>											
1 Commercial Zoning	AECOM	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$ 80,333						\$80,333
2 Commercial Zoning	Project Management	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$ 18,666	\$ 18,666	\$ 18,666	\$ 18,666	\$ 18,666	\$ 18,666	\$83,330
3 Highway 75 Improvements	Sudbery	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$2,200,000							\$2,200,000
4 Highway 75 Improvements	Dudek	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
5 Highway 75 Improvements	Nasland Engineering	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$30,000	\$ 30,000	\$ 7,662				\$87,662
6 Highway 75 Improvements	Project Design Consultant	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$ 105,107							\$105,107
7 Bayside Bikeway Access	Project Management	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000	\$18,000
8 Bayside Bikeway Access	RBF Consulting/Other	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$ 21,094	\$ 5,000					\$26,094
9 Sand Replenishment	SANDAG	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$ 174,093							\$174,093
10 Street Improvements Phase 3	Nasland	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$54,969							\$54,969
11 Street Improvements Phase 3	SDGE	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$5,000							\$5,000
12 Street Improvements Phase 3	Eagle Newspaper	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$ 200	\$ 200	\$ 200	\$ 200	\$ 200	\$ 200	\$1,000
13 Street Improvements Phase 3	Project Management	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$30,000
14 Street Improvements Phase 3	PAL General Engineering	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$258,460	\$258,460	\$258,460	\$258,480	\$258,450	\$258,460	\$258,460	\$1,650,760
15 Street Improvements Phase 4-5	BDS	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
16 Street Improvements Phase 4-5	Geosols	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
17 Street Improvements Phase 4-5	Eagle Newspaper	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
18 Street Improvements Phase 4-5	Project Management	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$30,000
19 Street Improvements Phase 4-5	Southland Paving, Inc.	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$974,555	\$974,555	\$974,555	\$974,555	\$974,555	\$974,555	\$974,555	\$4,047,331
20 13th Street ADA Imp	Labor	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$12,000
21 Skatepark Fence	BDS	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$ 600	\$ 600	\$ 600	\$ 600	\$ 600	\$ 600	\$ 600	\$3,000
22 Skatepark Fence	Harris Steel Fence	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$ 62,782	\$ 5,000						\$67,782
23 Skatepark Fence	Project Management	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$ 2,664	\$ 2,664	\$ 2,664	\$ 2,664				\$10,656
24 Skatepark Fence	US Bank	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$ 500							\$500
25 Bikeway Village Project	Keyser Marston Assoc.	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$18,052	\$10,000					\$28,052
26 Bikeway Village Project	Bikeway Village, LLC	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$1,849,700							\$1,849,700
27 Bikeway Village Project	Bikeway Village, LLC	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$0						\$0
28 Bikeway Village Project	Recon Environmental	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$65,298						\$65,298
29 Bikeway Village Project	Robert Backer	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$35,000						\$35,000
30 Bikeway Village Project	Oppe Varco	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$17,500						\$17,500
31 Bikeway Village Project	Project Management/Legal	Tax Exempt Bond Indenture Project	Non-Housing Bonds	\$25,000	\$25,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$90,000
32 Façade Program	Barrow / Hartan Construction	Tax Exempt Bond Indenture Project	Non-Housing Bonds					\$1,400			\$1,400
33 Façade Program	Calif Electric Supply	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
34 Façade Program	Sea Breeze Electric	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
35 Façade Program	Stanford Sign & Awning	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
36 Façade Program	EJ Tapite	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$20,000						\$20,000
37 Façade Program	La Posta	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$40,000						\$40,000
38 Veterans Park Signage	US Bank	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
39 Veterans Park Signage	Project Management	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
40 Storm Drain Intercept	Various	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$25,000	\$50,000	\$50,000	\$100,000	\$241,000		\$466,000
41 Elm Ave. Undergrounding	A.M. Ortega Const. Inc.	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
42 Elm Ave. Undergrounding	Ameron International	Tax Exempt Bond Indenture Project	Non-Housing Bonds								\$0
43 Bond Project Contingency	Project Management	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$0						\$0
44 Date Street Seacoast Inn	Imperial Coast	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$41,612		\$200,000				\$241,612
45 Date Street	Nasland Engineering	Street Improvement Contract	Non-Housing Bonds								\$0
46 9th & Palm/ Other Bond Projects	Kane Ballmen/McDougal	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$34,007	\$10,000	\$10,489	\$10,000	\$10,000	\$10,000	\$74,496
47 9th & Palm/ Other Bond Projects	Oppe Varco	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$17,500						\$17,500
48 9th & Palm/ Other Bond Projects	Keyser Marston Assoc.	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$10,000	\$9,826					\$19,826
49 9th & Palm/ Other Bond Projects	Urban Systems	Tax Exempt Bond Indenture Project	Non-Housing Bonds		\$10,000	\$10,000	\$4,933				\$24,933
50 9th & Palm Southbay Relocation	Southbay Drugs	9th and Palm Project	Non-Housing Funds	\$150,000							\$150,000
51 9th & Palm Goodwill Relocation	Goodwill Industries	9th and Palm Project	Non-Housing Funds		\$210,000						\$210,000
52 9th & Palm Moran Relocation	Moran Food	9th and Palm Project	Non-Housing Funds								\$0
53 9th & Palm	Nasland Engineering	9th and Palm Project	Non-Housing Funds								\$0
54 9th & Palm	Granger	9th and Palm Project	Non-Housing Funds								\$0
55 9th & Palm	Mirles Landscaping	9th and Palm Project	Non-Housing Funds								\$0
56 9th & Palm	Project Management/Legal	9th and Palm Project	Non-Housing Bonds	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$90,000
57 9th & Palm	Various	9th and Palm Project	Non-Housing Bonds	\$0							\$0
58 Eco-Bikeway	KOA Corporation	Bikeway Improvements	Non-Housing Bonds		\$ 1,310						\$1,310
59 Eco-Bikeway	Project Management	Bikeway Improvements	Non-Housing Bonds	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$8,000
60											\$0
<b>Totals - This Page</b>				\$3,744,540	\$3,640,651	\$1,118,971	\$1,267,129	\$1,102,781	\$1,242,382	\$12,116,454	

\* Notwithstanding the provisions of California Health and Safety Code section 34177(a)(1), agreements between the City and the Agency have been included in this payment schedule because, among other things, they have been validated by operation of law prior to the Governor's signature of ABx1 26 on June 28, 2011.

Project Area(s) All

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE January 1 - June 30, 2012 (First ROPS)**

Project Name / Debt Obligation	Payee	Description	Funding	Payments by month						Total	
				Jan	Feb	Mar	Apr	May	Jun		
<b>Pass-Thru Payments</b>											
1)	Section 33676 Payments	County General	Pass Thru Payments Amended Area	Non-Housing							\$0
2)	Section 33676 Payments	County Library	Pass Thru Payments Amended Area	Non-Housing							\$0
3)	Section 33676 Payments	Gen Elem South Bay Union	Pass Thru Payments Amended Area	Non-Housing							\$0
4)	Section 33676 Payments	High Sweetwater Union	Pass Thru Payments Amended Area	Non-Housing							\$0
5)	Section 33676 Payments	Southwestern Community College	Pass Thru Payments Amended Area	Non-Housing							\$0
6)	Section 33676 Payments	County Office of Education	Pass Thru Payments Amended Area	Non-Housing							\$0
7)	Section 33676 Payments	Imperial Beach City Gen Fund	Pass Thru Payments Amended Area	Non-Housing							\$0
8)	Section 33676 Payments	City of San Diego	Pass Thru Payments Amended Area	Non-Housing							\$0
9)	Section 33676 Payments	CWA City of San Diego	Pass Thru Payments Amended Area	Non-Housing							\$0
10)	Section 33676 Payments	San Diego City Zoological Exhibits-D	Pass Thru Payments Amended Area	Non-Housing							\$0
11)	Section 33676 Payments	MWD D/S Remainder of SDCWA	Pass Thru Payments Amended Area	Non-Housing							\$0
12)	Section 33676 Payments	County General	Pass Thru Payments Original Area T1	Non-Housing							\$0
13)	Section 33676 Payments	County Library	Pass Thru Payments Original Area T1	Non-Housing							\$0
14)	Section 33676 Payments	Gen Elem South Bay Union	Pass Thru Payments Original Area T1	Non-Housing							\$0
15)	Section 33676 Payments	High Sweetwater Union	Pass Thru Payments Original Area T1	Non-Housing							\$0
16)	Section 33676 Payments	Southwestern Community College	Pass Thru Payments Original Area T1	Non-Housing							\$0
17)	Section 33676 Payments	County Office of Education	Pass Thru Payments Original Area T1	Non-Housing							\$0
18)	Section 33676 Payments	Imperial Beach City	Pass Thru Payments Original Area T1	Non-Housing							\$0
19)	Section 33676 Payments	County General	Pass Thru Payments Original Area	Non-Housing							\$0
20)	Section 33676 Payments	County Library	Pass Thru Payments Original Area	Non-Housing							\$0
21)	Section 33676 Payments	Gen Elem South Bay Union	Pass Thru Payments Original Area	Non-Housing							\$0
22)	Section 33676 Payments	High Sweetwater Union	Pass Thru Payments Original Area	Non-Housing							\$0
23)	Section 33676 Payments	Southwestern Community College	Pass Thru Payments Original Area	Non-Housing							\$0
24)	Section 33676 Payments	County Office of Education	Pass Thru Payments Original Area	Non-Housing							\$0
25)	Section 33676 Payments	Final - see above	Pass Thru Payments Original Area	Non-Housing					\$576,814		\$576,814
<b>Totals - Other Obligations</b>					\$ -	\$ -	\$ -	\$ -	\$ 576,814	\$ -	\$ 576,814

\* Notwithstanding the provisions of California Health and Safety Code section 34177 (a)(1), agreements between the City and the Agency have been included in this payment schedule because, among other things, they have been validated by operation of law prior to the Governor's signature of ABx1 26 on June 28, 2011.

STAFF REPORT  
OVERSIGHT BOARD TO THE IMPERIAL BEACH REDEVELOPMENT AGENCY  
SUCCESSOR AGENCY

TO: CHAIR AND MEMBERS OF THE OVERSIGHT BOARD TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR  
AGENCY

FROM: GARY BROWN, EXECUTIVE DIRECTOR

MEETING DATE: APRIL 11, 2012

SUBJECT: ADOPTION OF RESOLUTION NO. OB-12-04 APPROVING THE  
RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE  
PERIOD FROM JULY 1, 2012 THROUGH DECEMBER 31, 2012

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**BACKGROUND:**

This report seeks Oversight Board adoption of the attached Successor Agency approved Recognized Obligation Payment Schedule for the period from July 1, 2012 through December 31, 2012. It is requested the Oversight Board adopt a second Successor Agency approved ROPS covering the period from July 1, 2012 through December 31, 2012. This "second" ROPS will be forwarded to the San Diego County Auditor-Controller for its review. The County is required to make a payment of property tax revenues (i.e. former tax increment funds) to the Successor Agency by June 1, 2012 for payments to be made toward recognized obligations listed on the second ROPS.

**FISCAL IMPACT:**

Adoption of ROPS for the period of July 1, 2012 through December 31, 2012 is in compliance with the provisions of AB 26 and provides funding to pay enforceable obligations.

**ENVIRONMENTAL DETERMINATION:**

Pursuant to Title 15 of the California Code of Regulations, Section 15378(b)(4), this item is not subject to the California Environmental Quality Act ("CEQA") review because the recommended approvals are not considered a project, and are governmental funding mechanisms and fiscal activities that do not involve any commitment to any specific project which may result in a potentially significant environmental impact.



**RESOLUTION NO. OB-12-04****RESOLUTION OF THE OVERSIGHT BOARD OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING THE SECOND RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD OF JULY 1, 2012 ENDING DECEMBER 31, 2012**

**WHEREAS**, the Imperial Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Imperial Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

**WHEREAS**, the City Council has adopted redevelopment plans for Imperial Beach's redevelopment project areas, and from time to time, the City Council has amended such redevelopment plans; and

**WHEREAS**, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

**WHEREAS**, AB x1 26 ("AB 26") and AB x1 27 ("AB 27") were signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the California Health and Safety Code ("Health and Safety Code"); and

**WHEREAS**, the California Redevelopment Association and League of California Cities filed a lawsuit in the Supreme Court of California (*California Redevelopment Association, et al. v. Matosantos, et al.*, Case No. S194861) alleging that AB 26 and AB 27 were unconstitutional; and

**WHEREAS**, on December 29, 2011, the Supreme Court issued its opinion in the *Matosantos* case largely upholding as constitutional AB 26, invalidating as unconstitutional AB 27, and holding that AB 26 may be severed from AB 27 and enforced independently; and

**WHEREAS**, the Supreme Court generally reformed and revised the effective dates and deadlines for performance of obligations under Health and Safety Code Part 1.85 of AB 26 arising before May 1, 2012 to take effect four months later, while leaving the effective dates or deadlines for performance of obligations under Health and Safety Code Part 1.8 of AB 26 unchanged; and

**WHEREAS**, as a result of the Supreme Court's decision, and on February 1, 2012, all California redevelopment agencies were dissolved, successor agencies were established as successor agencies to the former redevelopment agencies pursuant to Health and Safety Code Section 34173, and successor agencies are tasked with paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and winding down the affairs of the former redevelopment agencies; and

**WHEREAS**, the City Council of the City adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

**WHEREAS**, 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," the sole name by which it 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; and

**WHEREAS**, AB 26 requires that there shall be an oversight board ("Oversight Board") established for each of the former California redevelopment agency's successor agencies to supervise the activities of the Successor Agency and the wind down of the dissolved Redevelopment Agency's affairs pursuant to AB 26; and

**WHEREAS**, on April 11, 2012, the first meeting of the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency took place and Oversight Board Members were duly sworn into office.

**WHEREAS**, pursuant to Health and Safety Code Section 34177(l)(2)(A) of AB 26, the Successor Agency was required to prepare its draft Recognized Obligation Payment Schedule ("ROPS") by March 1, 2012; and

**WHEREAS**, in accordance with Health and Safety Code Section 34177(l)(2)(A) of AB 26, the Successor Agency adopted the draft ROPS on February 15, 2012 by Resolution No. SA-12-02, for the period of January 1, 2012 through June 30, 2012; and

**WHEREAS**, after the Successor Agency's adoption of the draft ROPS, the San Diego County Auditor-Controller requested that the draft ROPS cover the period of October 1, 2011 through June 30, 2012; and

**WHEREAS**, to accommodate the request of the County Auditor-Controller, the Executive Director of the Successor Agency modified the draft ROPS, pursuant to administrative authority provided to the Executive Director by the Successor Agency as set forth in Resolution No. SA-12-02, and included the period of October 1, 2011 through December 31, 2011 to the draft ROPS; and

**WHEREAS**, pursuant to Health and Safety Code Section 34177(l)(3) of AB 26, the first ROPS shall be submitted to the State of California Controller's Office and the State of California Department of Finance by April 15, 2012 for the period of January 1, 2012 through June 30, 2012; and

**WHEREAS**, due to ambiguity in timing and apparent conflict in dates set forth in AB 26 for the certification of the ROPS by the County, the approval of the ROPS by the Oversight Board, and the submission of the first ROPS to the State Controller's Office and the Department of Finance, staff of the Successor Agency determined that the draft ROPS should be amended as the first ROPS for submission to the State Controller's Office and the Department of Finance by April 15, 2012 and revised to reflect the time period of January 1, 2012 through June 30, 2012 as required by Health and Safety Code Section 34177(l)(3) of AB 26. In addition, staff determined that certain information relating to the recognized obligations set forth in the ROPS must be added to and clarified in the ROPS; and

**WHEREAS**, the amended ROPS for the period of January 31, 2012 through June 30, 2012 is substantively the same as the previously approved Successor Agency draft ROPS with the following exceptions: (1) the exclusion of October 1, 2011 through December 31, 2011; (2)

the Administrative Budget has been updated; and (3) the funding source for item 51 on the RDA Projects page has been corrected to read "Non Housing Funds"; and

**WHEREAS**, the Successor Agency approved the amended ROPS on April 4, 2012 and thereafter the amended ROPS shall be reviewed and certified by the County, through the use of an external auditor, and submitted to the Oversight Board for review and approval. A copy of the approved amended ROPS shall be submitted to the County Auditor-Controller and both the State Controller's Office and the Department of Finance and shall be posted on the Successor Agency's internet website. The first ROPS shall be submitted to the State Controller's Office and the Department of Finance by April 15, 2012; and

**WHEREAS**, pursuant to Health and Safety Code Section 34177(l)(3) of AB 26, the ROPS shall be forward looking to the next six (6) months and, according to Health and Safety Code Section 34177(l)(1) of AB 26, for each recognized obligation, the ROPS shall identify one or more of the following sources of payment: (i) Low and Moderate Income Housing Funds, (ii) bond proceeds, (iii) reserve balances, (iv) administrative cost allowance, and (v) the Redevelopment Property Tax Trust Fund but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of Part 1.85 of AB 26; and

**WHEREAS**, it is the intent of AB 26 that the ROPS serve as the designated reporting mechanism for disclosing the Successor Agency's bi-annual payment obligations by amount and source and, subsequent to the audit and approval of the ROPS as specified in AB 26, the County Auditor-Controller will be responsible for ensuring that the Successor Agency receives revenues sufficient to meet the requirements of the ROPS during each bi-annual period; and

**WHEREAS**, notwithstanding the provisions of Health and Safety Code Section 34177(a)(1), agreements between the City and the Redevelopment Agency have been included in the ROPS because, among other things, they have been validated by operation of law prior to the Governor's signature of AB 26 on June 28, 2011; and

**WHEREAS**, the second ROPS covering the period of July 1, 2012 through December 3, 2012 is attached hereto as Exhibit "A"; and

**WHEREAS**, the proposed second ROPS attached to this Resolution as Exhibit "A" which was approved by the Successor Agency on April 4, 2012 by Resolution SA-12-06 is consistent with the requirements of the Health and Safety Code and other applicable law; and

**WHEREAS**, this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines; and

**WHEREAS**, this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines; and

**WHEREAS**, all of the prerequisites with respect to the approval of this Resolution have been met.

**NOW, THEREFORE, BE IT RESOLVED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency, as follows:

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The adoption of this Resolution is not intended to and shall not constitute a waiver by the Successor Agency of any rights the Successor Agency may have to challenge the effectiveness and/or legality of all or any portion of AB X1 26 through administrative or judicial proceedings.
- Section 3.** The Successor Agency's second ROPS, which is attached hereto as Exhibit "A", is approved and adopted.
- Section 4.** The Executive Director, or designee, is hereby authorized and directed toii) take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency.
- Section 5.** The Oversight Board determines that this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per section 15378(b)(5) of the Guidelines.
- Section 6.** This Resolution shall take effect upon the date of its adoption.

**PASSED, APPROVED, AND ADOPTED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency at its meeting held on the 11<sup>th</sup> day of April 2012, by the following vote:

**AYES:           BOARDMEMBERS:**  
**NOES:           BOARDMEMBERS:**  
**ABSENT:        BOARDMEMBERS:**

\_\_\_\_\_  
**CHAIRPERSON**

**ATTEST:**

\_\_\_\_\_  
**JACQUELINE M. HALD, MMC**  
**SECRETARY**

**EXHIBIT "A"**

**IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY  
RECOGNIZED OBLIGATION PAYMENT SCHEDULE  
July 1, 2012 through December 31, 2012  
("Second ROPS")**

**Approved on April 4, 2012**

**(See Attachment)**

Project Area(s)

All

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE July 1 - December 31, 2012 (Second ROPS)**

	Project Name / Debt Obligation	Payee	Description	Funding	Payments by month						Total
					July 2012	Aug 2012	Sept 2012	Oct 2012	Nov 2012	Dec 2012	
<b>Debt Obligations</b>											
1	2003 Tax Allocation Bonds Series	Wells Fargo Bank	Bond Debt Service	Non-Housing & Low Mod					\$ 533,092		\$533,092
2	2010 Tax Allocation Bonds Series	Wells Fargo Bank	Bond Debt Service	Non-Housing					\$ 525,953		\$525,953
3	City Loan 1995	City of Imperial Beach	Loan to finance start up costs	Non-Housing					\$ 224,288		\$224,288
4											\$0
5											\$0
6											\$0
7											\$0
8											\$0
9											\$0
10											\$0
11											\$0
12											\$0
13											\$0
14											\$0
15											\$0
16											\$0
17											\$0
18											\$0
19											\$0
20											\$0
<b>Totals - Debt Obligations - This Page</b>					\$ -	\$ -	\$ -	\$ -	\$ 1,283,331	\$ -	\$ 1,283,331
<b>Totals - Housing Program Related - Page 2</b>					\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$90,000
<b>Totals - RDA Operating - Page 3</b>					\$119,573	\$128,798	\$119,573	\$119,573	\$119,573	\$124,794	\$731,884
<b>Totals - RDA Projects - Page 4</b>					\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Totals - Pass Through Obligations- Page 5</b>					\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Enforceable Obligations</b>					\$134,573	\$143,798	\$134,573	\$134,573	\$1,417,904	\$139,794	\$2,105,215

\* Notwithstanding the provisions of California Health and Safety Code section 34177(a)(1), agreements between the City and the Agency have been included in this payment schedule because, among other things, they have been validated by operation of law prior to the Governor's signature of ABx1 26 on June 28, 2011.

Project Area(s): All

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE July 1 - December 31, 2012 (Second ROPS)**

Project Name / Debt Obligation	Payee	Description	Funding	Payments by month						Total	
				July 2012	Aug 2012	Sept 2012	Oct 2012	Nov 2012	Dec 2012		
<b>Housing Programs</b>											
1	Housing Management	See Attached	Mgt costs for Low/Mod Housing Program	Low/Mod funds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2	Housing Agreement	Imperial Beach	Support costs	Low/Mod funds	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 90,000
3	Hemlock Monitoring	Housing Authority/City Finance	South Bay Comm. Svcs Loan	Low/Mod funds							\$ -
4	Callia Monitoring	Housing Authority/City Finance	South Bay Comm. Svcs Loan	Low/Mod funds							\$ -
5	Beachwind Monitoring	Housing Authority/City Finance	Beachwood Loan	Low/Mod funds							\$ -
6	Housing Reporting	Housing Authority/City Finance	RDA Statutory Compliance	Low/Mod funds							\$ -
7	Clean & Green Monitorin	Housing Authority	10 yr Contract Compliance	Low/Mod funds							\$ -
8	Deficit Housing Oblig.	Housing Authority	RDA Statutory Compliance	Low/Mod funds							\$ -
9	Age Proportionality	Housing Authority	RDA Statutory Compliance	Low/Mod funds							\$ -
10											\$ -
11											\$ -
12											\$ -
13											\$ -
14											\$ -
15											\$ -
16											\$ -
17											\$ -
18											\$ -
19											\$ -
20											\$ -
21											\$ -
22											\$ -
23											\$ -
24											\$ -
25											\$ -
26											\$ -
27											\$ -
28											\$ -
29											\$ -
<b>Totals - This Page</b>					\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$90,000

\* Notwithstanding the provisions of California Health and Safety Code section 34177(a)(1), agreements between the City and the Agency have been included in this payment schedule because, among other things, they have been validated by operation of law prior to the Governor's signature of ABx1 26 on June 28, 2011.

\*\* Pursuant to contract with homeowner participant

Project Area(s)

All

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE July 1 - December 31, 2012 (Second ROPS)**

	Project Name / Debt Obligation	Payee	Description	Funding	Payments by month						Total
					July 2012	Aug 2012	Sept 2012	Oct 2012	Nov 2012	Dec 2012	
<b>RDA Operating</b>											
1	RDA Management	Various	Admin of RDA	Non-Housing	\$ -						\$0
2	Admin Costs ***	City of Imperial Beach	Per AB 26	Non-Housing	\$ 69,273	\$ 69,273	\$ 69,273	\$ 69,273	\$ 69,273	\$ 69,272	\$415,637
3	RDA Accrued Liabilities	City of Imperial Beach	Vacation/Sick Liability as of 1/31/2012	Non-Housing							\$0
4	RDA Unfunded PERS Liability	City of Imperial Beach	Unfunded Pension Liability as of 1/31/2012	Non-Housing							\$0
5	RDA 30 Layoff Notice Cost	City of Imperial Beach	Labor Contract Requirement	Non-Housing							\$0
6	RDA Outstanding WC Liability	City of Imperial Beach	Workers Compensation Liability 1/31/2012	Non-Housing							\$0
7	Graffiti Abatement	Various	RDA Staffing and Program Costs	Non-Housing							\$0
8	Continuing Disclosure	Wells Fargo	Mandatory Annual Bond Disclosure	Non-Housing		\$3,200					\$3,200
9	Continuing Disclosure	Bond Management/NBS	Mandatory Annual Bond Disclosure	Non-Housing		\$4,000					\$4,000
10	Continuing Disclosure	HDL	Assessment Information	Non-Housing		\$2,025					\$2,025
11	Continuing Disclosure	Lance Soll	Audit Fees	Non-Housing							\$0
12	IBCC Monitoring	City of Imperial Beach	IB Community Clinic Loan	Non-Housing						\$ 2,611	\$2,611
13	RDA Status Compliance	City of Imperial Beach	Compliance	Non-Housing						\$ 2,611	\$2,611
14	City Service Agreement	City of Imperial Beach	Oversight and related costs	Non-Housing	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$240,000
15	Hotel DDA Compliance	City of Imperial Beach	DDA Compliance Issues	Non-Housing						\$0	\$0
16	Capital Trailer Rental	Bert's	Temp Trailer for Project Management	Non-Housing	\$300	\$300	\$300	\$300	\$300	\$300	\$1,800
17	Legal	McDougal/Kane Balmer		Non-Housing	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$60,000
18	Interim Audit Management	City of Imperial Beach	Additional Audit Requirement	Non-Housing							\$0
19											\$0
<b>Totals - This Page</b>					<b>\$119,573</b>	<b>\$128,798</b>	<b>\$119,573</b>	<b>\$119,573</b>	<b>\$119,573</b>	<b>\$124,794</b>	<b>\$731,884</b>

\*\*\* Months October through December were added administratively pursuant to Reso SA 12-02 . The Successor Agency Board ratification is scheduled for March 7, 2012.

\* Notwithstanding the provisions of California Health and Safety Code section 34177(a)(1), agreements between the City and the Agency have been included in this payment schedule because, among other things, they have been validated by operation of law prior to the Governor's signature of ABx1 26 on June 28, 2011.

**RECOGNIZED OBLIGATION PAYMENT SCHEDULE July 1 - December 31, 2012 (Second ROPS)**

	Project Name / Debt Obligation	Payee	Description	Funding	Payments by month						
					July 2012	Aug 2012	Sept 2012	Oct 2012	Nov 2012	Dec 2012	Total
<b>RDA Projects</b>											
1	9th & Palm	Nasland Engineering	9th and Palm Project	Non-Housing Funds							\$0
2	9th & Palm	Mireles Landscaping	9th and Palm Project	Non-Housing Funds							\$0
3	9th & Palm	Project Management/Legal	9th and Palm Project	Non-Housing Bonds							\$0
Totals - This Page					\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

\* Notwithstanding the provisions of California Health and Safety Code section 34177(a)(1), agreements between the City and the Agency have been included in this payment schedule because, among other things, they have been validated by operation of law prior to the Governor's signature of ABx1 26 on June 28, 2011.



STAFF REPORT  
OVERSIGHT BOARD TO THE IMPERIAL BEACH REDEVELOPMENT AGENCY  
SUCCESSOR AGENCY

TO: CHAIR AND MEMBERS OF THE OVERSIGHT BOARD TO THE  
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR  
AGENCY

FROM: GARY BROWN, EXECUTIVE DIRECTOR

MEETING DATE: April 11, 2012

SUBJECT: OVERSIGHT BOARD MEETING SCHEDULE

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**BACKGROUND:**

On Wednesday, June 15, 2011, the state legislature passed ABX1 26 ("AB 26") and ABX1 27 ("AB 27") relating to the dissolution and voluntary continuance of redevelopment agencies throughout the state. These bills were signed by Governor Brown on June 28, 2011. On July 18, 2011, the California Redevelopment Association, et al, filed a petition for Writ of Mandate and Application for Temporary Stay with the Supreme Court of the State of California (the "Petition"). On December 29, 2011, the Supreme Court largely upheld AB 26, invalidated AB 27, and held that AB 26 may be severed from AB 27 and enforced independently. The Supreme Court generally revised the effective dates and deadlines for performance of obligations in Part 1.85 (the dissolution provisions) arising before May 1, 2012 to take effect four months later. As a result of the Supreme Court's decision, on February 1, 2012, all redevelopment agencies were dissolved and replaced by successor agencies established pursuant to AB 26.

**DISCUSSION:**

ABX1 26 requires that each successor agency to have an oversight board ("Oversight Board") composed of seven members appointed by specific governmental agencies.

The Oversight Board is subject to the Ralph M. Brown Act, California Public Records Act, and the Political Reform Act. For the Oversight Board to operate in accordance with the Brown Act, including public noticing requirements, it will need to establish a regular meeting schedule. Meetings will be held within the City of Imperial Beach.

**ENVIRONMENTAL DETERMINATION:**

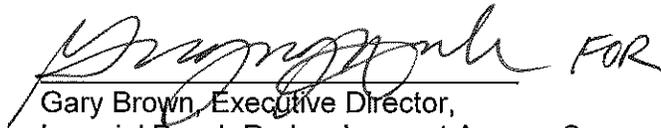
This activity is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**FISCAL IMPACT:**

None related to this report.

**EXECUTIVE DIRECTOR'S RECOMMENDATION:**

Adopt Resolution No. OB-12-05 establishing regular meetings of the Oversight Board to be held on the second Wednesday of every month at 9:00 a.m. The recommended meeting location is the City of Imperial Beach Council Chambers, 825 Imperial Beach Blvd., Imperial Beach, California.

 FOR  
\_\_\_\_\_  
Gary Brown, Executive Director,  
Imperial Beach Redevelopment Agency Successor Agency

ATTACHMENT 1 RESOLUTION NO. OB-12-05

## RESOLUTION NO. OB-12-05

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY ESTABLISHING THE TIME, DAY AND PLACE OF REGULAR MEETINGS OF THE OVERSIGHT BOARD**

**WHEREAS**, the Imperial Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Imperial Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

**WHEREAS**, A.B. No. 26 (1st Ex. Sess.) ("AB 26") and A.B. No. 27 (1st Ex. Sess.) ("AB 27") were signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law, including adding Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the California Health and Safety Code ("Health and Safety Code"); and

**WHEREAS**, the California Redevelopment Association and League of California Cities filed a *lawsuit in the Supreme Court of California (California Redevelopment Association, et al. v. Matosantos, et al., Case No. S194861)* alleging that AB 26 and AB 27 were unconstitutional; and

**WHEREAS**, on December 29, 2011, the Supreme Court issued its opinion in the *Matosantos* case largely upholding AB 26, invalidating AB 27, and holding that AB 26 may be severed from AB 27 and enforced independently; and

**WHEREAS**, the Supreme Court generally revised the effective dates and deadlines for performance of obligations in Part 1.85 arising before May 1, 2012 to take effect four months later; and

**WHEREAS**, as a result of the Supreme Court's decision, on February 1, 2012, all redevelopment agencies were dissolved and replaced by successor agencies established pursuant to Health and Safety Code Section 34173; and

**WHEREAS**, the City Council of the City adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

**WHEREAS**, 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," the sole name by which it 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; and

**WHEREAS**, AB 26 requires that there shall be an oversight board ("Oversight Board") established for each of the former California redevelopment agency's successor agencies to supervise the activities of the Successor Agency and the wind down of the dissolved Redevelopment Agency's affairs pursuant to AB 26; and

**WHEREAS**, on April 11, 2012, the first meeting of the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency took place and Oversight Board Members were duly sworn into office.

**NOW, THEREFORE, BE IT RESOLVED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency, as follows:

SECTION 1. Regular meetings of the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency shall be held on the second Wednesday of every month at 9:00 a.m.

SECTION 2. That the location for Regular meetings of the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency shall be in the City of Imperial Beach Council Chambers, 825 Imperial Beach Blvd., Imperial Beach, California.

**PASSED, APPROVED, AND ADOPTED** by the Oversight Board of the Imperial Beach Redevelopment Agency Successor Agency at its meeting held on the 11th day of April 2012, by the following vote:

**AYES:           BOARD MEMBERS:**  
**NOES:           BOARD MEMBERS:**  
**ABSENT:       BOARD MEMBERS:**

\_\_\_\_\_  
**CHAIRPERSON**

**ATTEST:**

\_\_\_\_\_  
**JACQUELINE M. HALD, MMC**  
**SECRETARY**