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HEALTH AND SAFETY CODE - HSC

DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING [33000 - 37964] (*Heading of Division 24 amended by Stats. 1975, Ch. 1137.*)

PART 1. COMMUNITY REDEVELOPMENT LAW [33000 - 33855] (*Part 1 repealed and added by Stats. 1963, Ch. 1812.*)

CHAPTER 6. Financial Provisions [33600 - 33692] (*Chapter 6 added by Stats. 1963, Ch. 1812.*)

ARTICLE 1. General [33600 - 33608] (*Article 1 added by Stats. 1963, Ch. 1812.*)

33600. An agency may accept financial or other assistance from any public or private source, for the agency's activities, powers, and duties, and expend any funds so received for any of the purposes of this part.

(*Added by Stats. 1963, Ch. 1812.*)

33601. An agency may borrow money or accept financial or other assistance from the state or the federal government or any other public agency for any redevelopment project within its area of operation, and may comply with any conditions of such loan or grant.

An agency may borrow money (by the issuance of bonds or otherwise) or accept financial or other assistance from any private lending institution for any redevelopment project for any of the purposes of this part, and may execute trust deeds or mortgages on any real or personal property owned or acquired.

(*Amended by Stats. 1972, Ch. 323.*)

33602. "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to Article 5 (commencing with Section 33640) of this chapter.

(*Added by Stats. 1963, Ch. 1812.*)

33603. An agency may invest any money held in reserves or sinking funds, or any money not required for immediate disbursement, in property or securities in which savings banks may legally invest money subject to their control.

(*Added by Stats. 1963, Ch. 1812.*)

33604. If an agency ceases to function, any surplus funds existing after payment of all its obligations and indebtedness shall vest in the community.

(*Added by Stats. 1965, Ch. 1665.*)

33605. In connection with the issuance and sale of preliminary loan notes, secured by a requisition agreement with the United States of America, the agency may delegate to one or more of its agents or employees the powers or duties it deems proper.

(*Added by renumbering Section 33604 by Stats. 1967, Ch. 1242.*)

33606. An agency shall adopt an annual budget containing all of the following specific information, including all activities to be financed by the Low and Moderate Income Housing Fund established pursuant to Section 33334.3:

- (a) The proposed expenditures of the agency.
- (b) The proposed indebtedness to be incurred by the agency.
- (c) The anticipated revenues of the agency.
- (d) The work program for the coming year, including goals.
- (e) An examination of the previous year's achievements and a comparison of the achievements with the goals of the previous year's work program.

The annual budget may be amended from time to time as determined by the agency. All expenditures and indebtedness of the agency shall be in conformity with the adopted or amended budget.

When the legislative body is not the redevelopment agency, the legislative body shall approve the annual budget and amendments of the annual budget of the agency.

(Amended (as amended by Stats. 1984, Ch. 1523) by Stats. 1990, Ch. 1608, Sec. 17.)

33607. A county may require a community redevelopment agency to reimburse the county for any expenses incurred by the county in performing any of the services required to be performed by the county for the redevelopment agency pursuant to Sections 33670, 33675, and 33676 for a project area as to which no payments are made by the agency to the county in accordance with subdivision (b) of Section 33401 and no agreement has been entered into and either of the following situations exist:

(a) A final redevelopment plan for the project area is adopted on or after January 1, 1986.

(b) A final redevelopment plan for the project area was adopted prior to January 1, 1986, but its boundaries are changed on or after January 1, 1986, to add land to, or to exclude land from, the project area. However, in the case of a project area which changes its boundaries on or after January 1, 1986, to add land to the project area, the reimbursement shall relate only to expenses incurred by the county with respect to the added area.

(Added by Stats. 1985, Ch. 246, Sec. 1.)

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 purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code and paragraph (1) of subdivision (j) of Section 42238.02 of the Education Code, and 56.7 percent shall not be considered to be property taxes for purposes of that section and shall be available to be used for educational facilities, including, 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 purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for purposes of that section and shall be available to be used for educational facilities, including, 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 purposes of Sections 2558 and 2575 of the Education Code, and 81 percent shall not be considered to be property taxes for purposes of those sections and shall be available to be used for educational facilities, including, 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 purposes of Sections 2558 and 2575 of the Education Code, or for purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code and paragraph (1) of subdivision (j) of Section 42238.02 of the Education Code, as applicable, and 81 percent shall not be considered to be property taxes for purposes of those sections and shall be available to be used for education facilities, including, 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 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.

(Amended by Stats. 2015, Ch. 13, Sec. 44. (AB 104) Effective June 24, 2015.)

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 commencing with the 2011–12 fiscal year, 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.

(Amended by Stats. 2015, Ch. 13, Sec. 45. (AB 104) Effective June 24, 2015.)

33607.8. (a) Notwithstanding any other provision of law, a redevelopment agency may make payments from tax increment funds to an affected taxing entity that is a state water supply contractor in accordance with both of the following requirements:

(1) The payment shall not exceed the amount that, but for the activities of the redevelopment agency, otherwise would have been received by the affected taxing entity pursuant to a tax that was originally approved by the state's voters prior to July 1, 1978.

(2) The payments shall be made for the purpose of funding the payments of the state water supply contractor pursuant to its water supply contract with the Department of Water Resources for the costs of building, operating, maintaining, and replacing the State Water Resources Development System.

(b) Allocations made by a redevelopment agency for payments made pursuant to subdivision (a) shall not cause any reduction in payments to an affected taxing entity pursuant to paragraph (2) of subdivision (a) of Section 33607.5.

(c) For purposes of this section:

(1) "State Water Resources Development System" has the same meaning as used in Section 12931 of the Water Code.

(2) "State water supply contractor" has the same meaning as used in Section 11975 of the Water Code.

(Added by Stats. 1995, Ch. 137, Sec. 1. Effective January 1, 1996.)

33608. (a) All acts and proceedings heretofore or hereafter taken under color of law by a charter city meeting the criteria of subdivision (g) and its redevelopment agency in a county with a population over 4,000,000 with respect to a reimbursement agreement executed pursuant to Section 33445 of the Health and Safety Code dated July 7, 1986, and as amended as of July 13, 1987, are hereby confirmed, validated, and declared legally effective to the extent the agreement could have been authorized by the Legislature initially, except as to limitations imposed by the California and United States Constitutions. The validation provided by this section shall be the only determination necessary to satisfy the requirement of subdivision (e) of Section 33675 of the Health and Safety Code and those provisions shall not apply to the agreement otherwise. The Legislature finds and declares that this section is consistent with existing law and does not conflict with either Article XIII B or Section 16 of Article XVI of the California Constitution.

(b) If the commencement of reimbursement of the principal amount of indebtedness of the agency under an agreement referred to in subdivision (a), or any predecessor agreement executed pursuant to Section 33445 of the Health and Safety Code, is delayed beyond 10 years after the date of execution of the agreement for any reason, the agency and the city may amend or enforce the reimbursement agreement, or any predecessor thereto, to provide for the payment of interest. The interest may accrue, as to reimbursement for any particular property or improvement, from the date of acquisition, construction, or installation thereof until the date of the reimbursement agreement and thereafter, until payment of the principal and interest by the agency. The interest shall be at the rate specified in the reimbursement agreement, not to exceed the rate of interest earned by the treasurer of the city on investments of the city's pooled funds. Subject to that limitation, interest on the indebtedness may be calculated pursuant to any generally accepted method of computation, including, without limitation, any method which allows the compounding of interest monthly or at other appropriate intervals.

(c) Reimbursements for any indebtedness under the reimbursement agreement referred to in subdivision (a) shall be (1) first allocated for the funding requirements of the fire and police retirement fund of the city and (2) then deposited into the Low and Moderate Income Housing Fund of the agency. However, this section shall not be construed to authorize any reimbursement of indebtedness which is not permissive under Section 16 of Article XVI of the California Constitution.

(d) The reimbursement agreement shall not be amended without the approval of the Legislature, by statute, and the obligation created by the reimbursement agreement shall terminate on December 31, 2014.

(e) In addition to any amounts provided to the city's fire and police retirement system under the reimbursement agreement, to the extent permitted by law, the city shall undertake, by ordinance, to contribute additional moneys from its general fund annually and transfer assets (including, without limitation, income producing assets such as parking garages) as necessary and actuarially appropriate to satisfy its fire and police retirement fund obligation. When this obligation has been actuarially funded, all assets contributed pursuant to this section shall revert to the city.

(f) The obligations created by the reimbursement agreement specified in subdivision (a) shall be deemed to be existing obligations for purposes of subdivision (d) of Section 33334.6 incurred by the agency to finance a redevelopment project existing on, and created prior to, January 1, 1986. The statement of existing obligations required by subdivision (f) of Section 33334.6 shall be deemed amended to include the obligations created by this reimbursement agreement. The agency shall make deposits into the Low and Moderate Income Housing Fund of the agency in accordance with the reimbursement agreement. These deposits shall be the only obligations that the agency shall have to deposit money in the Low and Moderate Income Housing Fund under subdivision (a) of Section 33334.2 or Section 33334.6, with respect to the project area subject to the reimbursement agreement, notwithstanding any other provision of law.

(g) This section applies to any charter city meeting all of the following criteria:

(1) The city's retirement system is part of the city's charter and was approved by the voters before July 1, 1978.

(2) The city did not levy a separate ad valorem property tax rate to support the retirement system in the 1983–84 fiscal year.

(3) The retirement system provides for a cost-of-living adjustment which is indexed to a consumer price index and does not limit the annual increases which may be paid to members after their retirement.

(4) The retirement system is not currently available to newly hired fire and police employees and will not be available in the future.

(5) Before January 1, 1985, the city unsuccessfully litigated a limit to the cost-of-living adjustment which may be paid to members of the retirement system after their retirement.

(6) The governing body of the city has, by resolution, elected to make this section applicable to it. This election shall be final and binding and may not be revoked for any reason.

(h) "Agency," as used in this section, includes a community development commission exercising the powers of a redevelopment agency pursuant to Section 34141.

(Added by Stats. 1987, Ch. 1010, Sec. 1.)