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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 1.9. Alternative Voluntary Redevelopment Program [34192 - 34196] (*Part 1.9 added by Stats. 2011, 1st Ex. Sess., Ch. 6, Sec. 2.*)

CHAPTER 3. Community Remittances [34194 - 34194.4] (*Chapter 3 added by Stats. 2011, 1st Ex. Sess., Ch. 6, Sec. 2.*)

34194. (a) A city or county that includes a redevelopment agency that has complied with this part shall make the remittances required by this section to the county auditor-controller. The county auditor-controller shall deposit an amount as determined by Section 34194.4 into the Special District Allocation Fund, and remaining funds shall be remitted to the county Educational Revenue Augmentation Fund, created pursuant to Article 3 (commencing with Section 97) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(b) (1) For the 2011–12 fiscal year, a city or county shall remit an amount equal to the amount determined for the redevelopment agencies in that city or county pursuant to subparagraph (1) of paragraph (2).

(2) Utilizing the Controller's redevelopment agency 2008–09 annual report, the Director of Finance shall do all of the following for the 2011–12 fiscal year:

(A) Determine the net tax increment apportioned to each redevelopment agency pursuant to Section 33670, calculated as a redevelopment agency's tax increment revenue, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, and excluding all amounts used to pay for tax allocation bonds and interest payments specified in the Controller's report, in the 2008–09 fiscal year.

(B) Determine the net tax increment apportioned to all redevelopment agencies pursuant to Section 33670, calculated as all redevelopment agencies' tax increment revenue, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, and excluding all amounts used to pay for tax allocation bonds and interest payments specified in the Controller's report, in the 2008–09 fiscal year.

(C) Determine each redevelopment agency's proportionate share of statewide net tax increment by dividing the amount determined pursuant to subparagraph (A) by the amount determined pursuant to subparagraph (B).

(D) Determine a proportionate amount of net tax increment for each redevelopment agency by multiplying one billion seven hundred million dollars (\$1,700,000,000) by the proportionate share determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each redevelopment agency pursuant to Section 33670, calculated as a redevelopment agency's tax increment revenue, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, and including all amounts used for payments of tax allocation bonds and interest payments specified in the Controller's report, in the 2008–09 fiscal year.

(F) Determine the total amount of property tax revenue apportioned to all redevelopment agencies pursuant to Section 33670, calculated as all redevelopment agencies' tax increment revenue, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, and including all amounts used for payments of tax allocation bonds and interest payments specified in the Controller's report, in the 2008–09 fiscal year.

(G) Determine each redevelopment agency's proportionate share of property tax revenue by dividing the amount determined pursuant to subparagraph (E) by the amount determined pursuant to subparagraph (F).

(H) Determine a proportionate amount of property tax revenue for each redevelopment agency by multiplying one billion seven hundred million dollars (\$1,700,000,000) by the proportionate share determined pursuant to subparagraph (G).

(I) Average the amounts determined pursuant to subparagraphs (D) and (H).

(J) On or before August 1, 2011, notify each city or county of the amount determined pursuant to subparagraph (I) for a redevelopment agency of that city or county.

(K) Notify each county auditor-controller of the amounts determined pursuant to subparagraph (I) for each agency in his or her county.

(L) (i) After receiving the notification from the Director of Finance pursuant to subparagraph (J), a city or county may appeal the amount of remittance to the director on or before August 15, 2011, on the basis that the information in the Controller's report was in error or that the percentage of tax increment necessary to pay for tax allocation bonds and interest payments has increased by 10 percent or more over the percentage calculated pursuant to the Controller's redevelopment agency 2008–09 annual report. Any appeal shall include documentation that clearly and convincingly establishes the basis of the appeal and the amount of the claimed discrepancy.

(ii) The director may reject the appeal or approve it, in whole or in part, at the director's sole discretion. The director shall notify the city or county and the county auditor-controller of the decision on the appeal by September 15, 2011. However, the director may extend the decision deadline, at the director's discretion and upon notification of the city or county and the county auditor-controller, until October 15, 2011, in which case the date by which the city or county must enact the ordinance required by this part shall be extended until December 1, 2011. If the director determines that the percentage of tax increment necessary to pay for tax allocation bonds or interest payments has increased by 10 percent or more, as described by this subparagraph, then the director shall recalculate the remittance amount for the city or county identified in subparagraph (I) by reducing the amount in subparagraph (D) to reflect any percentage increase that is in excess of 10 percent.

(c) For the 2012–13 fiscal year and each fiscal year thereafter a participating community shall remit an amount equal to the sum of the amounts specified in paragraphs (1) and (2):

(1) For a community subject to a remittance amount determined for the 2011–12 fiscal year pursuant to subdivision (b), a base payment equal to the base payment in the prior fiscal year, increased by the percentage growth or decreased by the percentage reduction, as appropriate, from the prior fiscal year in the total adjusted amount of property tax increment revenue allocated to the redevelopment agency of the community pursuant to Section 33670 with respect to project areas that were in existence, and for which the agency received allocations of tax increment revenue, during the 2011–12 fiscal year.

(A) For the 2012–13 fiscal year, the base payment in the prior fiscal year shall be the remittance amount determined pursuant to subdivision (b) for the 2011–12 fiscal year multiplied by the ratio of four hundred million dollars (\$400,000,000) to one billion seven hundred million dollars (\$1,700,000,000).

(B) The "adjusted amount of property tax increment revenue" described in this paragraph means an amount of property tax increment in any fiscal year for a project area that is calculated by subtracting the amount of any debt service or other payments for new debt issuances or obligations, as provided in paragraph (2), from the total amount of property tax increment revenue allocated in that year to the agency with respect to that project area.

(2) (A) An amount equivalent to 80 percent, or any lesser amount as may be authorized by law for qualifying projects, of the total net school share, as described in subparagraph (B), of debt service or other payments made in that fiscal year for new debt or obligations issued or incurred on or after November 1, 2011, as shown on the agency's statement of indebtedness, excluding any debts issued or incurred on behalf of the agency's Low and Moderate Income Housing Fund, established pursuant to Section 33334.3. "New debt" means debt that is displayed on a statement of indebtedness filed after a statement of indebtedness filed on October 1, 2011, that was not displayed on the statement of indebtedness filed on October 1, 2011.

(B) For the purpose of subparagraph (A), the net school share shall be the school share of the property tax increment revenues, less any passthrough payments to school entities, that would have been received in the absence of redevelopment by school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, in the jurisdictional territory of the redevelopment agency, including, but not limited to, the amounts specified in Section 97.68 and 97.70 of the Revenue and Taxation Code.

(C) It is the intent of the Legislature to enact legislation in the 2011–12 session to prescribe a schedule of reductions in the community remittance, described in subparagraph (A), that will authorize payments of less than 80 percent of the school share of property taxes to the Educational Revenue Augmentation Fund. The reductions shall apply for bonds issued for the purpose of funding projects that advance the achievement of statewide goals with respect to transportation, housing, economic

development and job creation, environmental protection and remediation, and climate change, including, but not limited to, projects that are consistent with the Sustainable Communities Strategies developed pursuant to Chapter 4.2 (commencing with Section 21155) of Division 13 of the Public Resources Code.

(3) On or before November 1 of each year, the city or county shall notify the Department of Finance, the Controller, and the county auditor-controller of the remittance amount required by the calculations described in this subdivision. The Director of Finance, the Controller, and the county auditor-controller shall each be authorized to audit and verify the remittance amount that is determined by the city or county. The county auditor-controller, based upon an audit conducted by that office, or upon notification by the Director of Finance or the Controller based on an audit conducted by those offices, that determines that the city or county has miscalculated its remittance payment amount, shall adjust the amount of the next remittance payment that shall be paid by the city or county to reflect the correct amount of payment previously owed by the city or county as identified in that audit, as required by this subdivision.

(d) (1) A city or county shall pay one-half of the total remittance amount, as calculated pursuant to subdivision (b) or (c), on or before January 15 of each year and shall pay the remaining one-half of the remittance amount on or before May 15 of each year.

(2) If a city or county fails to make its remittance payment as required by paragraph (1), the county auditor-controller shall notify the Director of Finance of the failure to make the payment within 30 days. Upon receipt of the notification, the Director of Finance may determine that the redevelopment agency in the city or county shall be subject to the requirements of Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) as described in Section 34195.

(Added by Stats. 2011, 1st Ex. Sess., Ch. 6, Sec. 2. (AB 27 1x) Effective June 29, 2011. Ruled unconstitutional per California Redevelopment Assn. v. Matosantos (2011) 53 Cal.4th 231.)

34194.1. (a) A city or county making remittances to the county auditor-controller pursuant to Section 34194 or 34194.5 may use any available funds not otherwise obligated for other uses.

(b) In the 2011–12 fiscal year, the total amount paid pursuant to this chapter to school districts, county offices of education, charter schools, and community college districts shall be considered to be property taxes for the purposes of Section 2558, paragraph (1) of subdivision (h) of Section 42238, and Section 84751 of the Education Code. In the 2011–12 fiscal year, notwithstanding any other law, funding provided to local education agencies pursuant to this chapter shall be considered allocated local proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c) In fiscal years on and after the 2012–13 fiscal year, the total amount paid each year pursuant to this chapter to school districts, county offices of education, charter schools, and community college districts shall not be considered to be property taxes for the purposes of Section 2558, paragraph (1) of subdivision (h) of Section 42238, and Section 84751 of the Education Code. In fiscal years on and after the 2012–13 fiscal year, notwithstanding any other law, funding provided to local education agencies pursuant to this chapter shall not be considered allocated local proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(d) For purposes of computing a school district's property tax revenue, remittances made pursuant to this chapter shall be treated as property tax revenues transferred to school districts, county offices of education, and community college districts pursuant to subdivision (a) of Section 34183 for purposes of Section 41204.3 of the Education Code.

(e) (1) Notwithstanding Sections 97.2 and 97.3 of the Revenue and Taxation Code, the county auditor-controller shall distribute the funds that are remitted to the county Educational Revenue Augmentation Fund by a city or county pursuant to this section only to a K-12 school district or county office of education that is located partially or entirely within any project area of the redevelopment agency in an amount proportional to the average daily attendance of each school district.

(2) The county auditor-controller shall notify each K-12 school district, and the State Department of Education, of the amount of Educational Revenue Augmentation Fund moneys a district receives pursuant to this section. The county auditor-controller shall also notify each K-12 school district receiving funds pursuant to paragraph (1) of the project area boundaries of the redevelopment agency.

(3) (A) The county superintendent of schools shall provide the average daily attendance reported for each school district as of the second principal apportionment for the preceding fiscal year to the county auditor-controller.

(B) The county auditor-controller shall, based on information provided by the county superintendent of schools pursuant to subparagraph (A), allocate the funding pursuant to this subdivision to those districts within the city or county.

(4) School districts and county offices of education shall use the funds received under this section to serve pupils living in the redevelopment areas or in housing supported by redevelopment agency funds. Redevelopment agencies shall provide whatever information school districts and county offices of education need to accomplish this purpose.

(Added by Stats. 2011, 1st Ex. Sess., Ch. 6, Sec. 2. (AB 27 1x) Effective June 29, 2011. Ruled unconstitutional per California Redevelopment Assn. v. Matosantos (2011) 53 Cal.4th 231.)

34194.2. In choosing to continue redevelopment pursuant to this part, a city or county may enter into an agreement with the redevelopment agency in that jurisdiction, whereby the redevelopment agency will transfer a portion of its tax increment to the city or county, in an amount not to exceed the annual remittance required that year pursuant to this chapter, for the purpose of financing activities within the redevelopment area that are related to accomplishing the redevelopment agency project goals.

(Added by Stats. 2011, 1st Ex. Sess., Ch. 6, Sec. 2. (AB 27 1x) Effective June 29, 2011. Ruled unconstitutional per California Redevelopment Assn. v. Matosantos (2011) 53 Cal.4th 231.)

34194.3. For the 2011–12 fiscal year only, a redevelopment agency included in a city or county that complies with the provisions of this part shall be exempt from making the full allocation required to be made to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.4, and 33334.6. It is the intent of the Legislature that Low and Moderate Income Housing Fund allocations be maintained to the extent feasible. As a condition of reducing its allocation pursuant to this section, the agency shall make a finding that there are insufficient other moneys to meet its debt and other obligations, current priority program needs, or its obligations under Section 34194.2.

(Added by Stats. 2011, 1st Ex. Sess., Ch. 6, Sec. 2. (AB 27 1x) Effective June 29, 2011. Ruled unconstitutional per California Redevelopment Assn. v. Matosantos (2011) 53 Cal.4th 231.)

34194.4. (a) The county auditor-controller in each county in which a redevelopment agency exists shall establish in the county treasury a Special District Allocation Fund. The county auditor-controller shall deposit the following amounts into the fund out of each annual remittance by a city or county that includes a special district under this section paid pursuant to Section 34194 as follows:

(1) For the 2011–12 fiscal year, the amount shall be the city's or county's remittance amount multiplied by the ratio of four million three hundred thousand dollars (\$4,300,000) to one billion seven hundred million dollars (\$1,700,000,000).

(2) For the 2012–13 fiscal year and each fiscal year thereafter, the amount shall be the city's or county's remittance amount multiplied by the ratio of sixty million dollars (\$60,000,000) to four hundred million dollars (\$400,000,000).

(3) Amounts derived from the remittance payments of each city or county shall be maintained in separate accounts in the fund.

(b) On or before May 15 each year, the county auditor-controller shall make payments out of each account in the Special District Allocation Fund to each special district the boundaries of which include all or any portion of a redevelopment project area of the city's or county's redevelopment agency for special district services that the district determines further redevelopment purposes. Each special district shall receive a proportionate share of the total annual deposit in the account, determined as follows:

(1) For each special district, the auditor-controller shall determine the annual amount of tax increment revenue of the city's or county's redevelopment agency that is attributable to the special district. This amount shall be the amount of additional property tax revenue that the special district would have received in that year had property tax collected on incremental assessed value within the redevelopment project areas been allocated to the district under the property tax allocation laws then in effect. From this amount, the auditor-controller shall subtract any passthrough payments received in that year by the special district from the redevelopment agency.

(2) The county auditor-controller shall sum all of the annual amounts for individual special districts determined in paragraph (1).

(3) For each special district, the county auditor-controller shall calculate the ratio of the amount determined for that special district under paragraph (1) to the total amount determined in paragraph (2). This ratio shall be each special district's proportion of the total payment from the account.

(c) For the purposes of this section, "special district" means a district that provides fire protection services and transit districts. A special district that has both excluded and nonexcluded functions and that serves nonexcluded functions within a redevelopment project area shall receive a prorated share proportionate to the special district's overall share of countywide property tax that is received for its nonexcluded functions.

(d) The auditor-controller shall report the payments made to special districts pursuant to this section to the Controller by June 30 each year in a form and manner as specified by the Controller.

(e) The county auditor-controller may require special districts to provide, as a condition of receiving payments from the Special District Allocation Fund, any relevant information necessary to the determination of the payments made pursuant to this section.

(Amended by Stats. 2012, Ch. 162, Sec. 94. (SB 1171) Effective January 1, 2013. Section ruled unconstitutional per California Redevelopment Assn. v. Matosantos (2011) 53 Cal.4th 231.)

