



Association of Chief Business Officials California Community Colleges

Redevelopment: What Can Your District Expect?

2011 Fall Conference

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Redevelopment

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What is Redevelopment?

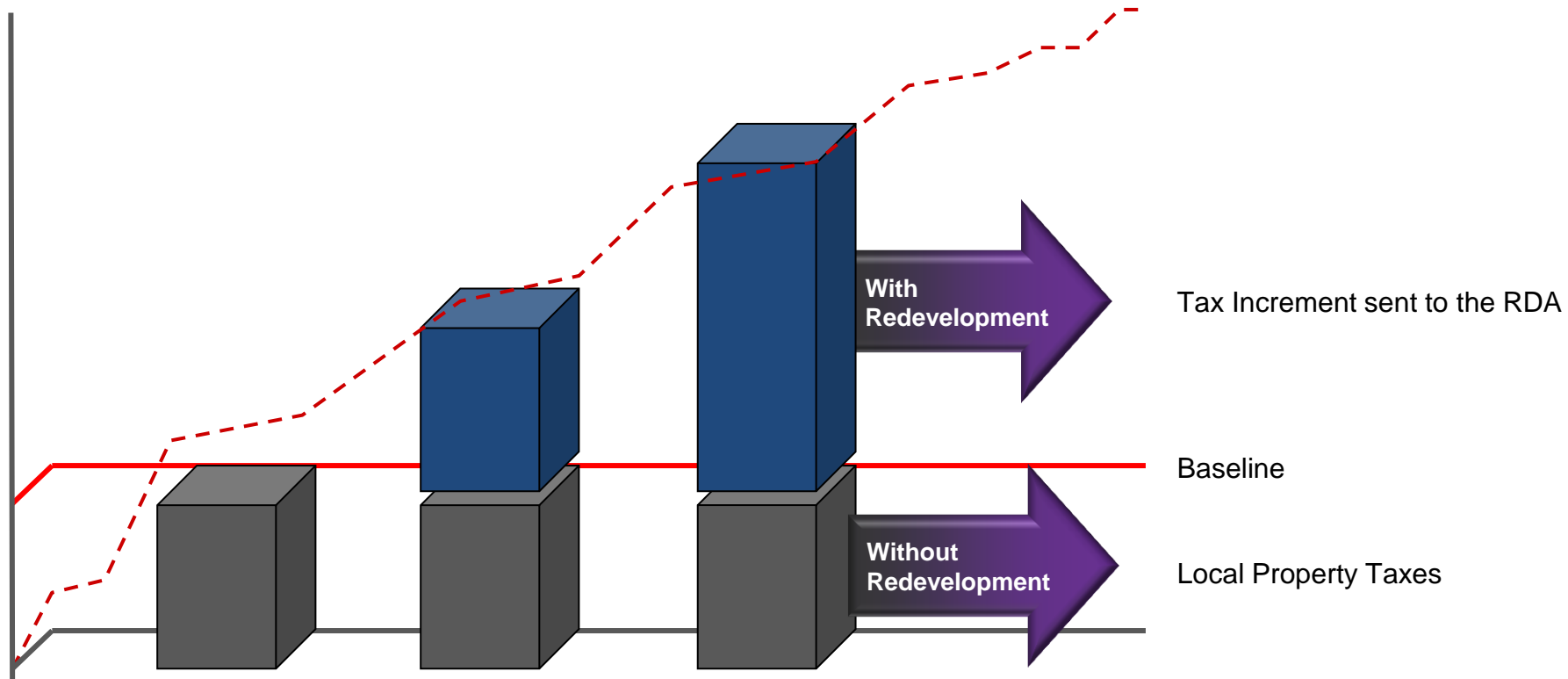
What is Redevelopment?

- » Tool created by state law
- » Locally driven activity
- » Intended to help local governments:
 - Eliminate blight
 - Increase development
 - Create jobs
 - Generate tax revenues in declining urban areas
 - Establish partnerships between local government and private entities



What is Redevelopment?

Funding Tax Increment Financing



» Tax Increment Financing

- Primary source of revenue for redevelopment projects
- Generated from the revitalized project area

How Does Redevelopment Effect Community College Districts?

Effects of Redevelopment

Benefits to Community College Districts



- » A Community College District ("District") that levies a tax within the boundaries of a redevelopment area is entitled to receive portions of the tax increment revenues

Tax Rate Area Prop 13 1% Tax

LOS ANGELES COUNTY GENERAL	.244559502
L.A. COUNTY ACCUM CAP OUTLAY	.000097444
L A C FIRE-FFW	.005617945
L.A.CO.FL.CON.DR.IMP.DIST.MAINT.	.001344720
LA CO FLOOD CONTROL MAINT	.007609695
GREATER L A CO VECTOR CONTROL	.000301980
CITY-LOS ANGELES TD #1	.262762096
EDUCATIONAL REV AUGMENTATION FD	.081519118
EDUCATIONAL AUG FD IMPOUND	.172433158
COUNTY SCHOOL SERVICES	.001208559
CHILDREN'S INSTIL TUITION FUND	.002398564
L.A.CITY COMMUNITY COLLEGE DIST	.025791903
L.A.COMM.COLL.CHILDREN'S CTR FD	.000266689
LOS ANGELES UNIFIED SCHOOL DIST	.189891161
CO.SCH.SERV.FD.- LOS ANGELES	.000010585
DEV. CTR. HDCPD MINOR-L A UNIF.	.001071063
LOS ANGELES CHILDRENS CENTER FD	.003115818
TOTAL RATIO: 1.000000000	

Effects of Redevelopment

Types of Redevelopment Agency Payments



Payment Justification	Description	Use of Funds	State Reporting Requirements
Pass-Through Agreement	A negotiated agreement executed prior to 1994 between the LEA and a RDA	Depends on agreement language	Depends on execution date
Assembly Bill 1290	A statutory payment type governing all post-1994 project areas	Statutory Split	Amount spent on Non-Facilities
Senate Bill 211	A statutory payment triggered by an SB 211 amendment; only effects pre-1994 project areas with no PTA	Statutory Split	Amount spent on Non-Facilities
Other Statutory	A statutory payment similar to SB 211 but triggered by a different type of Agency amendment	Statutory Split	Amount spent on Non-Facilities
Two-Percent	A payment type based on inflationary revenues; only applies to pre-1994 project areas with no PTA	Unrestricted	Depends on adoption date

Effects of Redevelopment

Questions to Ask



Effects of Redevelopment

Maximizing Redevelopment Revenue



Reporting

- » Incorrect reporting can reduce District redevelopment revenues
- » Work with District staff to ensure reporting compliance

Negotiations

- » Identify calculation discrepancy
- » Meet with the RDA
- » Recover Retroactive Payments
- » Correct Redevelopment calculation for future payments
- » Secure redevelopment revenue stream for the District

Leverage Revenue

- » Once the District has finished negotiations, Districts can leverage their redevelopment revenue stream
- » Redevelopment revenues can be used to fund Lease Revenue Bonds
- » Upfront funding for Capital Facilities Projects
- » Potential source of repayment for outstanding facility obligations, freeing up revenue for other purposes

**Negotiations:
Rancho Santiago
Community College District**

Negotiations: Rancho Santiago CCD

Phase I & Phase II Study



» Phase I – Project Area Identification

- Identified 28 redevelopment project areas within Rancho Santiago Community College District's jurisdiction
- All 28 project areas had payment entitlements to Rancho Santiago Community College District

Payment Type	Number of Project Areas
Pass-Through Agreement	8
SB 211	8
Other Statutory	6
AB 1290	4
2% Payment	1
Combination Payment (2% SB 211)	1
Total	28

» Phase II – Redevelopment Payment Analysis

- \$1.2M discrepancy

Negotiations: Rancho Santiago CCD

Revised Reporting



» Redevelopment Revenue Reporting

- Reviewed past redevelopment revenue reporting to the State
- Identified \$24k in over reporting
- Worked with California Chancellor Community College Office to correct reporting
- Saved Rancho Santiago Community College District \$24k

Negotiations: Rancho Santiago CCD

Phase III

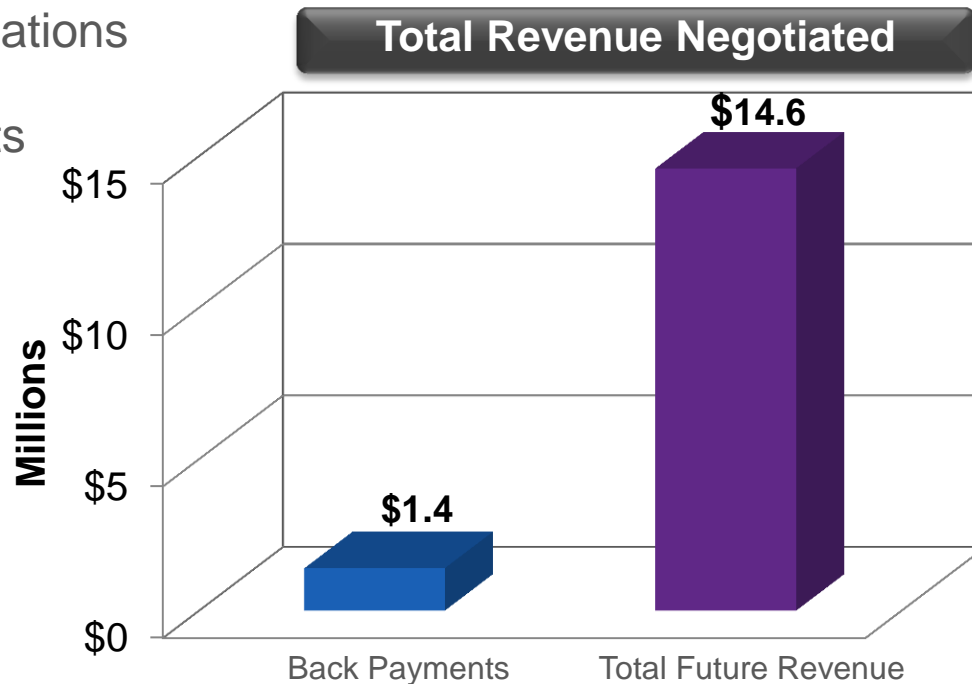


» Met with Redevelopment Agency to discuss payment discrepancies

- Inclusion of ERAF
- SB 211 payment trigger

» After meeting with the Redevelopment Agency, the Redevelopment Agency agreed:

1. To include ERAF in payment calculations
2. To pay retroactive SB 211 payments



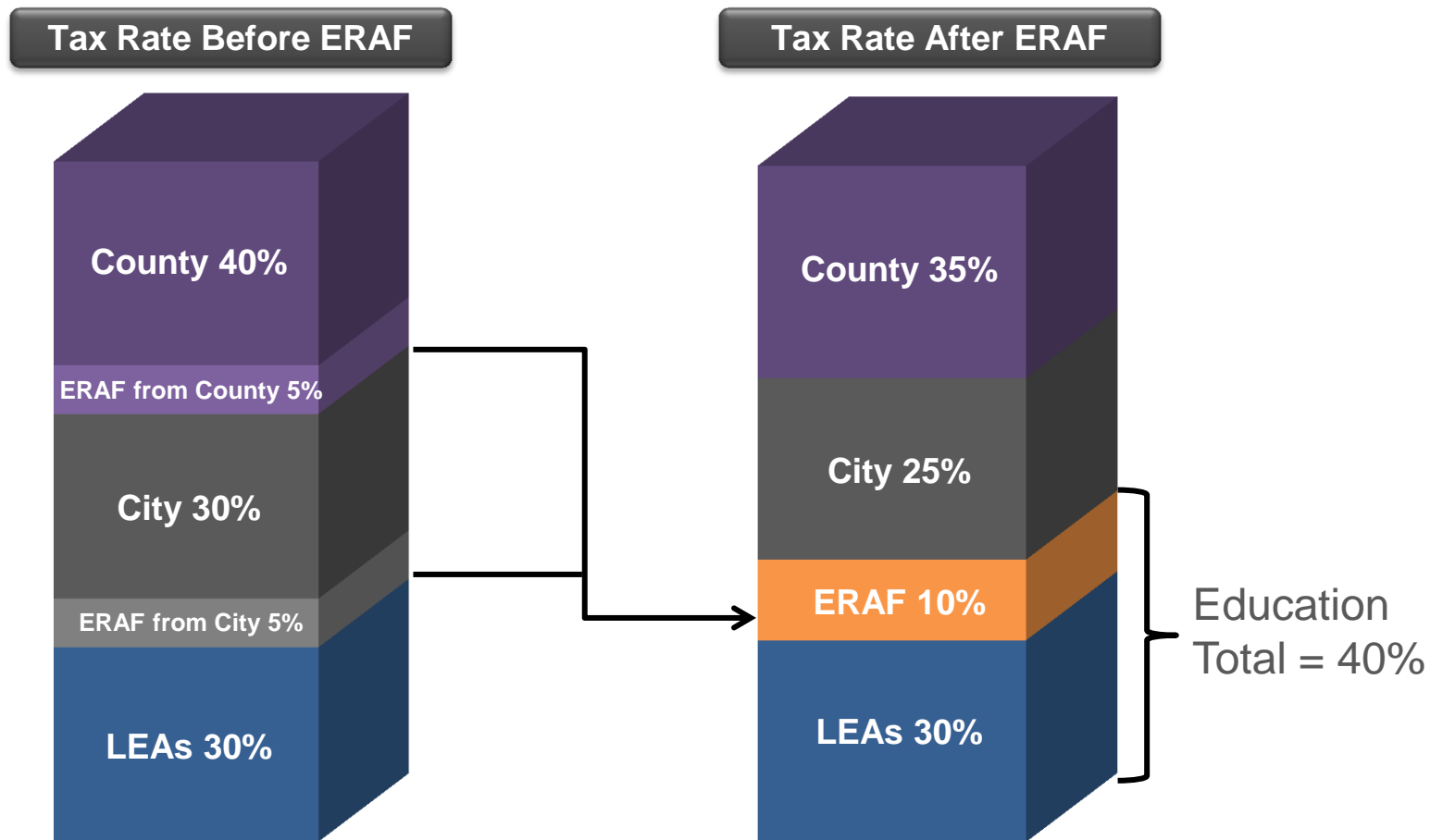
LAUSD Lawsuit & Attorney General (AG) Opinion

LAUSD Lawsuit & AG Opinion

ERAF Payments



- » ERAF = Educational Revenue Augmentation Fund
- » Reallocates Property Taxes from Counties, Cities, and Special Districts to Schools
- » Helps State Balance Budget



LAUSD Lawsuit & AG Opinion

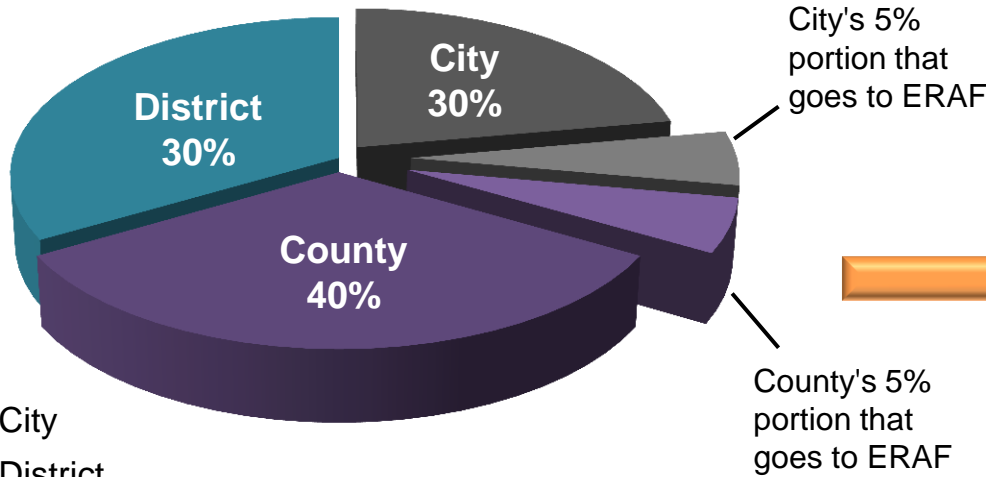
ERAF Decision Background



- » Issue: Should ERAF payments be included in the calculation of the District's statutory payments?
- » Court of Appeals reversed the lower court's decision on January 21, 2010.

Los Angeles County

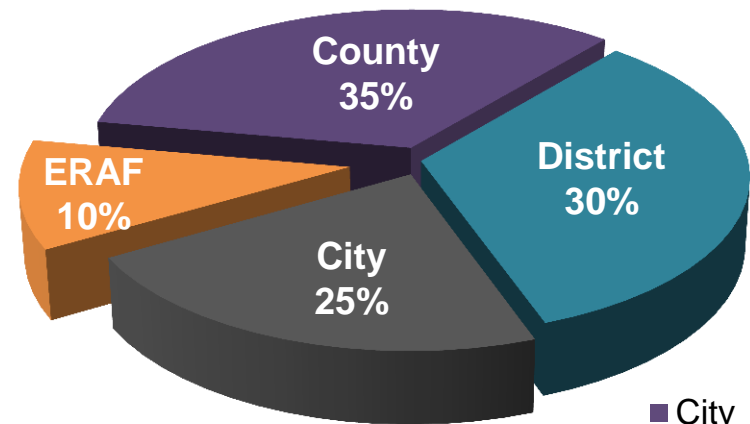
- » ERAF Should be *excluded* from RDV Calculations
- » Tax Rate = Basic Tax %
- » District Share – 30%



- City
- District
- County

Los Angeles Unified School District

- » ERAF Should be *included* from RDV Calculations
- » Tax Rate = Basic Tax % + ERAF %
- » District Share – 30%



- City
- District
- County

LAUSD Lawsuit & AG Opinion

RDA Reaction to LAUSD Decision



- » RDAs should have responded to the LAUSD decision and adjusted payments to include ERAF
 - BUT, many have not done so or ignored guidance from counties
- » Prospective/Retroactive Payments
 - Beginning with Statutory Payments for the 2010-2011 fiscal year and continuing for all future payments
 - RDA required to reimburse the District for the difference in payments for at least the three prior fiscal years - Cal. Code Civ. Proc. § 338
- » Dolinka Group, LLC & Fagen, Friedman, and Fulfrost, LLP ("F3") Sample demand letter to provide to RDAs
 - Puts RDA on notice of the claim
 - Preserves the LEA's right to file a lawsuit, recover back payments
 - Satisfies claim requirements



LAUSD Lawsuit & AG Opinion

Tolling Agreement



To protect their interests, Districts may consider entering into Tolling Agreements with the RDA

RDA requests time to research the issue and review calculation of Statutory Payments

- Applies to all assigns, successor agencies, etc.

Tolling Agreement allows time to investigate without impacting the District's claim

- No gaps in time from demand letter

Preserves District's right to file claims, regardless of tolling

- Excludes any oral agreements or informal arrangements

Tolls all timing defenses, including any under municipal ordinances

LAUSD Lawsuit & AG Opinion

Attorney General Opinion



» Assembly Bill 1389

- Auditor Controllers audited statutory RDA calculations (AB 1290, SB 211, Other Statutory)
- Auditor Controllers included supplemental taxes in their calculations
- RDAs disputed the inclusion of supplemental taxes
- RDAs requested that the Attorney General Opinion

» Attorney General Opinion

- Attorney General decided supplemental taxes should not be included in SB 211, Other Statutory, or AB 1290 tier 2 & 3 calculations

LAUSD Lawsuit & AG Opinion

Effect of Attorney General Opinion



Statutory Payments to Districts could decrease, which means the Non-Facilities portion to Districts could decrease as well



The opinion may potentially increase the State deficit factor



Cities may proactively withhold current and future year Pass-Through Payments as an offset to prior year overpayments



LAUSD Lawsuit & AG Opinion

Opinion Sample Impacts



Event	Impact to LEA Payments	Impact to State Prop 98 Obligation
ERAF (LAUSD Lawsuit)	Increase	Decrease
Attorney General Opinion 10-101	Decrease	Increase

ERAF: +\$500k



AG Opinion: -\$300k



Redevelopment Revenue

2010 Dolinka Group, LLC

Example

Fiscal Year 2008/2009

LEA's	Revenues
AG Opinion	-\$300,000
ERAF	+\$500,000
Net Effect	+\$200,000

**Governor's Bills:
AB X1 26/27**

Governor's Bills: AB 1X 26/27

New Legislation



- » Assembly Bills X1 26 – "Dissolution Bill"
- » Assembly Bill X1 27 – "Continuation Bill"
 - Signed by Governor Brown on June 29, 2011
 - Creates an alternative voluntary redevelopment program
- » Projected result
 - \$1.7 billion in additional revenue for 2011-2012 state budget

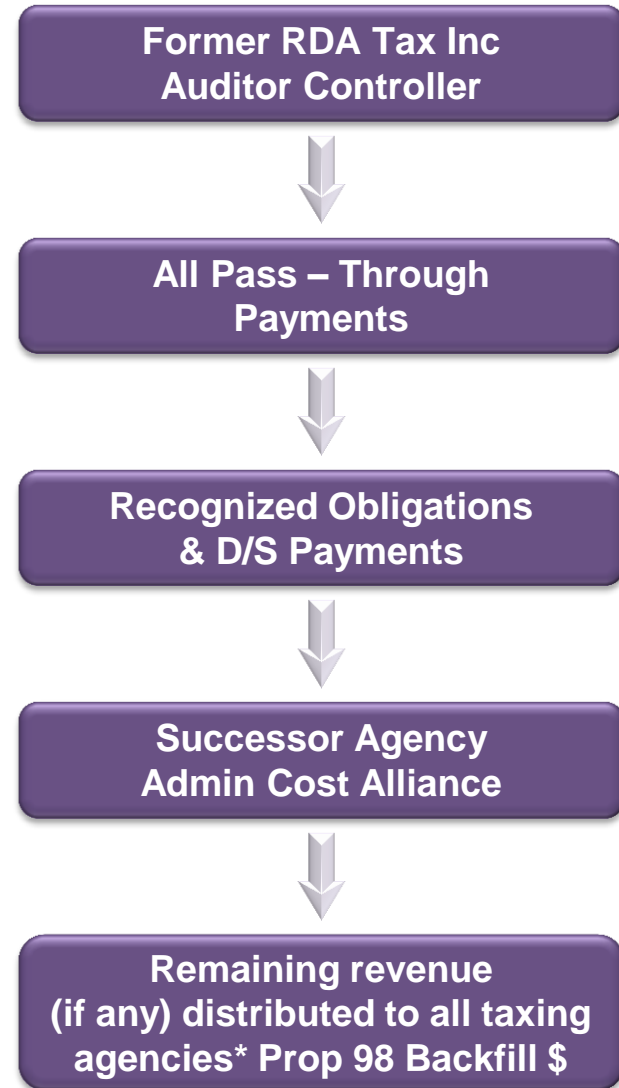
Governor's Bills: AB 1X 26/27

AB X1 26 "Dissolution Bill"



- » Eliminates RDAs
- » Requires RDAs to suspend all activities
- » Establishes a procedure for winding down RDA affairs and obligations
- » Bars RDAs from selling bonds or incurring other debt
- » Successor Agencies will wind down the business of the RDAs
 - Must make payments on existing bonds and other obligations.
 - Must honor RDA's "enforceable obligations"

AB X1 26 Elimination Payments



Governor's Bills: AB 1X 26/27

AB X1 27 "Continuation Bill"



- » The RDA's City Council or County Board of Supervisors must pass an ordinance by November 1, 2011

VARP Payments in FY 2011/2012

RDA \$1.7 Billion

County Auditor Controller

\$4.3 Million
Special District
Allocation Fund

\$1.696 Billion
County ERAF

Fire
Districts

Transit
Districts

School Districts in
Project Areas

VARP Payments in FY 2012/2013 & Beyond

RDA \$400 Million

RDA \$ School
Share New Debt

County Auditor Controller

\$4.3 Million
Special District
Allocation Fund

\$1.696 Billion
County ERAF

Fire
Districts

Transit
Districts

School Districts in
Project Areas

Governor's Bills: AB X1 26/27

Inconsistencies in AB X1 27



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.

Section 34194.1 (b)

*"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..."*

Section 34194.1 (e)(1)

*"The county auditor-controller shall distribute the funds that are remitted to the county Educational Revenue Augmentation Fund...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..."*

Governor's Bills: AB X1 26/27

The AB X1 26/27 Lawsuit



Filed by CRA, league of California Cities, individual RDAs

Seeks to invalidate:

- AB1X 26: unconstitutional
- AB1X 27: violates Prop 22

California Supreme Court agreed to hear case on expedited basis

- Issued a partial stay on new laws pending resolution of case
- Portion of AB X1 26 still in effect
- Halts all RDA activities

Who will win the lawsuit?

- If CRA wins, \$1.7B State budget shortfall

Governor's Bills: AB X1 26/27

Action Items/Recommendations



- » Review Pass-Through Payments for ERAF Calculation
- » F3/Dolinka Group Cover Letter & Sample RDA Letter
- » Discussions With RDA/Tolling Agreements
- » Investigate Local RDAs
 - Are They Choosing the VARP?
- » Track the Pending Lawsuit
 - Updates Via F3 & Dolinka Websites

Fagen Friedman & Fulfrost LLP

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Registration is open for our Fall and Spring Special Education Symposia.

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HispanicBusiness Magazine showcases the five winners of the 2011 *Why Education Matters* award.

October 2011 Governor Brown Signs Bill Prohibiting PERB from Awarding Damages for Unlawful Strikes

October 2011 Legislation Signed to Allow Trained Non-Medical School Employees to Administer Anti-Seizure Medication to Students

CAASAA leaders select the high school seniors to receive \$1000 in the first-ever Education For All Photography Scholarship: Marcus Robles from the Heppner Unified School District, Ramnikh Alaraj from the Occochee Unified School District, and Jason Kennedy from the Clovis Unified School District.

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Dolinka Group provides strategic financial services to our clients in the education industry.

We believe our clients deserve a loyal partner in business, one who is dedicated to the unique needs of school districts. Through our partnerships, we find new ways to focus on their core mission and achieve their goals.

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Today's Headlines
[School considers possible funding cuts](#) by Laura Haywood - 6 hours ago
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[School considers possible funding cuts](#)
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Questions?

About Dolinka Group, LLC

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About Dolinka Group

Presenter Bios



- » **Benjamin Dolinka, President/CEO**, focuses on creating new financial and demographic services, identifying potential public-public and private-public partnerships, and establishing long-term client relationships. For over two decades, Mr. Dolinka has also collaborated with various vendors and organizations throughout the country to find the best solutions for school districts in their facilities planning needs. His efforts have resulted in the timely funding and construction of scores of facilities for school districts across the State of California. Mr. Dolinka holds a B.A. in Economics from the University of California, San Diego.
- » **Ann Feng-Gagne, Executive Director**, is one of the key members of Dolinka Group and is responsible for the day-to-day management of the financing and demographic services provided by the firm. These services include Master Plans/Funding Programs, property negotiations, formation and administration of CFDs and Assessment Districts, Redevelopment, OPEB funding, and GO Bond campaigns and issuances. Ms. Feng-Gagne holds a B.S. in Policy Analysis/Management from Cornell University.
- » **Heather Sobota, Associate Director**, has assisted LEAs with redevelopment project area identification, revenue projections, redevelopment revenue reporting, negotiations with various redevelopment agencies to recover underpayments, and the leveraging redevelopment revenues via the issuance of bonds. Ms. Sobota holds a B.S. in Business Administration (Finance) from San Diego State University.

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ABOUT FAGEN, FRIEDMAN, & FULFROST

Presenter Bios



- » **Kathleen J. McKee, Partner, Fagen Friedman & Fulfrost**, serves as co-chair of the firm's Business, Facilities & Real Estate Practice Group. Ms. McKee, an experienced real estate attorney, represents K-12 and community college districts in all aspects of business, facilities and real estate law, including property acquisition and disposal, site selection and approval and school finance projects, including disputes involving redevelopment funding. She recently co-authored a Daily Journal article on landmark redevelopment litigation and has collaborated with ACSA in presenting on redevelopment topics. She advises clients throughout the state on property negotiations, purchase agreements, leases, entitlements, land uses issues, including CEQA and alternative energy projects. Ms. McKee's experience regarding architect, construction and developer agreements, pre-qualification and bidding is well-recognized. She has experience in traditional bid-build construction agreements, as well as such alternative project delivery systems as construction manager at risk, lease-leaseback and design-build. Prior to representing K-12 and community college districts, Ms. McKee represented private commercial property owners in the acquisition, financing and development of commercial properties, including projects in redevelopment areas in San Diego and Chula Vista. She received her Juris Doctor from the University of San Diego where she was an editor for the San Diego Law Review. She holds master's and bachelor's degrees from San Diego State University.

ABOUT FAGEN, FRIEDMAN, & FULFROST

Community College Practice Areas



Labor and Employment Services

- Employment agreements
- Internal investigations
- Collective bargaining grievances

Facilities and Construction Services:

- Preparation of architect, construction manager, and project manager agreements
- Prepare bid documents
- Alternative project delivery, including multiple prime, lease-leaseback and construction management at risk

Governance Services:

- Brown Act – agenda development, posting, correction of alleged violations, off-site trustee participation
- Conflict of Interest – advice on potential conflicts on part of trustees and employees
- Drafting of policies and regulations

Student Matters

- Discipline
- Academic, speech, and assembly rights

Facilities and Construction-Bid Process

- Respond to bid challenges
- Prepare and oversee requests for qualification
- Assist in bid responsiveness
- Product and subcontractor substitution, including sole source disputes

Facilities and Construction Disputes

- Selection of experts
- Informal negotiations
- Mediation and arbitration
- Superior Court actions

General Litigation (Representative Cases)

- Stop notice actions
- Breach of contract action against general contractor
- Negligence and breach of contract actions
- Defense of inverse condemnation action brought by landowner
- Redevelopment litigation
- Brown Act actions