

January 30, 2012



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To: CSAC Board of Directors
County Administrative Officers
County Auditor-Controllers

From: Paul McIntosh, Executive Director

Re: **Dissolution of Redevelopment Agencies: Implementation of AB 26X**

CSAC has received a number of inquiries regarding counties' role in the implementation of the dissolution of redevelopment agencies, as outlined in AB 26X (Chapter 5, Statutes of 2011). The tight timeline directed by the California Supreme Court's [decision](#) in *California Redevelopment Association v. Matosantos* that upheld the constitutionality of AB 26X means that counties will be fully engaged in dissolution activities in a matter of days. This memo is intended to summarize the variety of county duties associated with AB 26X.

The California Department of Finance has also created a [webpage](#) with staff contact information and questions and answers on bonded indebtedness and dissolution issues. The Senate Local Government Committee staff has prepared a timeline for AB 26X activities, as well, that we have attached here.

This memo does not constitute legal advice. Please contact your county counsel for legal assistance.

Successor Agencies

AB 26X defines "successor agencies" as successor entities to the former redevelopment agencies. These agencies essentially have the same authority, rights, powers, duties, and obligations that previously belonged to redevelopment agencies, except that they can no longer incur debt or engage in redevelopment planning or execution of redevelopment projects. A city or county that chooses not to serve as the successor agency should have provided a resolution to that effect, adopted by its governing board, to the county auditor-controller by **January 13, 2012**.

If a city or county has elected to not serve as the successor agency, the first local agency that notifies the county auditor-controller that it wishes to become the successor agency for that city or county with a resolution to that effect becomes the successor agency.

If no local agency elects to do so, a public body called the "designated local authority" is immediately formed and is vested with all the powers and duties of a successor agency. The Governor shall appoint three residents of the county to serve as successor agency until a local agency elects to take that role.

As of **February 1, 2012**, redevelopment agencies are dissolved and successor agencies are created. All of the former redevelopment agency's assets, properties, contracts, leases, books and records, buildings and equipment are transferred to the control of the successor agency, including cash and cash equivalents.

AB 26X states very clearly that pledges of revenue associated with a redevelopment agency's enforceable obligations are to be honored. The Legislature intends that 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 that pledge. To that end, successor agencies are directed to:

- Continue to make payments due for enforceable obligations according to approved payment schedules.
- Maintain reserves in the amounts required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.
- Perform obligations required pursuant to any enforceable obligation.
- Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to local taxing entities.
- Dispose of assets and properties of the former redevelopment agency as directed by the oversight board in an expeditious manner, aimed at maximizing value.
- Enforce all former redevelopment agency rights for the benefit of taxing entities, including continuing to collect loans, rents, and other revenues that were due to the redevelopment agency.
- Effectuate transfer of housing functions and assets to the designated entity.
- Expeditiously wind down the affairs of the redevelopment agency in accordance with statute and as directed by the oversight board.
- Continue to oversee development of properties until the contracted work has been completed or contractual obligations can be transferred to other parties.
- Prepare a proposed administrative budget and submit it to the oversight board for its approval.
- Provide administrative cost estimates to the county auditor-controller for each six-month period.
- Before each six-month period, prepare a Recognized Obligation Payment Schedule in accordance with statutory requirements.

Oversight Boards

Counties must appoint members to oversight boards for each successor agency within the county. These oversight boards are composed of seven members, appointed as follows:

- One member appointed by the county board of supervisors
- One member appointed by the mayor for the city that formed the redevelopment agency
- One member appointed by the largest special district by property tax share with territory in the jurisdiction of the former redevelopment agency
- 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 in the county
- One member of the public appointed by the county board of supervisors
- One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors from the recognized

employee organization representing the largest number of former redevelopment agency employees employed by the successor agency

The Governor may appoint individuals to fill any oversight board member position that has not been filled by May 15, 2012 or any member position that remains vacant for more than 60 days.

An individual may serve on up to five oversight boards.

The oversight board is staffed by the staff to the successor agency and costs associated with the oversight board's work are to be paid by the successor agency.

A majority of the total membership of the oversight board constitutes a quorum and the oversight board may begin meetings as soon as a quorum is appointed. By **May 1, 2012**, each successor agency's oversight board must report the name of its chairperson and other members to the Department of Finance.

Oversight board actions may be reviewed by the Department of Finance. As such, all actions shall not take effect for three days, pending a request for review by the department. If the department requests a review, it has 10 days from the date of such request to approve the oversight board action or return it to the oversight board for reconsideration and approval by the department.

Importantly, oversight boards have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax revenues. Oversight boards are tasked with approving successor agency actions, as follows:

- The establishment of new repayment terms for outstanding loans
- Refunding of outstanding bonds or other debt of the former redevelopment agency in order to provide for savings
- Setting aside of amounts in reserves as required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds
- Merging of project areas
- Continuing the acceptance of state/federal grants that require matching funds from the successor agency
- Agreements to retain properties or other assets by the city or county
- Establishment of the Recognized Obligation Payment Schedule
- A request by the successor agency to pledge property tax revenues

Oversight boards shall direct successor agency activities, as follows:

- Disposal of all assets and properties of the former redevelopment agency that were funded by tax increment revenues. This disposal shall be done expeditiously and in a manner aimed at maximizing value.
- Terminate existing agreements that do not qualify as enforceable obligations
- Transfer housing responsibilities and all rights, powers, duties, and obligations, along with funds on deposit in the Low and Moderate Income Housing Fund to the appropriate entity

- Terminate any agreements with other public entities within the county for debt service obligations of the public entity or construction or operation costs of the public entity if the board determines that early termination is in the best interests of the taxing entities.
- Determine whether existing agreements between the former redevelopment agency and private parties should be terminated or renegotiated to reduce liabilities and increase net revenue to the taxing entities, if found in the best interest of taxing entities.

Auditor-Controller Duties

As administrator of property taxes within the county, the county auditor-controller has significant new responsibilities associated with the dissolution of redevelopment agencies. The State Association of County Auditors is working diligently with a variety of stakeholders on statewide uniform guidelines to provide guidance and assistance to county auditors as they take on these new challenges.

The county auditor-controller shall create a Redevelopment Property Tax Trust Fund within the county treasury for each former redevelopment agency. Property tax revenues for each former redevelopment agency must be deposited in these funds. The county auditor-controller is to calculate the amount of property taxes that would have been allocated to the former redevelopment agency and shall deposit that amount in the Redevelopment Property Tax Trust Fund. The county auditor-controller is to administer this fund for the benefit of the holders of former redevelopment agency enforceable obligations and to the taxing entities that receive passthrough payments and distributions of property taxes. Administrative costs associated with these activities may be charged to the Redevelopment Property Tax Trust Fund.

By **May 16, 2012**, the county auditor-controller must allocate moneys from the Redevelopment Property Tax Trust Fund to the successor agency for payments listed in its Recognized Obligation Payment Schedule for the period of January 1, 2012 through June 30, 2012. The county auditor-controller must also allocate any moneys remaining to local taxing entities. Twice annual payments will be made to successor agencies and to local taxing entities on January 16 and June 1 for each year thereafter.

County auditor-controllers are to perform audits of each redevelopment agency within the county by **July 1, 2012**. These audits are to establish the agency's assets and liabilities, to document and determine each agency's passthrough obligations, and to document and determine the amount and terms of indebtedness incurred by the redevelopment agency and certify the initial Recognized Obligation Payment Schedule.

County auditor-controllers are to submit copies of all audits to the State Controller by **July 15, 2012**.

The county auditor-controller is also required to report specified information regarding the distribution of property tax revenues to the State Controller and the Director of Finance by **October 1, 2012**.

Next Steps

CSAC will continue to keep counties apprised of new developments that occur during the dissolution process. As you know, there may be legislative changes or administrative directions that could require these processes to be modified. We also urge counties to dialogue with local stakeholders and utilize the expertise of counsel during this complex transition. We recognize that this is a challenging time and remain available to assist counties through the process.

CSAC Staff Contacts

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