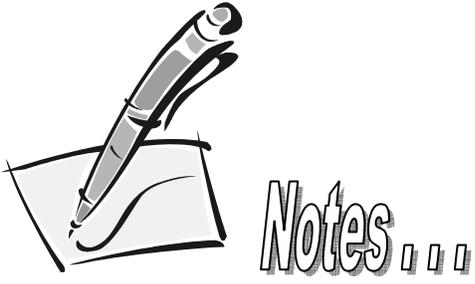




Updates on Economic Development, Enterprise Zones and the Demise of Redevelopment

Thursday, May 3, 2012 General Session; 10:30 – 11:45 a.m.

**Steven L. Mayer, Arnold & Porter
Chris McKenzie, Executive Director, League of California Cities
Betsy Strauss, Special Counsel, League of California Cities**



Redevelopment, Economic Development and Enterprise Zones Update

Steve Mayer, Arnold and Porter
Betsy Strauss, Attorney-at-Law
Chris McKenzie, Executive Director, League of California Cities

CRA v. Matosantos:
The End of Redevelopment

Steven Mayer
Arnold and Porter
Three Embarcadero Center, Seventh Floor
San Francisco, CA 94111-4024
(415) 471-3161
steve.mayer@aporter.com

CRA V. MATOSANTOS: THE END OF REDEVELOPMENT

In June, 2011 the Legislature passed, and the Governor signed, two statutes that together purported to make redevelopment agencies (RDAs) provide \$1.7 billion to help the State solve its ongoing budget crisis. The first statute (ABX1 26) dissolved the redevelopment agencies, created “successor agencies” to pay their “enforceable obligations,” and transferred the remainder of their present assets and their future tax increment revenue to county assessors to be distributed to counties, school districts and special districts. The second statute (ABX1 27) suspended dissolution of the RDAs if their sponsoring cities and counties agreed to pay \$1.7 billion to schools and special districts during FY 2011-12 and \$400 million annually thereafter.

The California Redevelopment Association and the League of California Cities challenged the constitutionality of these statutes in the California Supreme Court. The challenge was primarily based on Proposition 22, an initiative constitutional amendment that the electorate had approved in November 2010. Among other things, Proposition 22 provided that the Legislature could not “[r]equire a community redevelopment agency . . . to pay, . . . or otherwise transfer, directly or indirectly,” the RDAs’ annual property tax increment “to or for the benefit of the State and any agency of the state, or any jurisdiction.” CRA and the League contended that ABX1 26 and ABX1 27 both violated this provision, because both of them transferred tax increment that would otherwise have gone to the RDAs to counties and school districts.

In *California Redevelopment Association v. Matosantos*, 53 Cal. 4th 231 (2011), the California Supreme Court held ABX1 27 unconstitutional, but upheld ABX1 26. With respect to the latter, the Court held that the RDAs had been created by statute and could therefore be dissolved by statute, in the absence of an express constitutional provision to the contrary. However, the Court held that ABX1 27 was unconstitutional because it forced the redevelopment

agencies, under penalty of dissolution, to transfer funds to counties, cities and special districts.

The Court also rejected arguments that ABX1 26 should be invalidated if ABX1 27 were held invalid. Although the Legislature had refused to approve the Governor's original recommendation to eliminate redevelopment completely, and the bills would not have passed the Senate without assurances from the President Pro Tem that the bills would mend redevelopment rather than end it, the Court relied on an express severability provision indicating that the Legislature intended ABX1 26 to be upheld even if ABX1 27 were invalidated. Consequently, the Legislature's attempt to require the redevelopment agencies to provide a "ransom payment" as a prerequisite for their continued existence resulted in their complete dissolution.

**Successor Agencies, Oversight Boards
and the
Post-ABX1 26 World**

Betsy Strauss
1595 King Avenue
Napa, California 94559
(707) 290-8772
betsy.strauss@gmail.com

Introduction

In June 2011, the Legislature approved two pieces of legislation:

- Chapter 5, Statutes of 2011 (ABX1 26) imposed an immediate freeze on RDA authority to engage in most of their previous functions, including incurring new debt, making loans or grants, entering into new contracts or amending existing contracts, acquiring or disposing of assets, or altering redevelopment plans.¹ The bill also dissolved RDAs, effective October 1, 2011 and created a process for winding down redevelopment financial affairs and distributing any net funds from assets or property taxes to other local taxing agencies.²
- Chapter 6, Statutes of 2011 (ABX1 27) allowed RDAs to opt into a voluntary alternative program to avoid the dissolution included in ABX1 26. The program included annual payments to K-12 districts (\$1.7 billion in 2011-12 and about \$400 million in future years) to offset the fiscal effect of redevelopment on the State's support of schools.

In *California Redevelopment Association v. Matosantos*, 53 Cal. 4th 231 (2011),³ the California Supreme Court upheld ABX1 26 but held ABX1 27 unconstitutional. The Court held that the RDAs had been created by statute and could therefore be dissolved by statute, in the absence of an express constitutional provision to the contrary. However, ABX1 26 was passed by the Legislature as a "package" with ABX1 27. The Court held ABX1 27 unconstitutional because it forced redevelopment agencies, under penalty of dissolution, to transfer funds to counties, cities and special districts in violation of Proposition 22. The record of the Legislative debate on the two bills reveals that a majority of the Legislature did not intend to end redevelopment in California. They

¹ See, generally Health & Safety Code §§ 34161 – 34169.5.

² See, generally Health & Safety Code §§ 34170 - 34190. All references will be to the Health & Safety Code unless otherwise noted

³ The Court's decision reformed the deadlines contained in ABX1 26 by four months to take into account the stay imposed by the Court for that period of time.

only intended to dissolve those redevelopment agencies that failed to make the payment required by ABX1 27.⁴

This paper will include:

- A brief summary of ABX1 26
- A discussion of the most significant implementation issues
- Pending Legislation amending ABX1 26⁵
- Pending Legislation providing new economic development tools
- The work of the Law Revision Commission

A Brief Summary of ABX1 26⁶

The dissolution and winding down of redevelopment involves three main players at the local level and two main players at the state level. The main players at the local level are:

- The successor agency;
- The oversight board; and
- The county auditor-controller

The two main players at the state level are:

- The Department of Finance; and

⁴ On March 21, 2012, a member of Senator Steinberg's staff told a group of locally elected and appointed officials at a League of California Cities meeting that there are problems with the implementation of ABX1 26 because the Legislature did not write the bill to operate independently of ABX1 27 and expected that very few agencies would actually be dissolved under its provisions.

⁵ This paper was prepared in late March. An update of pending legislation will be provided on May 3, 2012 at the oral presentation of this paper.

⁶ This section is not intended to be a detailed analysis of ABX1 26. Rather it is intended to provide the reader with a summary of the law's major provisions.

- The State Controller

The Local Level

The successor agency. The successor agency, as “successor entity to the former redevelopment agency,”⁷ is required to “expeditiously wind down the affairs of the dissolved redevelopment agencies.” The intent of the law was “to provide the successor agencies with limited authority that extends only to the extent needed to implement a wind down of redevelopment agency affairs.”⁸

The “successor agency” means “the county, city, or city and county that authorized the creation of each redevelopment agency....”⁹ A successor agency is required to perform certain actions such as:

- Continuing to make payments due for “enforceable obligations;”
- Maintaining reserves in the amount required by indentures or similar documents governing the issuance of outstanding bonds;
- Remitting unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities (including unencumbered balance of the LMIHF);
- Disposing of assets and properties of the former redevelopment agency;
- Continuing to oversee development of properties
- Preparing a proposed administrative budget
- Preparing a Recognized Obligation Payment Schedule.¹⁰

The law separates out the housing assets and functions of the former redevelopment agency for special treatment. The city, county, or city and county that authorized creation of the redevelopment agency could elect to retain the housing assets and functions previously performed by

⁷ §34173(a).

⁸ ABX1 26 Section 1(j)(4).

⁹ § 34171(j). The Cities of Bishop, Los Angeles, Los Banos, Merced, Pismo Beach, Riverbank and Santa Paula elected not to serve as successor agencies. The Governor appointed a “designated local authority” to serve as a successor agency for each of these former redevelopment agencies (§ 34173(d)(3)).

¹⁰ §34177. This is the key document, which delineates the enforceable obligations and their source of payment (including property taxes).

the agency. If the election is made, all rights, powers, duties, and obligations excluding any amounts on deposit in the LMHF, are transferred to the city, county or city and county.¹¹

The oversight board. Each successor agency has an oversight board with representatives from the affected local taxing agencies that supervise the successor agency's work. The oversight board has considerable authority over the wind down of the former redevelopment agency. In addition to approving the successor agency's administrative budget, the oversight board adopts the ROPS – the central document that identifies the financial obligations of the former RDA that the successor agency may pay over the next six months. The oversight board may determine that a contract between the dissolved RDA and others should be terminated or renegotiated to increase property tax revenues to the affected local agencies. Similarly, it may direct the successor agency to dispose of assets and properties and terminate existing agreements that do not qualify as enforceable obligations.¹² Section 34180 identifies the list of successor agency actions that require oversight board approval.

The county auditor-controller. The county auditor-controller administers each former RDA's Redevelopment Property Tax Trust Fund. Revenues equal to the amounts that would have been allocated as tax increment are placed into the trust fund for servicing the former RDA's debt obligations, making pass-through payments, and paying certain administrative costs. The auditor then distributes any trust funds not needed for these purposes – as well as any remaining redevelopment cash balances and the proceeds of asset sales – to the local governments in the area as property taxes.

The auditor-controller is also responsible for certifying the successor agency's draft ROPS and auditing each dissolved RDA's assets and liabilities. The costs of these duties can be paid from the trust fund.

¹¹ § 34176(a).

¹² §34181.

The state level

Department of Finance. The DOF had the authority to review the EOPS adopted by the former redevelopment agency and the preliminary draft of the ROPS adopted by the former redevelopment agency. In the event the Department requested review of either of these actions, the Department had 10 days from the date of its request to approve the action or return it for reconsideration. An action returned to the RDA for reconsideration was not effective until approved by the Department.¹³

The ROPS prepared by the successor agency must be submitted to the Department of Finance by April 15, 2012.¹⁴ Similarly, the oversight board is required to approve the ROPS and the DOF may review any action of the oversight board. In the event that DOF requests review of an oversight board decision, then the Department will have 10 days from the date of its request to approve the action or return it to the board for reconsideration. Such oversight board action shall not be effective until approved by the department.¹⁵

The Department of Finance devotes a portion of its website to its interpretation and implementation of ABX1 25 at:
http://www.dof.ca.gov/assembly_bills_26-27/view.php

State Controller. ABX1 26 assigns the following duties to the State Controller:

- SCO is directed to determine whether an RDA transferred an asset to the city or county that created it after January 1, 2011. If the asset has not been committed to a third party “the Controller shall order the available asset to be returned” to the successor agency “to the extent not prohibited by state or federal law.”¹⁶

¹³ §34169(i).

¹⁴ § 34177(l)(3). A sample ROPS can be found on the DOF website.

¹⁵ §34179(h).

¹⁶ § 34167.5.

- The SCO plays an oversight role with regard to the activities of the auditor-controller that is similar to the role DOF plays in regard to the oversight board.¹⁷

The Most Significant Implementation Issues

The language of ABX1 26 leaves a variety of issues difficult to resolve:

- **What is a successor agency?**

Health & Safety Section 34171 defines “successor agency” as “the county, city or city and county that authorized the creation of each redevelopment agency or another entity as provided in Section 34173.”¹⁸ This definition seems to make the “successor agency” identical to the city (or county or city and county) that authorized the creation of the redevelopment agency. Section 34173(e) provides that the liability of the successor agency, “acting pursuant to the powers granted [by ABX1 26], 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....”

Although Section 34171 provides a clear definition, two other sections muddy the waters:

- ✓ Section 34176 allows the city that authorized the creation of the redevelopment agency to elect to retain the housing assets and functions previously; and
- ✓ Section 34180(h) allows a successor agency to request oversight board approval to “enter into an agreement with the city, county, or city and county that formed the redevelopment agency it is succeeding.

Both of these sections make it sound as if the successor agency is separate from the city, county, or city and county that created it.

¹⁷ §34182(f).

¹⁸ §34173 allows the Governor to appoint a “designated local authority” as the successor agency if no local agency within the territorial jurisdiction of the former redevelopment agency elects to be the successor agency.

Finally, the Department of Finance takes the position that the successor agency is “separate” from the city for “employment purposes.”

To preserve the limited liability of the successor agency, most attorneys have advised that the successor agency take all actions and hold all assets of the former redevelopment agency as the “Successor Agency to the former RDA.” The meetings of the successor agency should be noticed and agendized separately and the successor agency should take all actions in its capacity as the successor agency and enter into all agreements in its capacity as the successor agency.

✓ **What are the rights, powers, duties and obligations of the successor housing entity?**

Section 34176 allows the city that authorized creation of a redevelopment agency to retain the housing assets and functions previously performed by the redevelopment agency. If the election is made, then “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.”

Similarly, Section 34177(d) requires the successor agency to remit unencumbered balances of redevelopment agency funds, including the unencumbered balance of the LMIHF to the county auditor-controller for distribution to the taxing entities.

Note that the successor agency will the retain encumbered balances of LMIHF to carry out enforceable obligations.

✓ **The period between the EOPS and the ROPS – Payments after May 1, 2012**

Section 34177 directs the successor agency to make payments due for enforceable obligation. However, until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligation payment schedule may be made. The initial EOPS is the last scheduled adopted by the redevelopment

agency with certain exceptions.¹⁹ However, commencing on May 1, 2012 (under the reformed dates), only those payments listed in the ROPS may be made by the successor agency from the funds specified in the ROPS.

A ROPS is not valid until approved by the oversight board and a copy of the approved ROPS is submitted to the county auditor-controller, the State Controller and the Department of Finance.²⁰ This means that before May 1 two things must happen: The oversight board approves the ROPS; and the Department of Finance approves the ROPS if it chooses to review pursuant to Section 34179(h).

In its March 2, 2012 letter to County Boards of Supervisors, City Administrators, and Redevelopment Successor Agency Representatives, DOF encourages review and approval of the ROPS to DOF at the earliest possible time. “This early submittal will help ensure any problems are resolved before May 1 and May 11 deadlines, thereby enabling your Successor Agency to make debt payments timely and to receive funding for all enforceable obligations.”

Note that the initial ROPS must be submitted to the auditor performing the agreed upon procedures audit review. DOF advises submitting the ROPS to Finance without waiting for the auditor’s review if it cannot be completed by April 15.

✓ **Oversight Board issues**

Attorneys have raised the following questions about the operation of an oversight board:

Does the oversight board need separate legal counsel? If so, can the cost of legal counsel be included in the administrative budget of the successor agency?

¹⁹ § 34177(a)(1).

²⁰ §34177(l)(2).

Can a member of the city council appoint herself to the oversight board or does this risk a finding of incompatibility under Government Code Section 1099?

How do you determine the employee representative on the board when there are not separate RDA employees?

Must the oversight board adopt a conflict of interest code? If so, who is the code reviewing body?²¹

How does Government Code Section 1090 affect the actions of the Oversight Board?

How does an oversight board simultaneously hold a fiduciary responsibility to holders of enforceable obligations and the taxing entities that benefit from the distributions of property tax?²²

An oversight board may approve a successor agency request to refund outstanding bonds. Where is the authority in ABX1 26 for a successor agency to issue bonds?

An oversight board must direct the successor agency to dispose of “all assets and properties of the former redevelopment agency that were funded by tax increment revenues...”²³ Does this mean that the oversight board is not authorized to direct the successor agency to dispose of assets and properties that were acquired with other funding sources?

✓ **The May 16 Payment**

ABX1 26 calls for the auditor-controller to make a distribution of property taxes to the successor agency on May 16 in an amount needed

²¹ §34179(e) states that the oversight board is a “local entity” for purposes of the Political Reform Act of 1974. Ann Ravel, Chair of the FPPC has informally offered her opinion that an oversight board must adopt a conflict of interest code.

²² For example, the oversight board’s duties described in Section 34181(d) and (e) seem to incline in favor of the taxing entities and against the holders of enforceable obligations.

²³ §34181(a)

to allow payments for enforceable obligations shown on the first ROPS and to cover administrative costs of the successor agency for the period January through June 2012. Some auditor-controllers do not intend to make such a distribution because these funds would have come from the December 2011 installment of property taxes, which, because of the stay imposed by the California Supreme Court, was made to the former redevelopment agencies prior to their dissolution. This means that a successor agency must rely on the fund balances inherited from its former redevelopment agency to make the enforceable obligation payments and to fund its administrative costs.

✓ **“Unencumbered” bond proceeds and Refunding Bonds**

Section 34177(d) requires the successor agency to remit unencumbered balances of redevelopment agency funds to the county auditor-controller. Section 34177(i) states that “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.” The law does not allow a successor agency to enter into a contract for the use of bond proceeds that are not the subject of an “enforceable obligation.”

Two main issues have been identified: (1) Section 34180(b) requires oversight board approval for “refunding of outstanding bonds or other debt of the former redevelopment agency by successor agencies.” However, ABX1 26 does not provide authority to the successor agency to refund the bonds under these circumstances. (2) Defeasing (or repaying) the bonds is governed by federal tax law and bond documents and is likely a ten-year process in which funds are not being “used” for projects nor distributed to taxing entities.

Pending Legislation

AB 1585 (Perez)

AB 1585 (Perez) passed out of the Assembly on March 26, 2012. It is an urgency bill that will take effect immediately after being passed by the Senate and signed by the Governor. The most significant changes made to ABX1 26 made by the bill include:

1. The administrative cost budget is calculated as a percentage of property taxes received in the 2011-12 fiscal year. The bill clarifies that this amount includes property taxes allocated to the former redevelopment agency (Section 34171(b)).
2. Allows an oversight board to declare a loan between a redevelopment agency and the city or county that created it to be an enforceable obligation if the board makes a finding that the loan was “for legitimate redevelopment purposes” and repayments would be made in accordance with a defined schedule at an interest rate not to exceed interest earned on LAIF deposits (Section 34171(d)(2)(C) and 34180(k)).
3. Clarifies that a successor agency is a separate public entity from the city or county that created the redevelopment agency (Section 34171(j) and 34173).
4. Includes unencumbered LMIHF funds as assets to be transferred to the succeeding housing entity and thereafter expended pursuant to provisions of CRL (Section 34176).²⁴
5. Clarifies that the date the ROPS becomes valid is the date when payments can no longer be made under EOPS (removes May 1 firm date) (Section 34177(a)(3)).
6. Allows first ROPS of each year to include, if necessary total payments for both 6-month periods (Section 34183(a)(2)(A)).
7. Authorizes oversight board to approve successor agency request to issue bonds or enter into other financing arrangements “to fund required payments under an enforceable obligation that exceed the amount of property tax revenue available to the agency during the payment period” (Section 34180(c)).
8. Allows oversight board to approve temporary increases in the administrative cap as needed to implement enforceable obligations or for litigation costs (Section 34180(l)).

²⁴ See other changes made to § 34176 regarding use of LMIHF.

9. Requires successor agencies to compile an inventory of assets for review by the oversight board. Oversight board is required to adopt a policy or strategy for the disposal or transfer of assets (Section 34181(a) and (b)).

SB 654 (Steinberg)

SB 654 (Steinberg) passed the Senate and is pending in the Assembly as of March 26, 2012. It is not an urgency measure. The most significant changes made to ABX1 26 by SB 654 include:

1. Loan agreements entered into between a redevelopment agency and the city or county that created it within 2 years of creation of the agency or within two years of the creation of the project area are “enforceable obligations” if the loan is specific to that project area (Section 34171(d)(3)).
2. Authorizes transfer of any amounts on deposit in the LMIHF to the successor housing entity (Section 34176(a) and 34177(d)).

SB 986 (Dutton)

SB 986 (Dutton) is an urgency bill that makes the following changes to the law:

1. Provides that (all) bond proceeds shall be deemed to be “encumbered” and therefore the successor agency shall not remit those funds to the county auditor-controller (Section 34177(d)).
2. Allows the successor agency to use the bond proceeds that are not the subject of an enforceable obligation if the successor agency enters into an enforceable obligation before 12/31/14 to fulfill the purposes for which the bonds were sold. Any amount of bond proceeds not subject to an enforceable obligation as of January 1, 2015 shall be used to defease the bonds or to purchase outstanding bonds on the open market for cancellation (Section 34177(i)).
3. Requires oversight board of approval of enforceable obligations described in #2 but board cannot disapprove the enforceable obligation of “reasonably in furtherance of the purposes for which the bonds were sold” (Section 34180(j)).

SB 986 (Dutton) is scheduled to be heard in Senate Government and Finance Committee on April 18, 2012.

New Economic Tools

Many bills have been introduced to provide for new economic tools in the wake of the dissolution of redevelopment agencies. As of the writing of this paper, these bills are in very preliminary form. A full report of the contents and status of the bills will be presented at the Spring Conference on May 3, 2012. The bills include:

AB 2144 (Perez)

AB 343 (Atkins)

SB 1151 (Steinberg)

SB 1156 (Steinberg)

The above four bills are particularly important because they are authored by the Assembly and Senate leadership, respectively.

The California Law Revision Commission

ABX1 26 directed the California Law Revision Commission to draft a Community Redevelopment Law clean-up bill by January 1, 2013.²⁵ Pursuant to this direction, the CLRC has opened Study H-750: Community Redevelopment Law Cleanup. At its February 2012 meeting, the Commission approved a general methodology for the conduct of the study including:

- The Commission's clean-up work will be limited to making technical changes to conform to the effect of ABX1 26;
- The Commission will not recommend any revisions to construe, clarify, or alter the substantive effect of ABX1 26;

²⁵ §34189(b).

- The Commission’s clean-up work will not disturb the existing allocation of the revenue of former redevelopment agencies.
- If the Commission discovers a possible substantive defect in ABX1 26, the matter will be noted in an appendix for inclusion in the Commission’s final report.

A two-step process will be followed. Each subject matter group will be analyzed separately: First, analyze the relevance of the provisions after the transitional period. Second, analyze the relevance of the provisions during the transitional period. The “transitional period” is when either or both of the following are true: (1) a successor agency is winding down the affairs of a former redevelopment agency; (2) an arbitration, administrative adjudication or other administrative proceeding, civil action or proceeding, etc. relating to redevelopment is pending or may be brought without violating the applicable statute of limitations.

As of the date this Paper was written, the next meeting of the CLRC to discuss this issue was April 4, 2012.

Note that AB 1585 (Perez) would delete the provisions of Section 34189(b).

Conclusion

Unfortunately as of April 9 2012, there is more unsettled than settled with regard to the outstanding issues and ambiguity inherent in ABX1 26. Hopefully the next several months will shed more light on the subject. An update will be provided on May 3, 2012 at the City Attorneys’ Spring Conference.

The City Attorneys’ Department Officers appointed an ad-hoc committee called the Post-Redevelopment Working Group to prepare Frequently Asked Questions documents on many of the most difficult implementation questions. As they are completed these FAQ documents are posted at www.cacities.org/redevelopment.

**League of California Cities Task Force
on
Next Generation of Economic Development
Tools**

Chris McKenzie
Executive Director
League of California Cities
1400 K Street
Sacramento, California 95814
(916) 658-8200
mckenzie@cacities.org

Background

In the wake of the CRA v. Matosantos decision, the League board of directors acted quickly to appoint a 40-member task force of city officials, broadly representative of the League's 16 regional divisions, various professional departments, the CRA and other municipal associations to begin sorting through what economic development tools are still available to cities and what new tools could be considered by the legislature to begin to plug the terrible hole left by the absence of redevelopment. The Task Force has also focused on the immediate need to enact legislation to address many of the problems associated with the redevelopment dissolution legislation.

The Task Force, and a special subcommittee, held a total of three meetings to date, consulting in the process directly with Assembly Member Tony Adkins, chair of the Speaker's Task Force on Redevelopment, and Steve Shea, Consultant to Senate President Pro Tem Darrell Steinberg. Its recommendations have been reviewed by two League policy committees, and they were just reviewed and considered for approval at the April 26-27 meeting of the League board of directors. The report submitted by the Task Force is reprinted immediately below. The Task Force will meet again on May 16.

Recommended Strategy

The League Task Force on the Next Generation of Economic Development Tools is looking at a wide range of existing and potential future tools that cities could use to promote economic development in the aftermath of the elimination of redevelopment agencies. A wide range of bills have been introduced and are in process that could provide possible vehicles for advancing this agenda, which the Task Force believes should be focused on the following goals:

- Provide ongoing funding for local infrastructure and economic development projects through tax Increment financing authority, land assembly and conveyance, and other tools.
- Address local concerns with: (a) cleaning-up brownfields now held by successor agencies, (b) preserving critical community assets that will be

needed for future community renovation, TOD, etc., and (c) allow unspent bond proceeds to be used to finish quality projects.

In keeping with these recommended areas of focus, the Task Force recommended the following strategy be adopted and implemented by the League, focusing on the core goals and the growing legislative interest in making progress in addressing the goals.

Short Term: Next Few Months

- 1) **Cleanup of AB X1 26:** Cities and successor agencies are facing real challenges dealing with many unresolved issues from AB X1 26. Pursuing and supporting legislation that would address these challenges is the most important thing that can be done in the short term. The League and CRA have worked closely with the Speaker on his AB 1585, which addresses the retention of housing set-aside funds, repayment of city loans, and other critical issues. It is a great first step, but other legislation addressing asset management (e.g., AB 1585 and SB 1156), brownfields (e.g., SB 214 and SB 1335), unspent bond proceeds (e.g., SB 986) and other matters should be pursued however possible. Bottom Line: AB 1585 addresses many, but not all, of the problems with AB x1 26. It is currently in the Senate where President Pro Tem Steinberg has indicated it will be held until after the release of the Governor's May Revise in mid-May. The potential fiscal impact of the retention of the housing set-asides and other provisions will be evaluated by the Dept. of Finance and the legislature as part of the overall budget process.

- 2) **Infrastructure Finance Districts (IFDs):** Draft and support amendments to make SB 214 (Wolk)²⁶ and the IFD tool a workable option for cities to finance infrastructure. The Subcommittee spent significant time discussing infrastructure financing districts (IFD's) if/how such a tool could be made into a workable tool to finance local infrastructure. League Special Counsel, Betsy Strauss, advised the group that there was consensus among bond counsel and other attorneys that a key legal concern with the constitutional debt limit could be addressed with amendments that ensured that the IFD was established as a separate legal entity. The League has offered amendments to address this issue and other ways in which to make IFDs a flexible, usable tool for infrastructure and economic development. Bottom Line: access to the tax increment from other affected taxing subdivisions will require their approval, but the issuance of bonds and approval of the projects

²⁶ SB 214 is currently on the Assembly floor where amendments will likely be made and then the amended bill will be sent back to one or more policy committees for further review.

will be simpler than current IFD law. No part of the school share of the tax increment is available under current law.

- 3) **Other Opportunities:** Review and consider support for other legislation (SB 1151, AB 2144, etc.) that can expand local economic development and infrastructure options as opportunities present themselves.
- 4) **Research:** Continue to research and examine and develop new possibilities and flexibility for: tax increment financing, assessment districts, economic development corporations, ideas suggested by the task force and other options that would expand the ability of cities to develop infrastructure, provide services, pursue economic development, remove blight, assemble land and develop affordable housing .

Longer Term: (Before End of the Year)

- 1) **Legislation Authorizing State/School Participation.** Draft concept legislation that would authorize the state, via the State Infrastructure Bank or another entity, to approve the use of some or all of the local school share of property tax to support tax increment financing for projects which advance important state priorities:
 - a. Transit Oriented Development (TOD) projects consistent with SB 375.
 - b. Affordable housing.
 - c. Military base reuse.
 - d. Projects to attract high-wage employers to the state.
- 2) Work with legislators to develop and refine legislation derived from further League research, or ideas offered by other stakeholders.
- 3) Work with legislators to encourage the development and adoption of a state economic development strategy, with appropriate state and local fiscal incentives for job creation, urban revitalization and sustainable development.

2012 Post-RDA Legislation

AB X1 26 Related Clean-Up

- AB 1585 (Perez). Clean up vehicle to AB X1 26, includes retaining RDA housing funds.
- SB 654 (Steinberg). Retain RDA Housing funds. (In Assembly, not yet assigned to committee)
- SB 986 (Dutton). Deems all former RDA bond proceeds encumbered, and requires them to be used for their intended purpose.

- AB 1555 (Norby). Imposes various prohibitions and limitations on loan forgiveness.
- AB 1644 (Carter). States Intent to address military base closure issues.
- SB 1157 (Berryhill). Successor agency spot.
- SB 1439 (Huff). Exempts City of Monrovia RDA from dissolution.
- SB 1056 (Hancock). Deems a project with funding from a Federal Qualified School Construction Bond an enforceable obligation.
- SB 1335 (Pavley). Brownfields: authorizes successor agencies to retain brownfield sites. Authorizes a successor agency to develop a transit-oriented development type project on those properties, upon appropriation by the legislature.
- SB 1151 (Steinberg). Requires the preparation of a long range asset management plan by Dec 1, 2012. (Suspends asset disposal until such a plan has been approved by both oversight board and DOF by Dec 31, 2012.)

Next Steps Post-RDA

Leadership Bills

- AB 2144 (Perez). Spot bill. States purpose to provide local governments with broad array of tools and resources.
- SB 1156 (Steinberg). Authorizes the creation of a Community Development and Housing JPA between a city and a county.

Infrastructure Finance District (IFD) Bills:

- SB 214 (Wolk). Infrastructure Financing District (IFD)
- AB 485 (Ma). IFD for transit-oriented development.
- AB 910 (Torres). IFD- (Author is open to working with the League with this vehicle)
- AB 2551 (Hueso). Authorizes the creation of IFD's called "Renewable Energy Zones."
- SB 1417 (Hancock) Spot. Interested in ways to make SB 310 (Hancock) of 2011 more useable.

Assessment Districts:

- SB 949 (Vargas, 2012). Recently introduced. Builds upon the business improvement district model by authorizing a city or county to establish a "community benefit district" with various powers and authority.
- AB 2436 (Cedillo). Spot bill on city street assessments.

Other:

- AB 343 (Atkins). legislative vehicle on redevelopment.
- AB 1828 (Bonilla). Concord Military Base
- AB 2314 (Carter). Spot bill. State legislative intent to provide communities tools to fight blight.
- SB 1220 (DeSaulnier). \$75 per real estate transaction for affordable housing trust fund.
- AB 2146 (Mansoor). Spot bill. County auditors, redevelopment contributions to ERAF.
- AB 2500 (Hueso). Creates the California Investment Trust.
- AB 2523 (Hueso). Infrastructure Bank loans.
- (Possible bill by Alan Lowenthal-League Sponsored, No specific bill ## yet.)

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