



Assembly Bill 101 – Elimination of Redevelopment Agencies

April 2011

Board Action:

OPPOSE and seek meaningful reform of Redevelopment Agencies

Rationale:

In 2010 voters passed Proposition 22 which prohibited the state from diverting money from local municipalities, including redevelopment agencies. Even if Redevelopment Agencies (RDAs) are disbanded, Proposition 22 asserts that the tax revenue belongs to local agencies, and cannot be transferred to the state's general fund. SDCTA supported Proposition 22, and previous measures whose purpose was to keep local funds under local control. The current proposal, AB 101, would divert \$1.7 billion of local property tax revenue to the state to cover ongoing general fund expenditures. If the intent of the proposal is to eliminate the redirection of tax revenues away from counties and school districts, as is the case with RDAs, these funds should stay within the jurisdictions and remove any additional reliance on state funding for services. AB 101 contains a short-term fix to a budget that is structurally unsound.

Background

History

In 1945, passage of the California Community Redevelopment Law allowed for the establishment of Redevelopment Agencies (RDAs) to reduce “blighted areas” in local communities. “Blighted areas” are defined in part in the California Health and Safety Code (Section 33030) as:

“[C]onditions . . . caus[ing] a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or government action, or both, without redevelopment.”ⁱ

Redevelopment agencies are formed by local governments, but are agencies of the state. Local governments can form an RDA without consent of the voters, based on the results of blight studies. These RDAs issue bonds, without the need for voter approval, to pay for improvements in blighted areas. There are currently over 400 redevelopment agencies in California.ⁱⁱ

Once an RDA is established, the amount of property tax revenue that is distributed to local agencies serving the area is frozen at the funding levels at the time. Any growth in property tax revenue above the base level established is allocated to the RDA as tax-increment revenue (Figure 1). RDAs are allowed to use tax-increment revenue to finance infrastructure projects, although 20% of funds must be spent on low to moderate income housing projects.ⁱⁱⁱ Depending upon when an RDA was established, a portion of tax-increment revenue is passed through to local agencies.^{iv}

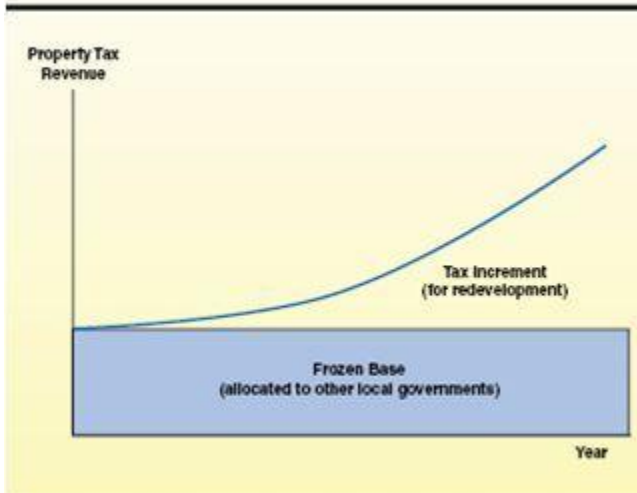
RDAs have been modified several times since 1945. Successive generations have attempted to clarify the role of the redevelopment agencies in the hope of gaining more local control or a fair

distribution of resources. In 1983, the legislature authorized local taxing agencies to form fiscal review committees to oversee new redevelopment project areas. If these taxing agencies (e.g. cities, counties, or school districts) can show financial harm from the loss of tax revenues to RDAs, they could require pass-through of tax increments to these taxing agencies.

In 1993, legislation sponsored by the California Redevelopment Association (CRA) was passed that repealed the previously founded fiscal review committees and replaced it with statutory pass-through payments to share tax increments with schools and other municipalities.

Previous reforms have been criticized for focusing on tax dollars instead of ensuring the projects were legitimate uses of redevelopment funds. In 2006, Senator Kehoe introduced Senate Bill (SB) 1206, which sought to refine the criteria that allow an area to be declared blighted and predominantly urbanized, these being necessary findings to set up a redevelopment agency. It allowed for more time for challenge to redevelopment findings, and to explain their intent to use eminent domain.^v The bill was passed and signed into law.

Figure 1
Allocation of Property Tax Revenues After
Redevelopment Project Is Established



Source: Should California end Redevelopment agencies? Legislative Analyst Office

Recently, a 2007 California Research Bureau report on the history of the State’s redevelopment law states: “the principal question . . . is how local citizens and governments can exercise greater input in redevelopment decisions”^{vi} This report was commissioned by the State Assembly.

Despite all of these efforts, the Office of the Controller’s recent review of 18 active RDAs found a lack of uniform definitions, reporting systems, and expenditure allocations. They also found no consistency in the definition of blight and the calculation of the number of jobs created. While the RDAs did comply with the legal requirements to finance Low and Moderate Income Housing Funds, some of the charges assigned to these funds were not eligible expenses.^{vii}

Redevelopment Agencies in San Diego

There are currently seventeen (17) redevelopment project areas within the City of San Diego (City). The City’s Redevelopment Department manages eleven (11) project areas, while the Centre City Development Corporation (CCDC) manages two (2) project areas, and the Southeastern Economic Development Corporation (SEDC) manages four (4) project areas and one (1) survey area.

Centre City Development Corporation

The Centre City Development Corporation (CCDC) is a public, non-profit corporation created by the City of San Diego to staff and implement Downtown redevelopment projects and programs. Formed in 1975, the corporation serves on behalf of the San Diego Redevelopment Agency to facilitate public-private partnerships to complete redevelopment projects adopted pursuant to redevelopment law. Through an operating agreement, CCDC is the Agency's representative in the

development of retail, residential, office, hotel, cultural and educational projects and public improvement projects. Each of CCDC's nine-member board of directors is appointed by the Mayor and City Council to three-year terms.

The establishment of the Project Area requires a tax-sharing agreement with four entities: County of San Diego (County), San Diego Unified School District (SDUSD), San Diego Community College District (SDCCD), and the County Office of Education (COE). Each year a percentage of the tax increment generated by the Project Area is allocated to each entity based on an agreement established in 1992. The agreement outlines the percentage of property tax that is allocated to each agency based on the annual amount of tax increment that is generated within the Project Area.

Over the next five years, CCDC is estimated to receive \$555 million in tax increment revenue (non-housing). Of these revenues, payments are made to the City, tax-sharing entities, various projects and debt service. While CCDC is allowed to generate and spend \$2.9 billion in tax increment revenue through the life of the Project Area, all but \$386 million is uncommitted to complete projects within the Redevelopment Plan.

On October 8, 2010, the California State Legislature passed Senate Bill (SB) 863. The bill eliminates the dollar limit on the receipt of tax increment for the Centre City Redevelopment Project Area and states the RDA may receive tax increment revenue without a dollar limit.

Proposal

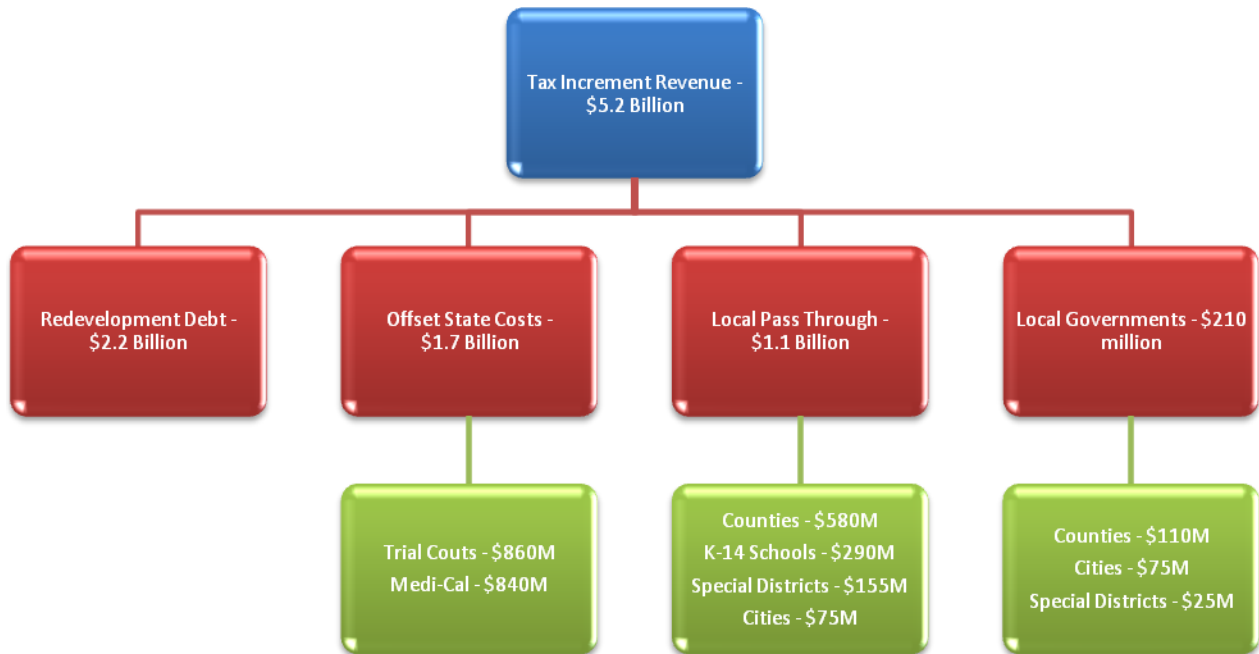
Assembly Bill (AB) 101 incorporates the ideas put forth by Governor Jerry Brown for the elimination of RDAs.

Under this plan, RDAs would be dissolved, and new temporary agencies would be set up that would be responsible for completing projects already underway and paying off the bond debts already issued. The Governor's plan would direct funds to the state for FY 2012 to offset Medi-Cal costs and trial court costs until the funds are exhausted. After this one-year redirection of funds, the remaining tax increment revenue after debt service payments and administrative costs of the RDA successor agencies would be allocated to counties to be distributed to school districts, cities, the county, and other organizations that receive property tax revenue.

The plan also extends the time to challenge any findings, determinations, adoptions and amendments to decisions or ordinances made after Jan. 1st, 2011 from 90 days to 3 years.^{viii} As part of the process of reducing RDA activity prior to their elimination, the bill, among other restrictions, would prohibit^{ix} RDAs from:

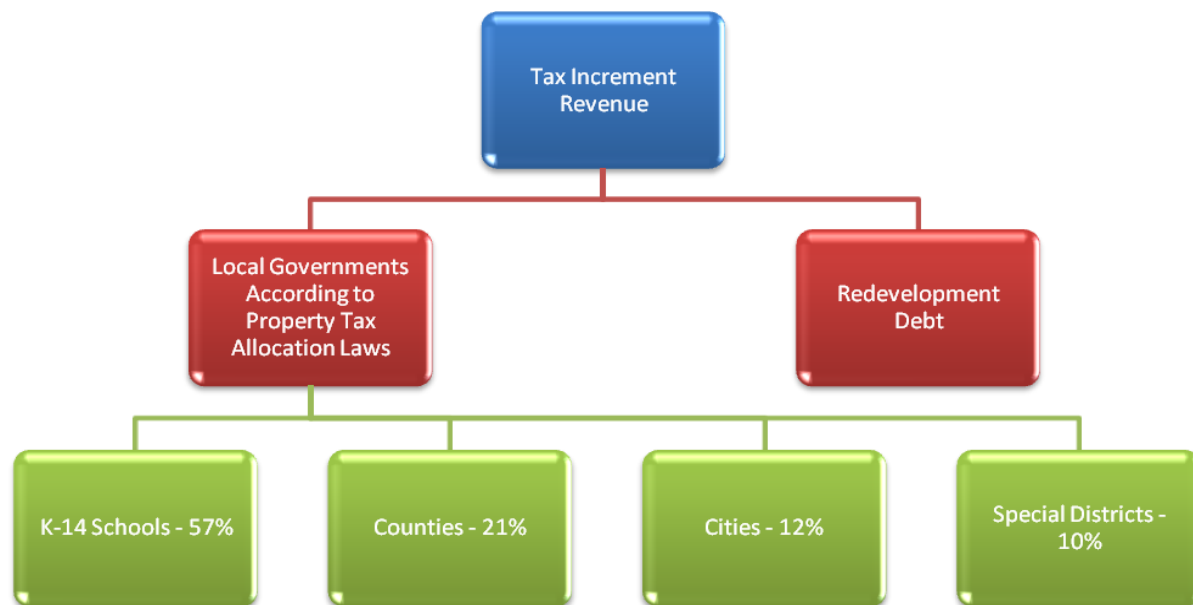
- Issuing new or expanded debt
- Making loans, advances, grants or entering into agreements to provide funds or financial assistance
- Executing new or additional contracts, obligations, or commitments
- Amending existing agreements or commitments
- Selling or otherwise disposing of existing assets
- Transferring or assigning any assets, rights, or powers to any entity

Figure 2: FY 2012 Proposed Use of Redevelopment Funds



The Governor has stated that he will use the redevelopment funds for state programs for one year, and then the funds would be included in property tax revenues distributed by the counties for the following years. As redevelopment debts are repaid over time, the amount of revenue available to local governments would steadily increase as redevelopment debt is paid off.

Figure 3: Proposed Future Use of Redevelopment Funds



Successor Agencies

AB 101 would also establish successor agencies (SAs) to the RDAs effective July 1, 2011. The SAs would be the entities that created the redevelopment agency, and be required to make payments on debt obligations based upon a Recognized Obligation Payment Schedule that is certified by an external auditor.

In addition, each successor agency would be required to form a seven-member Oversight Board that would consist of the following representatives:

1. One member appointed by the County Board of Supervisors
2. One member appointed by the Mayor
3. One member appointed by the largest special district
4. One member appointed by the county superintendent of schools
5. One member appointed by the Chancellor of the California Community Colleges
6. One member appointed by the County Board of Supervisors to represent the public
7. One member appointed by the Mayor or Chair of the Board of Supervisors from the largest representative employee organization of the former RDA

The Oversight Board would be charged with approving actions taken by the SA, including:

- Establishment of new repayment terms for outstanding loans
- Issuance of refunding bonds
- Merger of project areas
- Establishment of Recognized Obligation Payment Schedule

In addition, each Oversight Board would be required to direct the SA to complete its required obligations, such as terminating non-qualified agreements, transferring housing obligations and set-aside funds, and disposing of all assets and properties not part of the approved development plan.

Lastly, all of the Oversight Board actions would be subject to review by the Department of Finance.

Currently, RDAs can be set up by a local agency, and can issue bonds based on future property tax income without voter approval. The Governor has also stated his intent to ask for a Constitutional amendment to change the way redevelopment-type projects are approved by voters. The proposed legislation would reduce the required voter approval from two-thirds to 55%. This would require an amendment to Proposition 218, but the proposed language has yet to be made available.

Policy Discussion

Elimination of RDAs

Very few redevelopment areas have ended since their respective programs were begun, but many are scheduled to end soon. However, the life of a redevelopment agency can be extended through several measures. For example, CCDC was able to extend its debt ceiling and its lifespan through state legislation. The 2007-08 California Redevelopment Agencies Annual Report lists all the RDAs

in California. Out of 425 agencies, 8 (1.9%) have been dissolved, and 28 (6.6%) are listed as inactive, for a total of 36 RDAs not currently active (8.5%).^x

The question remains of how agencies and policymakers should determine the useful life of a redevelopment agency and when it is appropriate to disband an RDA.

Oversight of Redevelopment Agencies

In its review of the redevelopment agencies, the California Legislative Analyst's Office (LAO) states: "no state agency reviews redevelopment economic development activities or ensures that project areas focus on the program's mission."^{xi}

RDAs are required to annually report the progress and status of low- and moderate-income housing programs to the State Controller, the California Department of Housing and Community Development, as well as the local legislative body who created them. However, these local legislators represent the only formal review bodies; the State does not have the authority to approve or deny redevelopment projects. Challenges to RDA projects must be brought through litigation or the referendum process.

In March 2011, State Controller John Chiang issued a report that reviewed the administrative, financial and reporting practices of eighteen (18) redevelopment agencies across California.^{xii} The report produced eight (8) findings and four (4) observations. The findings include:

- Eight (8) redevelopment agencies failed to deposit approximately \$40 million into the Supplemental Educational Revenue Augmentation Fund (SERAF), resulting in the state General Fund making backfill payments for FY 2009-10^{xiii}
- All of the eighteen (18) RDAs reviewed had reporting deficiencies
- Under current legal standards, virtually any condition could be construed to be "blight"

Discussion of the City of Coronado's redevelopment agency was included as part of the Controller's report. Under Finding 8, which outlines the discretion pertaining to the definition of "blight", the report states: "the City of Coronado's project area includes all privately owned property within the city's limits which includes oceanfront properties among multi-million dollar homes."

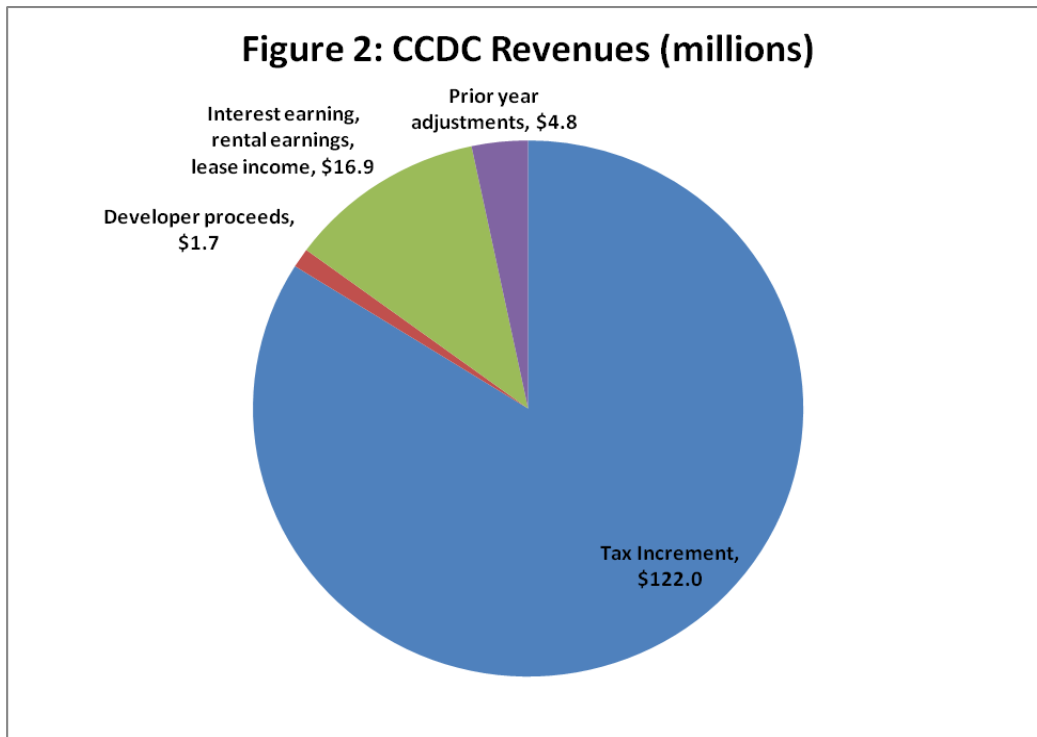
San Diego Redevelopment Agency Actions

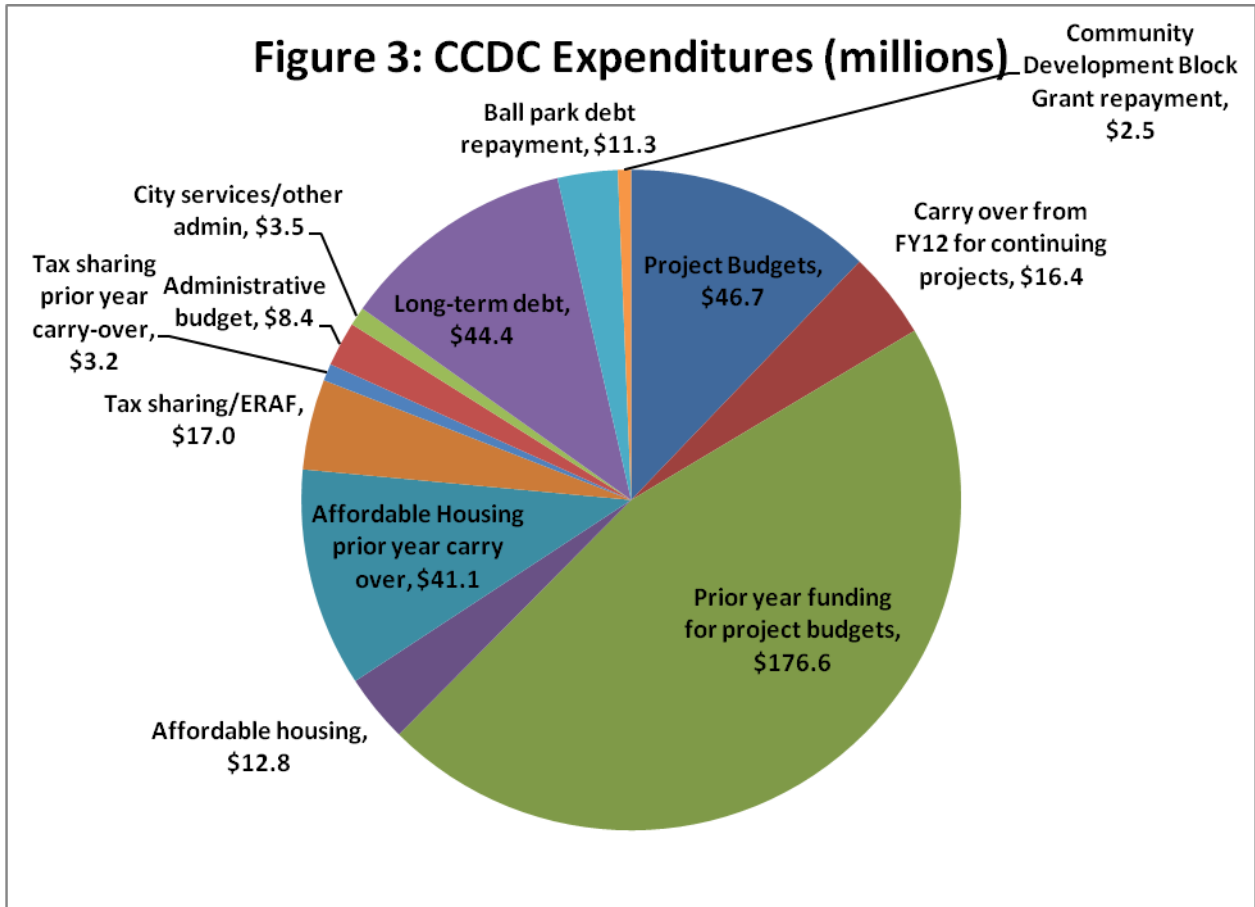
Many cities, including San Diego, have attempted to circumvent the Governor's plan. The Governor has stated that once the RDAs are eliminated, new organizations would be formed for the purpose of paying off any remaining debt. It is unclear what would become of projects that were already started. Cities have therefore begun transferring debt and beginning projects in the hopes that the governor will be forced to honor those commitments. If the agencies are not eliminated, they would likely be bound to the projects that are hastily being approved today. On February 8, 2011, the City of San Diego opted to transfer \$215 million in Petco Debt to the Center City Development Corporation. City Attorney Jan Goldsmith stated that it is unclear if the Governor's program would honor this debt in the same way as other redevelopment debt. The loans being paid back to the Community Block Development Grant Programs from RDAs are expected to be considered an existing obligation; they are expected to be part of the Governor's payback system.

On February 28, 2011, the City Council approved \$4 billion in redevelopment plans, ranging from street improvements to large housing developments.

Potential Funding in San Diego

The budget of the CCDC, the largest Redevelopment Agency in San Diego County, is an example of why it is difficult to evaluate how much money could be redirected from eliminating RDAs. Figures 2 and 3 outline the expected revenues and expenditures for CCDC in FY 2012.^{xiv}





Many of these expenditures are likely to continue even if the Governor does eliminate RDAs. Prior year funding for project budgets, the largest share of expenditures, could be considered to

Table 1: CCDC Expenditures

Expenditure	\$ in Millions
Project Budgets	\$46.7
Affordable housing	\$12.8
Affordable Housing prior year carry over	\$41.1
Tax sharing/ERAF	\$17
Tax sharing prior year carry-over	\$3.2
Administrative budget	\$8.4
City services/other admin	\$3.5
Ball park debt repayment	\$11.3
Total	\$144.0

be contractual obligations if the money is for continuing projects. The fate of the Ballpark Debt Repayments is in question, and much of the amount for Project Budgets would be spent, or contractually obligated, by the time CCDC were eliminated. The newly-created agencies will require an administrative budget of some amount, reducing any savings potential. The estimates in Table 1

show the expenditures that are likely to be eligible for redirection if the Governor is successful in eliminating RDAs.

After the one-time redirection of RDA money to the state budget, revenue would then stay at the county level, presumably to be divided up according to the current formula. If the \$144.0 million figure were to hold true, that would result in about \$19 million for the county and \$18 million for

cities. There would also be \$63 million for schools, although some of this money could reduce the amount the state paid to backfill school funding.^{xv}

State School Funding

The process of funding school systems in California has become a complicated process of mixing federal, state, and local tax revenue. In 1988, California voters approved Proposition 98, which set specific levels of funding for schools. This requires the state to make up for reductions in local property taxes sent to schools in circumstances like the reallocation of funds by Redevelopment Agencies. Inconsistencies in the amount of redevelopment funds spent by cities and counties mean the State supports some school systems more than others. According to the most recent Community Redevelopment Agencies Annual Report (FY 2008), The County of San Diego's percent increment of assessed valuation was 11.06%, compared to the average of 11.88%. Four (4) counties (Amador, Riverside, San Bernardino and Solano) have a percent increment of over 20%, meaning the State is supplementing their school system at a higher rate.^{xvi} Since San Diego County is close to the average this year, it may be assumed that we are being treated fairly by the system. However, the wide distribution of the percent increment does mean that some counties are paying into the system at a different rate than they are being compensated.

Proposition 22

The Governor's plan to procure redevelopment funds for the FY 2012 state budget appears to be in violation of the spirit of Proposition 22. Article XII, Section 25.5 of the California Constitution now states:

(7) Require a community redevelopment agency (A) to pay, remit, loan, or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction; or (B) to use, restrict, or assign a particular purpose for such taxes for the benefit of the State, any agency of the State, or any jurisdiction, other than (i) for making payments to affected taxing agencies pursuant to Sections 33607.5 and 33607.7 of the Health and Safety Code or similar statutes requiring such payments, **as those statutes read on January 1, 2008** (emphasis added), or (ii) for the purpose of increasing, improving, and preserving the supply of low and moderate income housing available at affordable housing cost.

(b) For purposes of this section, the following definitions apply:

(1) "Ad valorem property tax revenues" means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, **regardless of any of this revenue being otherwise classified by statute.** (emphasis added)^{xvii}

While the Governor may feel he has the legal authority to end redevelopment agencies and redirect this money to the state, the language of Proposition 22 appears to conflict with this proposal. It is therefore nearly certain that there will be legal challenges. The costs of these challenges should be considered when evaluating the potential budget savings, and these savings should not be considered certain when lawmakers make budget decisions.

Endnotes

ⁱ California Health and Safety Code, Section 33030

ⁱⁱ Chiang, John. *Analysis of Administrative, Financial, and Reporting Practices*. March 2011, Office of California State Controller

ⁱⁱⁱ California Health and Safety Code, Section 33334.2

^{iv} Pass-through amounts for RDAs established prior to 1993 were typically negotiated between agencies. A state-wide formula was established for newly created RDAs and increases the pass-through share over time.

^v SB 1206 (Kehoe) retrieved from http://info.sen.ca.gov/pub/05-06/bill/sen/sb_1201-1250/sb_1206_bill_20060929_chaptered.html

^{vi} Boyken, Grant. *Rethinking Redevelopment Oversight, Exploring Possibilities for Increasing Local Input*, April 2007, California Research Bureau

^{vii} Chiang, John. *Analysis of Administrative, Financial, and Reporting Practices*. March 2011, Office of California State Controller

^{viii} *Redevelopment Agency Dissolution and Succession*, Draft 02/23/2011. Office of the Governor.

^{ix} Effective the date of adoption of the legislation

^x Fiscal Year 2007-2008 Housing Activities of California Redevelopment Agencies, retrieved from http://www.hcd.ca.gov/hpd/rda/07_08/

^{xi} Taylor, Mac. *Should California end Redevelopment agencies?* Legislative Analyst Office 2/03/2011

^{xii} Selected Redevelopment Agencies Review Report. Analysis of Administrative, Financial, and Reporting Practices, July 1, 2009, through June 30, 2010. Office of State Controller John Chiang. March 2011.

^{xiii} In May 2009, the Governor signed ABX4-26, which requires redevelopment agencies to transfer \$2.05 billion in funds to the state in 2 payments (\$1.7 billion in FY 2010 & \$350 million in FY 2011). In each of the two years, redevelopment agencies are required to turn over their funds to local county auditors. County auditors then transfer that money into a special fund, the Supplemental Educational Revenue Augmentation Fund (SERAF). SERAF funding then is turned over to school districts in redevelopment areas. Finally, the State lowers its contribution to those same school districts by an equal amount.

^{xiv} Center City Development Corporation, Long term outlook. Retrieved from http://www.ccdc.com/images/stories/Budget__Long-Term_Outlook.pdf

^{xv} 1% Property Tax Revenue Allocation FY09-10, County of San Diego. Retrieved from <http://www.sdcountry.ca.gov/auditor/trb0910/docs/PieChart200910.pdf>

^{xvi} *ibid*

^{xvii} California Constitution, Article 13