

Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 3037 (Chiu) – As Amended March 19, 2018

SUBJECT: Community Redevelopment Law of 2018

SUMMARY: Authorizes a city or county to create a redevelopment housing and infrastructure agency (RHIA) subject to approval by the Department of Finance (DOF). Specifically, **this bill:**

- 1) Establishes the Community Redevelopment Law of 2018.
- 2) Defines the following terms:
 - a) "Affected taxing entity" to mean any governmental taxing agency which levied or had levied on its behalf a property tax on all or portion of the property located in the proposed RHIA in the fiscal year prior to the designation of the RHIA.
 - b) "Agency" means a RHIA.
 - c) "County" to mean a county or a city and county.
 - d) "Debt" to mean any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.
 - e) "Designated official" to mean the city or county engineer or other appropriate official, as specified.
 - f) "Landowner" or "owner of land" to mean any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of the land, and its determination of ownership shall be final and conclusive for the purposes of this bill. A public agency is not a landowner or owner of land for purposes of this bill, unless the public agency owns all of the land to be included within the proposed RHIA.
 - g) "Legislative body" to mean the city council or board of supervisors.
 - h) "Redevelopment project" means any undertaking by a RHIA pursuant to the Act.
 - i) "Special district" means an agency of the state formed for the performance of government or proprietary functions within limited geographic boundaries.
 - j) "Affected tax equity amount" means an amount determined by DOF to be sufficient to alleviate the burden caused by the redevelopment housing and infrastructure activities but in no instance shall it exceed the amount of ad valorem property tax revenue that the

qualified local agency would have received from property located within the redevelopment project area in the absence of the RHIA.

- k) "Qualified local agency" means a city, county, and special district, but not including schools, that was approved by DOF to receive equity to be sufficient to alleviate the burden caused by the redevelopment housing and infrastructure activities but in no instance shall it exceed the amount of ad valorem property tax revenue that the qualified local agency would have received from property located within the redevelopment project area in the absence of the RHIA.
- 3) Declares that the title constitutes the Community Redevelopment Law within the meaning of Article 16 of Section 16 of the California Constitution and RHIA's formed pursuant to the Act have all of the powers granted to a redevelopment agency (RDA) pursuant to that section.
 - 4) Provides that a legislative body of a city or county may propose to form an RHIA by adopting a resolution of intention to establish the RHIA that includes all the following:
 - a) State that an RHIA is proposed to be established under the terms of this bill's provisions and describe the boundaries of the proposed RHIA, which may be accomplished by reference to a map on file in the office of the clerk of the city or in the office of the recorder of the county, as applicable;
 - b) State the need for the RHIA and the goals the RHIA proposed to achieve;
 - c) A preliminary plan prepared by the legislative body that shall include at a minimum:
 - i. A description of the proposed boundaries of the project areas;
 - ii. A general statement of the land uses, layout of principal streets, population densities and building intensities and standards purpose as the basis for the redevelopment of the project areas;
 - iii. Evidence that the redevelopment will achieve the purpose of the bill;
 - iv. Evidence that the proposed redevelopment is consistent with the general plan of each city and county in which the projects are proposed to be located;
 - v. A general description of the impact of the project upon the area's residents and upon the surrounding neighborhood;
 - vi. A description of affordable housing or infrastructure projects that are proposed to be financed by the RHIA;
 - vii. A financing section that includes all of the following:
 - a. A projection of the amount of tax revenues expected to be received by the RHIA in each year during which the agency will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year;
 - b. A plan for financing the affordable housing or infrastructure projects to be assisted by the agency including a detailed description of any intention to incur debt;
 - c. A limit on the total number of dollars of taxes that may be allocated to the agency pursuant to the plan;
 - d. The date by which the RHIA will cease to exist by which time all tax allocation to the RHIA will end. The date shall not be more than 45 years from the date that the

RHIA issues a bond or makes a loan to the city, county or special district that establishes it;

- e. An analysis of the cost to the city or county of providing facilities and services to the area of the RHIA while the area is being developed and after the area is developed that includes an analysis of the tax, fees, charge and other revenues expected to be received by the city or county as a result of expected development of the RHIA;
 - f. An analysis of the projected fiscal impact of the agency and the associated development upon each affected taxing entity;
 - g. A passthrough provision that provides for the following:
 - i. That the RHIA will pay to each affected taxing entity an amount that is equivalent to the amount in property taxes that it would have received if the RHIA did not exist, provided it is no more than what the taxing entity receives under the AB 8 formula.
 - ii. No payment to the city or county that creates the RHIA or any school entity;
 - iii. All amounts calculated for the passthrough payments shall be calculated after the amount needed to be deposited into a separate fund for the RHIA's affordable housing set-aside.
- d) A statement that a public hearing will be held on the proposal to create an RHIA including the time and place of the hearing.
- e) Requires all taxing entities affected by the RHIA to receive a copy of the resolution.
- 5) Requires the city or county that adopts the resolution to consult with each affected taxing entity and any affected taxing entity may suggest revisions to the resolution of formation.
 - 6) Requires the city council or county board of supervisors to hold a public hearing on the resolution no later than 60 days after the resolution of intention is provided to the taxing entities.
 - 7) Includes a process for publicizing the public hearing and soliciting public input.
 - 8) Provides at the end of the public hearing for the city council or board of supervisors proposing to create the RHIA to propose a resolution of formation and direct the city clerk or county recorder to mail a copy of the resolution to the other taxing entities.
 - 9) Requires the city or county that adopted the resolution creating the RHIA to submit the resolution to the Strategic Growth Council (SGC) for review.
 - 10) Requires the SGC to determine whether the RHIA would promote statewide greenhouse gas reduction goals and recommend to DOF, based on that determination, whether or not to approve the formation of the RHIA.
 - 11) Requires SGC to adopt policies and procedures for the receipt and evaluation of RHIA's.
 - 12) Requires the city or county proposing to create the RHIA to submit the resolution creating the RHIA to DOF for approval.

- 13) Requires DOF to approve or disapprove the RHIA within 90 days.
- 14) Requires DOF to approve the resolution if it finds that it furthers the purpose of the Act and subject to the following:
 - a) Determine the amount of equity in the form of a reduction in the amount that a taxing entity must deposit in the Educational Revenue Augmentation Fund (ERAF) needed to ensure each taxing entity receives the same amount of property tax it would have received had the RHIA not been created; and
 - b) Determine that the total amount of equity needed to offset the loss of property tax to the taxing entities, including the schools, does not exceed more than an unspecified amount in any fiscal year.
- 15) Requires DOF to prioritize for approval a RHIA that includes passthrough equity payments to the other taxing entities, excluding the schools, and requires DOF to exclude those RHIAs from the stateside cap on the amount in ERAF shifts needed to keep the non-school taxing entities whole.
- 16) Requires DOF to disapprove a resolution if it determines that the creation of a RHIA would require the state to exceed an unspecified cap on the amount that the state is required to pay schools in accordance with existing funding requirements because of the reduction in funding the school received as a result of the creation of RHIAs.
- 17) Requires DOF to consider the recommendation of the SGC when considering how to act on a RHIA.
- 18) Requires DOF to provide an explanation in writing to the city council or county board of supervisors if it disapproves of an RHIA.
- 19) Provides that if DOF approves an RHIA it shall be deemed to be in existence as of the date of the approval.
- 20) Requires the auditor of a county in which an RHIA is located, for the 2019-20 fiscal year and each year thereafter, to do both of the following:
 - a) Increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated to a city, county, or special district, excluding the schools, by the "affected tax entity equity amount," or the amount determined by DOF to be sufficient to alleviate the burden caused by the redevelopment housing and infrastructure activities but in no instance shall it exceed the amount of ad valorem property tax revenue that the qualified local agency would have received from property located within the redevelopment project area in the absence of the RHIA; and
 - b) Decrease the total amount of ad valorem tax revenue that is otherwise required to be allocated to the county's Educational Revenue Augmentation Fund (ERAF) by the "affected tax equity amount" or the amount determined by DOF to be sufficient to alleviate the burden caused by the redevelopment housing and infrastructure activities but

in no instance shall it exceed the amount of ad valorem property tax revenue that the qualified local agency would have received from property located within the redevelopment project area in the absence of the RHIA

- 21) Provides that if there is not enough ad valorem property tax revenue available to be allocated to a county ERAF sufficient to fulfill the affected tax equity amount the auditor shall additionally reduce the total amount of ad valorem property tax revenue that is otherwise required to be allocated to all school districts in the county for that fiscal year by an amount equal to the difference between the affect tax equity amount of ad valorem property tax revenue that is otherwise required to be allocated to the EFAF for that fiscal year.
- 22) Requires the governing board of an RHIA to consist of the following:
 - a) One member appointed by the city council or county board of supervisors that adopted the resolution to create the RHIA;
 - b) One member appointed by each affected taxing entity; and
 - c) Two public members that are not an employee or executive officer of the affected taxing entities, initially appointed by the members appointed by the city council and board of supervisors and then subsequently appointed by the entire board.
- 23) Provides that an RHIA is subject to the Ralph M. Brown Act.
- 24) Allows an RHIA to finance any of the following:
 - a) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of 25), below;
 - b) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property;
 - c) The costs described in two sections of the bill related to replacement of dwelling units and litigation costs.
- 25) Specifies that for 24), above, that the facilities need not be physically located within the boundaries of the RHIA; however, any facilities financed outside of a RHIA must have a tangible connection to the work of the RHIA, as detailed in the infrastructure financing plan adopted pursuant to the bill's provisions.
- 26) Prohibits an RHIA from financing routine maintenance, repair work, or the costs of an ongoing operation of providing services of any kind.
- 27) Allows an RHIA to finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the RHIA or the surrounding community, including, but not limited to, all of the following:

- a) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities;
 - b) Sewage treatment and water reclamation plants and interceptor pipes;
 - c) Facilities for the collection and treatment of water for urban uses;
 - d) Flood control levees and dams, retention basins, and drainage channels;
 - e) Child care facilities;
 - f) Libraries;
 - g) Parks, recreation facilities, and open space;
 - h) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles;
 - i) Brownfield restoration and other environmental mitigation;
 - j) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable;
 - k) The repayment of the transfer of funds to a military base reuse authority pursuant to existing law that occurred on or after the creation of the RHIA;
 - l) The acquisition, construction, or repair of industrial structures for private use;
 - m) Transit priority projects, as defined in existing law, that are located within a transit priority project area. For purposes of the bill, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area; and,
 - n) Projects that implement a sustainable communities strategy, when the State Air Resources Board has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.
- 28) Provides that the RHIA shall require, by recorded covenants or restrictions, that housing units built pursuant to the bill's provisions shall remain available at affordable housing costs to, and occupied by, persons and families of low- or moderate-income households for the longest feasible time, but not for less than 55 years for rental units and 45 years for owner-occupied units.
- 29) Allows the RHIA to finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of low or moderate incomes, as specified, and those on-site facilities for child care, after-school care, and social services that are integrally linked to the tenants of the restricted units.

- 30) Allows an RHIA to reimburse a developer of a project that is located entirely within the boundaries of that RHIA for any permit expenses incurred and to offset additional expenses incurred by the developer on constructing affordable housing units pursuant to the Transit Priority Project Program, as specified.
- 31) Prohibits a city or county that created an RDA from initiating the creation of an RHIA or participating in the governance or financing of an RHIA, until each of the following has occurred:
- a) The successor agency for the former RDA created by the city or county has received a finding of completion;
 - b) The city or county certifies to DOF and to the public financing authority that no former RDA assets that are the subject of litigation involving the state, where the city or county, the successor agency, or the designated local authority are a named plaintiff, have been or will be used to benefit any efforts of an RHIA formed pursuant to the bill's provisions, unless the litigation and all possible appeals have been resolved in a court of law. The city or county shall provide this certification to DOF within 10 days of its legislative body's action to participate in an RHIA, as specified, or of its legislative body's action to form an RHIA, as specified;
 - c) The office of the Controller has completed its review of RDA asset transfers pursuant to existing law; and,
 - d) The successor agency and the entity that created the former RDA have complied with all of the office of the Controller's findings and orders stemming from the reviews specified in c), above.
- 32) Allows an RHIA to include any portion of a former RDA project area, provided that the city or county that created the former RDA has met the requirements of 31), above.
- 33) Allows a district to finance only the facilities authorized in the bill's provisions to the extent that the facilities are in addition to those provided in the territory of the RHIA before the RHIA was created. The additional facilities may not supplant facilities already available within that territory when the RHIA was created but may supplement, rehabilitate, upgrade, or make more sustainable those facilities.
- 34) Allows an RHIA to include areas which are not contiguous.
- 35) States the intent of the Legislature that the creation of RHIA's should not ordinarily lead to the removal of existing dwelling units. Provides, if, however, any dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the area of the RHIA, the adopted infrastructure financing plan shall contain provisions to do all of the following:
- a) Within two years of the removal or destruction, cause or require the construction or rehabilitation, for rent or sale to persons or families of low or moderate income, of an equal number of replacement dwelling units at affordable housing costs, as defined,

within the territory of the RHIA if the dwelling units removed were inhabited by persons or families of lower or moderate income, as defined;

- b) Within two years of the removal or destruction, cause or require the construction or rehabilitation, for rent or sale to persons of low or moderate income, a number of dwelling units that is at least one unit but not less than 25% of the total dwelling units removed at affordable housing cost, as defined, within the territory of the RHIA if the dwelling units removed or destroyed were not inhabited by persons of low or moderate income, as defined;
 - c) Provide relocation assistance and make all the payments to persons displaced by any public or private development occurring within the territory of the RHIA. This displacement shall be deemed to be the result of public action;
 - d) Ensure that removal or destruction of any dwelling units occupied by persons or families of low or moderate income not take place unless and until there are suitable housing units, at comparable cost to the units from which the persons or families were displaced, available and ready for occupancy by the residents of the units at the time of their displacement. The housing units shall be suitable to the needs of these displaced persons or families, and shall be decent, safe, sanitary, and otherwise standard dwellings; and,
 - e) The RHIA shall require, by recorded covenants or restrictions, that housing units build pursuant to the bill's provisions shall remain at affordable housing costs to, and occupied by, persons and families of low- or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units. In lieu of a 45-year covenant or restriction, the RHIA may subject owner-occupied units to an equity sharing agreement, as specified.
- 36) Requires that any action or proceeding to attack, review, set aside, void, or annul the creation of an RHIA, adoption of an infrastructure financing plan, including a division of taxes thereunder, or an election pursuant to the bill's provisions to be commenced within 30 days after the enactment of the resolution creating the RHIA. Consistent with the time limitations, such an action or proceeding with respect to a division of taxes may be brought pursuant to Chapter 9 of Title 10 of Part 2 of the Code of Civil Procedure, except that Section 869 of the Code of Civil Procedure shall not apply. Requires an action to determine the validity of the issuance of bonds pursuant to the bill's provisions to be brought pursuant to Chapter 9 of Title 10 of Part 2 of the Code of Civil Procedure. However, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, the action shall be commenced within 30 days after adoption of the resolution pursuant to the bill's provisions providing for issuance of the bonds if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.
- 37) Requires a RHIA to maintain detailed records of every action taken by the RHIA including but not limited to the following:
- a) Original copies of any agreement, memorandum of understanding, or contact entered into by the agency.

- b) A record of any payment made by the agency.
- c) For each loan, advance, or indebtedness incurred or entered into, all of the following information:
 - i. The date the loan, advance, or indebtedness was incurred or entered into.
 - ii. The principal amount, term, purpose, interest rate, and total interest of each loan, advance, or indebtedness.
 - iii. The principal amount and interest due in the fiscal year in which the statement of indebtedness is filed for each loan, advance, or indebtedness.
 - iv. The total amount of principal and interest remaining to be paid for each loan, advance, or indebtedness.
 - v. The agency shall maintain any record described in this section for a period of 15 years after the later of the following:
 - vi. The date the record was originally created.
 - vii. The date that the agreement, memorandum of understanding, or contract expired or concluded.
 - viii. The date that the loan was fully paid off.

38) Provides for a civil penalty of \$10,000 per violation for any person who violates the record keeping provisions of the Act.

39) Requires any penalties collected as a result of a violation will be deposited into the Housing Rehabilitation Loan Fund, and upon appropriation by the Legislature, for support of the Multifamily Housing Program.

40) Requires the legislative body to direct the city clerk or county recorder, as applicable, to mail a copy of the resolution of intention to create the RHIA to each owner of land within the RHIA. Requires the legislative body to direct the city clerk or county recorder, as applicable, to mail a copy of the resolution to each affected taxing entity. Requires, after adopting the resolution of intention, the legislative body to designate and direct the city or county engineer or other appropriate official to prepare an infrastructure financing plan, as specified. Requires, after receipt of a copy of the resolution of intention to establish an RHIA, the official to prepare a proposed infrastructure financing plan. Requires the plan to be consistent with the general plan of the city or county within which the RHIA is located and to include all of the following:

- a) A map and legal description of the proposed RHIA, which may include all or a portion of the RHIA designated by the legislative body in its resolution of intention;
- b) A description of the public facilities and other forms of development or financial assistance that is proposed in the area of the RHIA, including those to be provided by the private sector, those to be provided by governmental entities without assistance, as specified, those public improvements and facilities to be financed with assistance from the proposed RHIA, and those to be provided jointly. The description shall include the proposed location, timing, and costs of the development and financial assistance;

- c) If funding from affected taxing entities is incorporated in the financing plan, a finding that the development and financial assistance are of communitywide significance and provide significant benefits to an area larger than the area of the RHIA;
- d) A financing section, which shall contain all of the following information:
 - i. A specification of the maximum portion of the incremental tax revenue of the city or county and of each affected taxing entity proposed to be committed to the RHIA for each year during which the RHIA will receive incremental tax revenue. The portion need not be the same for all affected taxing entities. The portion may change over time;
 - ii. A projection of the amount of tax revenues expected to be received by the RHIA in each year during which the RHIA will receive tax revenues, including an estimate of the amount of tax revenues attributable to each affected taxing entity for each year;
 - iii. A plan for financing the public facilities to be assisted by the RHIA, including a detailed description of any intention to incur debt;
 - iv. A limit on the total number of dollars of taxes that may be allocated to the RHIA pursuant to the plan;
 - v. A date on which the RHIA will cease to exist, by which time all tax allocation to the RHIA will end. The date shall not be more than 45 years from the date on which the issuance of bonds is approved, or the issuance of a loan is approved by the governing board of a local agency, as specified;
 - vi. An analysis of the costs to the city or county of providing facilities and services to the area of the RHIA while the area is being developed and after the area is developed. The plan shall also include an analysis of the tax, fee, charge, and other revenues expected to be received by the city or county as a result of expected development in the area of the RHIA;
 - vii. An analysis of the projected fiscal impact of the RHIA and the associated development upon each affected taxing entity; and,
 - viii. A plan for financing any potential costs that may be incurred by reimbursing a developer of a project that is both located entirely within the boundaries of that RHIA and qualifies for the Transit Priority Project Program, including any permit and affordable housing expenses related to the project.
- e) If any dwelling units occupied by persons or families are proposed to be removed or destroyed in the course of private development or public works construction within the area of the RHIA, a plan providing for replacement of those units and relocation of those persons or families consistent with the bill's provisions; and,

- f) The goals the RHIA proposed to achieve for each project financed pursuant to the bill's provisions.
- 41) Requires the infrastructure financing plan to be sent to each owner of land within the proposed RHIA and to each affected taxing entity together with any report required by the California Environmental Quality Act that pertains to the proposed public facilities or the proposed development project for which the public facilities are needed, and shall be made available for public inspection. This report shall also be sent to the planning commission and the legislative body.
- 42) Requires the designated official to consult with each affected taxing entity, and, at the request of any affected taxing entity, to meet with representatives of an affected taxing entity. Allows any affected taxing entity to suggest revisions to the plan.
- 43) Requires the legislative body to conduct a public hearing prior to adopting the proposed infrastructure financing plan. Requires the public hearing to be called no sooner than 60 days after the plan has been sent to each affected taxing entity. Requires, in addition to the notice given to landowners and affected taxing entities pursuant to the bill's provisions, that notice of the public hearing shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the city or county in which the proposed RHIA is located. Requires the notice to state that the RHIA will be used to finance public facilities or development, briefly describe the public facilities or development, briefly describe the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the RHIA, and state the day, hour, and place when and where any persons having any objections to the proposed infrastructure financing plan, or the regularity of any of the prior proceedings, may appear before the legislative body and object to the adoption of the proposed plan by the legislative body.
- 44) Requires, at the hour set in the required notices, the legislative body to proceed to hear and pass upon all written and oral objections, and allows the hearing to be continued from time to time. Requires the legislative body to consider the recommendations, if any, of affected taxing entities, and all evidence and testimony for and against the adoption of the plan. Allows the legislative body to modify the plan by eliminating or reducing the size and cost of proposed facilities or development, by reducing the amount of proposed debt, or by reducing the portion, amount, or duration of incremental tax revenues to be committed to the RHIA.
- 45) Prohibits the legislative body from enacting a resolution proposing the formation of an RHIA and providing for the division of taxes of any affected taxing entity unless a resolution approving the plan has been adopted by the governing body of each affected taxing entity which is proposed to be subject to division of taxes, as specified, and has been filed with the legislative body at or prior to the time of the hearing.
- 46) States that nothing in the bill's provisions shall be construed to prevent the legislative body from amending its infrastructure financing plan and adopting a resolution proposing formation of the RHIA without allocation of the tax revenues of any affected taxing entity that has not approved the infrastructure financing plan by resolution of the governing body of the affected taxing entity.

- 47) Allows, at the conclusion of the hearing, the legislative body to adopt a resolution proposing adoption of the infrastructure financing plan, as modified, and formation of the RHIA in a manner consistent with the bill's provisions, or it may abandon the proceedings.
- 48) Provides that the infrastructure financing plan and the formation of the RHIA shall take effect upon the legislative body's adoption of the resolution. Requires the infrastructure financing plan to specify if the RHIA shall be funded solely through the RHIA's share of tax increment, governmental or private loans, grants, bonds, assessments, fees, or some combination thereof.
- 49) Provides that the public financing authority may not issue bonds or levy assessment or fees that may be included in the plan prior to one or more of the following:
- a) An affirmative vote to issue bonds to finance the infrastructure financing;
 - b) Without compliance with the procedures required in the bill related to division of taxes [see 37), below], to levy assessments or fees to finance the infrastructure financing plan.
- 50) Allows the RHIA to expend up to 10% of any accrued tax increment in the first two years of the effective date of the RHIA on planning and dissemination of information to the residents with the RHIA's boundaries about the infrastructure financing plan and planned activities to be funded by the RHIA.
- 51) Specifies, except as otherwise provided in the bill, that the provisions of law regulating elections of the local agency that calls an election pursuant to this bill's provisions, insofar as they may be applicable, shall govern all elections conducted pursuant to the bill's provisions. Requires there to be prepared and included in the ballot material provided to each voter, an impartial analysis, as specified. Allows, if the vote is to be by the landowners of the proposed RHIA, the analysis and arguments to be waived with the unanimous consent of all the landowners and to be so stated in the order for the election. Provides, if an election is to be conducted by mail ballot, that the election official conducting the election shall provide ballots and election materials, as specified, together with all supplies and instructions necessary for the use and return of the ballot. Requires specified information to be contained on the identification envelope for return of mail ballots.
- 52) Allows the public financing authority to submit a proposition to establish or change the appropriations limit, as specified, of an RHIA to the qualified electors of a proposed or established RHIA. Requires the proposition establishing or changing the appropriations limit to become effective if approved by the qualified electors voting on the proposition and to be adjusted for changes in the costs of living and changes in populations, as defined, except that the change in population may be estimated by the legislative body in the absence of an estimate by DOF. Specifies for purposes of adjusting for changes in population, that the population of an RHIA shall be deemed to be at least one person during each calendar year. Specifies that any election heard pursuant to this section may be combined with any election held pursuant to the provisions in the bill that require voter approval for the RHIA to issue bonds, in any convenient manner.

- 53) Allows any infrastructure financing plan to contain a provision that taxes, if any, levied upon taxable property in the area included within the RHIA each year by or for the benefit of the State of California, or any affected taxing entity after the effective date of the ordinance adopted pursuant to the bill's provisions to create the RHIA, shall be divided as follows:
- a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the RHIA as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the ordinance adopted to create the RHIA, to be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid; and,
 - b) That portion of the levied taxes each year specified in the adopted infrastructure financing plan for the city or county and each affected taxing entity that has agreed to participate in excess of the amount, as specified, shall be allocated to, and when collected shall be paid into a special fund of, the RHIA for all lawful purposes of the RHIA. Unless and until the total assessed valuation of the taxable property in an RHIA exceeds the total assessed value of the taxable property in the RHIA as shown by the last equalized assessment roll referred to in a), above, all of the taxes levied and collected upon the taxable property in the RHIA shall be paid to the respective affected taxing entities. When the RHIA ceases to exist, all moneys thereafter received from taxes upon the taxable property in the RHIA shall be paid to the respective affected taxing entities as taxes on all other property are paid.
- 54) Specifies, where any RHIA boundaries overlap with the boundaries of any former RDA project area, any debt or obligation of an RHIA shall be subordinate to any and all enforceable obligations of the former RDA, as approved by the Oversight Board and DOF, as specified. Specifies that the division of taxes allocated to the RHIA, as specified, shall not include any taxes required to be deposited by the county auditor-controller into the Redevelopment Property Tax Trust Fund.
- 55) Allows the legislative body of the city or county forming the RHIA to choose to dedicate any portion of its net available revenue to the RHIA through the infrastructure financing plan.
- 56) Requires, that portion of any ad valorem property tax revenue annually allocated to a city or county pursuant to existing law related to the Educational Revenue Augmentation Fund (ERAF) that is specified in the adopted infrastructure financing plan for the city or county that has agreed to participate in the division of taxes, and that corresponds in the assessed valuation of taxable property, to be allocated to, and when collected to be apportioned to a special fund of the RHIA for all lawful purposes of the RHIA.
- 57) Provides that when the RHIA ceases to exist pursuant to the adopted infrastructure financing plan, the revenues described in the division of taxes section of the bill shall be allocated to, and when collected, shall be apportioned to the respective city or county.
- 58) Provides that the bill's provisions shall not be construed to prevent an RHIA from utilizing revenues from any of the following sources to support its activities provided that the

applicable voter approval has been obtained, and the infrastructure financing plan has been approved: the Improvement Act of 1911; the Municipal Improvement Act of 1913; the Improvement Bond Act of 1915; the Landscaping and Lighting Act of 1972; the Vehicle Parking District Law of 1943; the Parking District Law of 1951; the Park and Playground Act of 1909; the Mello-Roos Community Facilities Act of 1982; the Benefit Assessment Act of 1982; and, the so-called facilities benefit assessment levied by the charter city of San Diego or any substantially similar assessment levied for the same purpose by any other charter city pursuant to any ordinance or charter provision.

- 59) Provides that all costs incurred by a county in connection with the division of taxes for an RHIA shall be paid by that RHIA.
- 60) Allows the public financing authority to, by majority vote, initiate proceedings to issue bonds by adopting a resolution stating its intent to issue the bonds, and provides that the resolution shall contain all of the following information:
- a) A description of the facilities or developments to be financed with the proceeds of the proposed bond issue;
 - b) The estimated costs of the facilities or developments, the estimated cost of preparing and issuing the bonds, and the principal amount of the proposed bond issuance;
 - c) The maximum interest rate and discount on the proposed bond issuance;
 - d) The date of the election on the proposed bond issuance and the manner of holding the election;
 - e) A determination of the amount of tax revenue available or estimated to be available, for the payment of the principal of, and interest on, the bonds; and,
 - f) A finding that the amount necessary to pay the principal of, and interest on, the proposed bond issuance will be less than, or equal to, the amount determined pursuant to e), above.
- 61) Requires the clerk of the public financing authority to publish the resolution once a day for at least seven successive days in a newspaper published in the city or county at least six days a week, or at least once a week for two successive weeks in a newspaper published in the city or county less than six days a week. Requires, if there are no newspapers meeting these criteria, the resolution to be posted in three public places within the territory of the RHIA for two succeeding weeks.
- 62) Requires the public financing authority to submit the proposal to issue the bonds to the voters who reside within the RHIA, as specified, and provides for procedures for the election.
- 63) Allows bonds to be issued if 55% of the voters voting on the proposition vote in favor of issuing the bonds.
- 64) Requires the public financing authority to proceed with the issuance of bonds, if the voters approve the issuance of bonds, by adopting a resolution that provides for all of the following:

- a) The issuance of the bonds in one or more series;
 - b) The principal amount of the bonds that shall be consistent with the amount specified above;
 - c) The date the bonds will bear;
 - d) The date of maturity of the bonds;
 - e) The denomination of the bonds;
 - f) The form of the bonds;
 - g) The manner of execution of the bonds;
 - h) The medium of payment in which the bonds are payable;
 - i) The place or manner of payment and any requirements for registration of the bonds; and,
 - j) The terms of call or redemption, with or without premium.
- 65) Prohibits, if any proposition submitted to the voters to issue bonds is defeated by the voters, the public financing authority from submitting, or cause to be submitted, a similar proposition to the voters for at least one year after the first election.
- 66) Allows the public financing authority to, by majority vote, provide for the refunding of bonds, as specified.
- 67) Prohibits the public financing authority or any person executing the bonds from being personally liable on the bonds by reason of their issuance, and provides that the bonds and other obligations of an RHIA are not a debt of the city, county, or state or any of its political subdivisions, other than the RHIA, and none of those entities, other than the RHIA, shall be liable on the bonds. Requires the bond obligations to be payable exclusively from funds or properties of the RHIA. Requires the bonds to contain a statement to this effect on their face. States that the bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.
- 68) Allows the bonds to be sold at a discount not to exceed 5% of par at public sale. Requires, at least five days prior to the sale, notice to be published, as specified, in a newspaper of general circulation and in a financial newspaper published in the City and County of San Francisco and in the City of Los Angeles. Prohibits bonds from being sold at not less than par to the federal government at a private sale without any public advertisement.
- 69) Provides that if any member of the public financing authority whose signature appears on bonds ceases to be a member of the public financing authority before delivery of the bonds, his or her signature is as effective as if he or she had remained in office. Provides that bonds issued pursuant to the bill's provisions are fully negotiable.

- 70) Allows, upon the approval of its governing board, a city, county, or special district that contains territory within the boundaries of an RHIA, to loan moneys to the RHIA to fund those activities described in the approved and adopted infrastructure financing plan. Requires moneys loaned to be repaid at an interest rate that does not exceed the Local Agency Investment Fund (LAIF) rate that is in effect on the date that the loan is approved by the governing board. Declares the intent of the Legislature that any loan issued to a public financing authority by a governmental entity shall be repaid fully unless agreed to otherwise between the authority and the governmental entity.
- 71) Requires, every two years after the issuance of debt pursuant to the bill's provisions, that the RHIA contract for an independent financial and performance audit, and requires the audit to be conducted according to guidelines established by the Controller. Requires a copy of the audit to be provided to the Controller, the Director of Finance, and to the Joint Legislative Budget Committee.
- 72) Allows, upon request of the Governor or the Legislature, the Bureau of State Audits to be authorized to conduct financial and performance audits of RHIA's, and requires the results of the audits to be provided to the RHIA, the Controller, the Director of Finance, and the Joint Legislative Budget Committee.
- 73) Requires that at least 30% of all tax increment revenues that are allocated to the authority from any participating entity must be deposited into a separate Low- and Moderate-Income Housing Fund and used by the authority for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined in state law.
- 74) Allows an authority to exercise any or all of its powers for the construction, rehabilitation, or preservation of affordable housing for extremely low, very low, low- and moderate-income persons or families.
- 75) Enumerates detailed requirements governing the manner in which an authority may manage and expend tax increment revenues deposited into a Low- and Moderate-Income Housing Fund.
- 76) Requires every plan to contain a provision that whenever dwelling units housing persons and families of low- or moderate-income are destroyed or removed from the low- and moderate-income housing market as part of a revitalization project the authority must, within two years of such destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low- or moderate-income an equal number of replacement dwelling units at affordable housing costs, as defined by state law, within the territorial jurisdiction of the authority.
- 77) Requires an authority to prepare a feasible method or plan for relocating:
- a) Families and persons to be temporarily or permanently displaced from housing facilities in the plan area; and
 - b) Nonprofit local community institutions to be temporarily or permanently displaced from facilities used for institutional purposes in the project area.

- 78) Requires the relocation plan to comply with the relocation plan and assistance requirements of state law.
- 79) Requires an authority to annually review the plan, prepare an independent financial audit, and adopt an annual report in a public hearing.
- 80) Provides that if an authority fails to provide the annual report, the authority shall not spend any funds received pursuant to a resolution, as specified, until the authority has provided the report, except for funds necessary to carry out its specified obligations regarding housing for persons of low- and moderate-income.
- 81) Requires an authority to conduct a protest proceeding every 10 years. If between 25% and 50% of residents and property owners file protest, the authority must not initiate any new projects until an election of property owners and residents is held. If a majority of the electorate votes against the authority, it must not take any further action to implement the plan.
- 82) Requires an authority to contract every five years for an independent audit to determine compliance with affordable housing maintenance and replacement requirements, which must be conducted according to guidelines established by the Controller. An authority must provide a copy of the completed audit to the Controller.
- 83) Requires, if an audit demonstrates a failure to comply with the statutory requirements, that an authority must adopt and submit to the Controller, as part of the audit, a plan to achieve compliance with those provisions. The plan must contain specified means of achieving compliance.
- 84) Requires the Controller to review and approve the compliance plan, and require the plan to stay in effect until compliance is achieved.
- 85) Enumerates penalties, including specified fines, which apply to an authority that fails to provide a copy of a completed audit to the Controller after receiving a written notice from the Controller. The Attorney General may, at the Controller's request, take action to collect the fines.
- 86) Provides that if the Attorney General fails to respond to the Controller's request within 90 days of its receipt, then any other available remedies may be exercised.
- 87) Provides that an action filed pursuant to this section to compel an authority to comply with this section is in addition to any other remedy and is not an exclusive means to compel compliance.

EXISTING LAW: Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of RDAs to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment).

FISCAL EFFECT: Unknown.

COMMENTS:

Background: Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of RDAs to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Prior to Proposition 13 very few RDAs existed; however after its passage RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set-aside 20% of funding generated in a project area to increase the supply of low and moderate income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend \$1 billion on affordable housing.

At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over \$5.6 billion yearly. In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved and the Governor signed two measures, ABX1 26 (Blumenfield), Chapter 5 and ABX1 27 (Blumenfield), Chapter 6 that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. As a result, all RDAs were required to dissolve as of February 1, 2012.

Redevelopment 2.0: This bill would allow cities and counties to create redevelopment housing and infrastructure agencies (RHIA) to fund infrastructure and would require that 30% of funding generated be set-aside for affordable housing activities. To establish a RHIA all taxing entities would be required to participate; however the local agency that establishes the RHIA can choose to passthrough property tax sufficient to keep the other taxing entities whole, excluding the schools' portion. RHIA's are also required to get state approval. RHIA's would provide the SGC with a copy of the resolution to create the RHIA and their plan to fund infrastructure, affordable housing, and finance their activities. The SGC determines if the project furthers the state's goals to reduce GHG and makes a recommendation to DOF. DOF either approves or rejects the RHIA. In determining whether or not to approve a RHIA, DOF determines the amount of "affected tax entity equity amount" or the amount needed to alleviate the burden caused by RHIA's, if the local agency creating the RHIA does not choose to pass through those amounts. Because all taxing entities are legally required to participate in the RHIA, the state has to backfill schools to meet Proposition 98 obligations. If a local agency creating a RHIA chooses to backfill the other taxing entities they will get priority in the approval process. The bill includes a cap on the total amount the state will fund the taxing entities and an overall cap on the amount the state will fund schools sufficient to meet Proposition 98 obligations.

Addressing the problems of RDAs: The dissolution of RDAs exposed the need for greater oversight to ensure tax increment is used appropriately. AB 3037 includes the following safeguards:

1. Robust replacement housing policies and anti-displacement policies.
2. Requires RHIA's to keep detailed records of use of funds. Creates a \$10,000 fine per violation of the record keeping requirements.

3. Requires an independent audit each year by a certified public accountant. Requires the audit be submitted to the Controller.
4. The Controller annually determines major audit violations and refers any violations that are not corrected to the Attorney General.
5. Authorizes fines for major audit violations that are not corrected up to \$250,000.
6. The RHIA is governed by a board made up of multiple other agencies and the public.

Arguments in support: According to Habitat for Humanity, "California is in the midst of a housing crisis. The cost of renting a home in California is at an all-time high, and homeownership is at its lowest rate since the 1940s. In California, 20 percent of households spend at least half of their income on housing costs. Habitat for Humanity California and each of our local affiliates were severely impacted by the dissolution of RDAs in 2011. The reduction of over \$1 billion in affordable housing funds meant that many organizations, like Habitat for Humanity, had to look elsewhere or reduce the number of homes built for the most vulnerable in our communities. We strongly support AB 3037 because it allows cities and counties to create redevelopment housing and infrastructure agencies to fund affordable housing and infrastructure projects using tax increment financing. This measure will not replace the low and moderate housing funds that were eliminated in 2011, however, this would restore some of the funding needed to build affordable housing for Californians struggling to make ends meet. "

Arguments in opposition: According to the County of Santa Clara, "AB 3037 is simply a shift of funding from one set of vital government services – those provided by school teachers, firefighters, police officers and nurses – to infrastructure development. This diversion of funds is not new money being provided for the proposed purposes." In addition, "AB 3037 requires certain voter-approved override tax levies to be included in the distribution to the new agencies. The inclusion of these voter-approved funds burdens taxpayers and diverts resources from specific voter-approved purposes. For the County these funds are critically needed to pay for rapidly rising employee pension obligations"

Previous legislation:

AB 2 (Alejo) Chapter 319, Statutes of 2015, authorizes local governments to create Community Revitalization and Investment Authorities (authorities) to use tax increment revenue to improve the infrastructure, assist businesses, and support affordable housing in disadvantaged communities. It requires that at least 25% of all tax increment revenues that are allocated to the authority from any participating entity must be deposited into a separate Low- and Moderate-Income Housing Fund and used by the authority for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost.

AB 313 (Atkins) Chapter 320, Statues of 2015, adds provisions to RHIA law to clarify the procedures that should be followed when replacing dwelling units that are removed or destroyed within a district and contains provisions to clarify that the RHIAs are public financing authorities separate and apart from the legislative bodies which created them. Additionally, the bill allows special districts to be considered affected taxing entities and participate in the RHIA process if they contribute other financial resources toward a project if they do not have the ability to contribute property tax increment.

SB 107 (Committee on Budget and Fiscal Review), Chapter 325, Statutes of 2015, streamlines the RDA dissolution process, enhances affordable housing by providing increased statewide funding and improving transparency, and expands the type of loans for which cities and counties can seek reimbursement.

AB 229 (J.Pérez) Chapter 775, Statutes of 2014, creates infrastructure and revitalization financing districts (modeled after infrastructure financing districts (IFDs)), authorizes a military base reuse authority to form a district, and allows these districts to finance a broader range of projects and facilities to clean-up and develop former military bases.

AB 471 (Atkins) Chapter 1, Statutes of 2014, allows infrastructure financing districts (IFDs) to include portions of former redevelopment project areas and amends several statutes governing the dissolution of redevelopment agencies. It also makes various changes to the redevelopment dissolution policies in order to allow dissolution to occur in a more orderly fashion, including establishing a “housing entity administrative cost allowance” for 5 years to assist non-city public housing authorities who assumed the housing activities of the former RDA, while still allowing needed economic development.

AB 1963 (Atkins) Chapter 146, Statutes of 2014, extends the date, from January 1, 2015, to January 1, 2016, by which the Long Range Property Management Plan (LRPMP) submitted by a successor agency must be approved by DOF and makes several other changes related to successor agencies.

SB 628 (Beall) Chapter 785, Statutes of 2014, allows local agencies to create enhanced infrastructure financing districts (EIFD) to finance specified infrastructure projects and facilities.

AB 440 (Gatto), Chapter 588, Statutes of 2013, authorizes a local agency to take any action similar to that under the Polanco Redevelopment Act that the local agency determines is necessary, consistent with other state and federal laws, to remedy or remove a release of hazardous substances within the boundaries of the local agency, pursuant to the procedures specified in the bill.

SB 341 (DeSaulnier), Chapter 796, Statutes of 2013, revises rules governing the activities and expenditures of housing successors to streamline administrative requirements while ensuring accountability, provide additional flexibility, and target scarce available resources to the greatest needs.

SB 684 (Hill), Chapter 544, Statutes of 2013, provides that an advertising display advertising businesses and activities within a RDA project, as the project boundaries existed on January 1, 2012, may continue to exist and be considered an on-premises display, for a period not to exceed 10 years.

AB 1484 (Committee on Budget) Chapter 26, Statutes of 2012, clarified certain matters associated with the dissolution of RDAs and addresses substantive issues related to administrative processes, affordable housing activities, repayment of loans from communities, use of existing bond proceeds, and the disposition or retention of former RDA assets.

Double-Referred: If AB 3037 passes out of this committee, the bill will be referred to the Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
BRIDGE Housing
California Apartment Association
California Council for Affordable Housing
Habitat for Humanity California

Opposition

County of Santa Clara
Howard Jarvis Taxpayers Association
Pleasant Valley Recreation and Park District
Rancho Simi Recreation and Park District

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085