

Memorandum 2012-17

**Community Redevelopment Law Cleanup:
Conforming Revisions**

Health and Safety Code Section 34189(b) requires the Law Revision Commission to “draft a Community Redevelopment Law cleanup bill for consideration by the Legislature no later than January 1, 2013.” As part of that clean-up, the Commission will probably need to adjust numerous cross-references to the Community Redevelopment Law that exist in other code sections.

The staff has compiled all of the code sections that contain cross-references to Community Redevelopment Law. That document is not attached, because it exceeds 150 pages in length and has not yet been fully analyzed. Instead, a small selection of such code sections is attached as an Exhibit and discussed in this memorandum.

Those examples provide an illustration of some of the types of issues that will need to be resolved in order to properly adjust the cross-references. The examples are probably just the tip of the iceberg, but should demonstrate the nature of the work required in this part of the clean-up study.

ILLUSTRATIVE EXAMPLES OF CROSS-REFERENCE TYPES

General Incorporation of Redevelopment Agency Powers and Duties

Some code provisions establish a public entity and then define the powers and duties of the entity by reference to the powers and duties of redevelopment agencies. For example, Government Code Section 6520 creates a “San Diego Courthouse, Jail, and Related Facilities Development Agency.” That agency “shall have all the powers and duties of a redevelopment agency pursuant to . . . [the Community Redevelopment Law].”

This sort of incorporation of the powers and duties of a redevelopment agency by reference raises a number of questions. Is the new entity a “redevelopment agency?” Did it receive tax increment funding? Was it dissolved by Section 34172? Those questions have been noted in the draft list of “*Minor*

Issues for Possible Future Legislative Attention” that is attached to Memorandum 2012-13.

Such questions will need to be considered when deciding how to adjust this type of cross-reference.

Incorporation of Specific Elements of Redevelopment Law

Some references to the Community Redevelopment Law are intended to incorporate and preserve specific elements of existing redevelopment law. For example, Education Code Section 42238(h)(6) states that in apportioning school district revenues, the county superintendent shall deduct from the apportioned amount any funds “received pursuant to the Community Redevelopment Law....” That provision also contains a set of exceptions to the general rule, that relate to specific funds, so long as those funds are used for specific purposes (such as land acquisition and facility construction). Those exceptions also rely on cross-references to provisions of the Community Redevelopment Law.

Now that redevelopment agencies have been dissolved, and the laws governing the allocation of the revenues of former redevelopment agencies have been changed, will the referenced provisions continue to operate in a way that is relevant to the purpose of the cross-reference? Will they remain relevant while successor agencies are winding down the affairs of the former redevelopment agencies, but not afterward?

In order to properly adjust provisions that cross-refer to specific elements of redevelopment law, it will be necessary to first analyze and understand the referenced provisions. Once that analysis has been completed, and the Commission has decided whether a referenced provision is obsolete or has continuing relevance, then it will be possible to decide how to adjust a reference to the provision.

Joint Power Agreements

Some code provisions allow redevelopment agencies to enter into joint powers agreements and to participate in the governance of joint powers authorities. For example, Government Code Section 6531 allows the San Diego redevelopment agency and other specified local public entities to enter into a joint powers agreement “to create and operate a joint powers agency for the development and construction of a model school project located within the City Heights Project Area.”

Now that redevelopment agencies have been eliminated, with successor agencies winding down their affairs, what is the fate of a joint powers authority that included a former redevelopment agency?

Will the joint powers authority continue to exist? If so, does the successor agency step into the role of the former redevelopment agency? If the successor agency does not serve in that role (or ceases to do so once the other affairs of a redevelopment agency are wound down), how does the joint powers authority reform itself to account for the absence of the redevelopment agency (and any funding or other resources that the redevelopment agency provided)?

If a joint powers authority does not survive the dissolution of a member redevelopment agency, what happens to the assets and obligations of the joint powers authority?

These issues will need to be carefully considered in adjusting a provision that allows a redevelopment agency to enter into a joint powers agreement.

References to “Redevelopment Project Areas”

Some provisions refer to a “redevelopment project area.” For example, Business and Professions Code Section 5498 exempts property that is within a redevelopment project area from certain rules governing local regulation of advertising. This seems to allow local governments to more freely regulate advertisements in redevelopment project areas.

The intended meaning of this type of reference is not entirely clear. Does a reference to a “redevelopment project area” (or “survey area” or other area designated in the redevelopment process) refer to such an area within an ongoing redevelopment project? In other words, once a redevelopment project is thoroughly completed, does the reference to its redevelopment project area continue to apply to the area of space affected by the completed redevelopment project?

The Commission encountered a similar issue in its work on trial court unification. When municipal courts existed, their jurisdictional area was defined by reference to their “judicial districts.” Once the municipal courts ceased to exist and were subsumed within the superior courts, there was no longer any need to define the geographical jurisdiction of a municipal court. However, some statutes referred to judicial districts for purposes other than defining the jurisdiction of a municipal court (e.g., a statute requiring that legal notice be published in a newspaper of general circulation published in a particular judicial district). The

Commission needed to consider that possibility in cleaning up references to the judicial districts. See, generally, *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm' n Reports 51, 72 (1998).

Similarly, the Commission will need to be careful in cleaning up references to a redevelopment project area or other redevelopment-related areas. If “redevelopment project area” refers to an area in which redevelopment is ongoing, the cross-reference can probably be deleted (in reliance on the savings provision discussed in Memorandum 2012-11). However, if “redevelopment project area” refers to a specific, physical geographical space (regardless of whether redevelopment is occurring within that space), then the Commission will need to adjust the reference to preserve that effect.

Respectfully submitted,

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SELECTED CROSS-REFERENCES TO REDEVELOPMENT LAW

1 **Bus. & Prof. Code § 5498. Local advertising**

2 5498. (a) Sections 5491 and 5495 do not apply to redevelopment project areas
3 created pursuant to the **Community Redevelopment Law (Part 1 (commencing**
4 **with Section 33000) of Division 24 of the Health and Safety Code**), planned
5 commercial districts, or to areas listed or eligible for listing on the National
6 Register of Historical Places, or areas registered by the Department of Parks and
7 Recreation as a state historical landmark or point of historical interest pursuant to
8 Section 5021 of the Public Resources Code, or areas created as historic zones or
9 individually designated properties by a city or county, pursuant to Article 12
10 (commencing with Section 50280) of Chapter 1 of Division 1 of Title 5 of the
11 Government Code.

12 (b) As used in this section, “planned commercial districts” means areas subject
13 to binding agreements, including, but not limited to, conditions, covenants,
14 restrictions, which do all of the following:

15 (1) Affect on-premise advertising displays.

16 (2) Are at least as restrictive as any ordinance of a city or county, which affects
17 on-premise advertising displays at the time the agreement was entered into.

18 (3) Contain a binding financing commitment sufficient to carry out the
19 agreements.

20 **Educ. Code § 42238. School district revenue**

21 42238. (a) For the 1984-85 fiscal year and each fiscal year thereafter, the county
22 superintendent of schools shall determine a revenue limit for each school district
23 in the county pursuant to this section.

24 (b) The base revenue limit for a fiscal year shall be determined by adding to the
25 base revenue limit for the prior fiscal year the following amounts:

26 (1) The inflation adjustment specified in Section 42238.1.

27 (2) For the 1995-96 fiscal year, the equalization adjustment specified in Section
28 42238.4.

29 (3) For the 1996-97 fiscal year, the equalization adjustments specified
30 in Sections 42238.41, 42238.42, and 42238.43.

31 (4) For the 1985-86 fiscal year, the amount per unit of average daily attendance
32 received in the 1984-85 fiscal year pursuant to Section 42238.7.

33 (5) For the 1985-86, 1986-87, and 1987-88 fiscal years, the amount per unit of
34 average daily attendance received in the prior fiscal year pursuant to Section
35 42238.8.

36 (6) For the 2004-05 fiscal year, the equalization adjustment specified in Section
37 42238.44.

38 (7) For the 2006-07 fiscal year, the equalization adjustment specified in Section
39 42238.48.

1 (8) For the 2011-12 fiscal year, the equalization adjustment specified in Section
2 42238.49.

3 (c)(1)(A) For the 2010-11 fiscal year, the Superintendent shall compute an add-
4 on for each school district by adding the inflation adjustment specified in Section
5 42238.1 to the adjustment specified in Section 42238.485.

6 (B) For the 2011-12 fiscal year and each fiscal year thereafter, the
7 Superintendent shall compute an add-on for each school district by adding the
8 inflation adjustment specified in Section 42238.1 to the amount computed
9 pursuant to this paragraph for the prior fiscal year.

10 (2) Commencing with the 2010-11 fiscal year, the Superintendent shall compute
11 an add-on for each school district by dividing each school district's fiscal year
12 average daily attendance computed pursuant to Section 42238.5 by the total
13 adjustments in funding for each district made for the 2007-08 fiscal year pursuant
14 to Section 42238.22 as it read on January 1, 2009.

15 (d) The sum of the base revenue limit computed pursuant to subdivision (b) and
16 the add-on computed pursuant to subdivision (c) shall be multiplied by the district
17 average daily attendance computed pursuant to Section 42238.5.

18 (e) For districts electing to compute units of average daily attendance pursuant
19 to paragraph (2) of subdivision (a) of Section 42238.5, the amount computed
20 pursuant to Article 4 (commencing with Section 42280) shall be added to the
21 amount computed in subdivision (c) or (d), as appropriate.

22 (f) For the 1984-85 fiscal year only, the county superintendent shall reduce the
23 total revenue limit computed in this section by the amount of the decreased
24 employer contributions to the Public Employees' Retirement System resulting
25 from enactment of Chapter 330 of the Statutes of 1982, offset by any increase in
26 those contributions, as of the 1983-84 fiscal year, resulting from subsequent
27 changes in employer contribution rates.

28 (g) The reduction required by subdivision (f) shall be calculated as follows:

29 (1) Determine the amount of employer contributions that would have been made
30 in the 1983-84 fiscal year if the applicable Public Employees' Retirement System
31 employer contribution rate in effect immediately prior to the enactment of Chapter
32 330 of the Statutes of 1982 was in effect during the 1983-84 fiscal year.

33 (2) Subtract from the amount determined in paragraph (1) the greater of
34 subparagraph (A) or (B):

35 (A) The amount of employer contributions that would have been made in the
36 1983-84 fiscal year if the applicable Public Employees' Retirement System
37 employer contribution rate in effect immediately after the enactment of Chapter
38 330 of the Statutes of 1982 was in effect during the 1983-84 fiscal year.

39 (B) The actual amount of employer contributions made to the Public
40 Employees' Retirement System in the 1983-84 fiscal year.

41 (3) For purposes of this subdivision, employer contributions to the Public
42 Employees' Retirement System for either of the following shall be excluded from
43 the calculation specified above:

1 (A) Positions supported totally by federal funds that were subject to supplanting
2 restrictions.

3 (B) Positions supported, to the extent of employer contributions not exceeding
4 twenty-five thousand dollars (\$25,000) by a single educational agency, from a
5 revenue source determined on the basis of equity to be properly excludable from
6 the provisions of this subdivision by the Superintendent with the approval of the
7 Director of Finance.

8 (4) For accounting purposes, the reduction made by this subdivision may be
9 reflected as an expenditure from appropriate sources of revenue as directed by the
10 Superintendent.

11 (h) The Superintendent shall apportion to each school district the amount
12 determined in this section less the sum of:

13 (1) The district's property tax revenue received pursuant to Chapter 3.5
14 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of
15 Part 0.5 of Division 1 of the Revenue and Taxation Code.

16 (2) The amount, if any, received pursuant to Part 18.5 (commencing
17 with Section 38101) of Division 2 of the Revenue and Taxation Code.

18 (3) The amount, if any, received pursuant to Chapter 3 (commencing
19 with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code.

20 (4) Prior years' taxes and taxes on the unsecured roll.

21 (5) Fifty percent of the amount received pursuant to Section 41603.

22 (6) The amount, if any, received pursuant to the **Community Redevelopment**
23 **Law (Part 1 (commencing with Section 33000) of Division 24 of the Health**
24 **and Safety Code)**, except for any amount received pursuant to **Section**
25 **33401 or 33676 of the Health and Safety Code** that is used for land acquisition,
26 facility construction, reconstruction, or remodeling, or deferred maintenance,
27 except for any amount received pursuant to **Section 33492.15 of, paragraph (4)**
28 **of subdivision (a) of Section 33607.5 of, or Section 33607.7 of, the Health and**
29 **Safety Code** that is allocated exclusively for educational facilities.

30 (7) For a unified school district, other than a unified school district that has
31 converted all of its schools to charter status pursuant to Section 47606, the amount
32 of statewide average general-purpose funding per unit of average daily attendance
33 received by school districts for each of four grade level ranges, as computed by the
34 department pursuant to Section 47633, multiplied by the average daily attendance,
35 in corresponding grade level ranges, of any pupils who attend charter schools
36 funded pursuant to Chapter 6 (commencing with Section 47630) of Part 26.8 of
37 Division 4 for which the district is the sponsoring local educational agency, as
38 defined in Section 47632, and who reside in and would otherwise have been
39 eligible to attend a noncharter school of the district.

40 (i) A transfer of pupils of grades 7 and 8 between an elementary school district
41 and a high school district shall not result in the receiving district receiving a
42 revenue limit apportionment for those pupils that exceeds 105 percent of the

1 statewide average revenue limit for the type and size of the receiving school
2 district.

3 **Gov't Code § 6520. San Diego Courthouse, Jail, and Related Facilities Development Agency**

4 6520. (a) Notwithstanding any other provision of law, the Board of Supervisors
5 of San Diego County and the City Council of the City of San Diego may create by
6 joint powers agreement, the San Diego Courthouse, Jail, and Related Facilities
7 Development Agency, hereinafter referred to as "the agency," which shall have all
8 the powers and duties of a redevelopment agency pursuant to **Part 1**
9 **(commencing with Section 33000) of Division 24 of the Health and Safety**
10 **Code** as well as all the powers of a joint powers agency pursuant to this chapter,
11 with respect to the acquisition, construction, improvement, financing, and
12 operation of a combined courthouse-criminal justice facility, including a parking
13 garage, and other related improvements, hereinafter referred to as "the facility."

14 (b) The agency shall be governed by a board of directors composed of one city
15 council member and one citizen designated by the San Diego City Council; one
16 supervisor and one citizen designated by the San Diego County Board of
17 Supervisors; two citizens appointed by the presiding judge of the superior court
18 effective during his or her term of presidency; the Sheriff of San Diego County;
19 the president or designee of the San Diego County Bar Association; and one
20 citizen designated by the District Attorney of San Diego County; all of whom shall
21 serve at the pleasure of the appointing power and without further compensation.

22 (c) The City of San Diego and the County of San Diego shall each have the
23 power of nonconurrence over any action taken by the board of directors, provided
24 that a motion for reconsideration is made by a member of the board of directors
25 immediately following the vote of the board of directors approving such action,
26 and further provided that the city council or the board of supervisors votes to
27 nullify such action, by a majority vote of its membership, within 30 days.

28 (d) The county may transfer to the agency county funds in either a Courthouse
29 Temporary Construction Fund or a County Criminal Justice Facility Temporary
30 Construction Fund, or both, to be expended for purposes of the facility.

31 (e) In addition to those funds, (1) the agency's governing body may allot up to
32 15 percent of the fines and forfeitures received by the City of San Diego pursuant
33 to Section 1463 of the Penal Code from the service area of the downtown courts,
34 as defined by the agency, for expenditure by the agency for the purposes specified
35 in subdivision (a); (2) the City of San Diego and the County of San Diego may
36 allot to the agency any state or federal funds received for purposes of the facility;
37 and (3) the agency may expend any rent, parking fees, or taxes received on
38 leasehold interests in the facility, for the purposes specified in subdivision (a).

39 **Gov't Code § 6531. San Diego Model School Development Agency**

40 6531. (a) The Legislature finds and declares all of the following:

1 (1) It is in the best interests of communities located within the City of San Diego
2 for the local public agencies that have jurisdiction within the city to form a joint
3 powers agency to provide for the orderly and coordinated acquisition,
4 construction, and development of model school projects. These projects may
5 include the acquisition of land by negotiation or eminent domain, the construction
6 of schools, the construction of recreational facilities or park sites or both, and the
7 construction of replacement and other housing, including market rate, moderate-
8 income, and low-income housing.

9 (2) The coordinated construction of these projects by redevelopment agencies,
10 school districts, housing authorities, housing commissions, and the city is of great
11 public benefit and will save public money and time in supplying much needed
12 replacement housing lost when schools are constructed within existing
13 communities.

14 (3) Legislation is needed to allow redevelopment agencies, school districts,
15 housing authorities, housing commissions, and the city to use their powers to the
16 greatest extent possible to expedite, coordinate, and streamline the construction
17 and eventual operation of such projects.

18 (b)(1) Notwithstanding any other provision of law, the Redevelopment Agency
19 of the City of San Diego, the Housing Authority of the City of San Diego, the San
20 Diego Housing Commission, the San Diego Unified School District, and the City
21 of San Diego may enter into a joint powers agreement to create and operate a joint
22 powers agency for the development and construction of a model school project
23 located within the City Heights Project Area. The agency created pursuant to this
24 section shall be known as the San Diego Model School Development Agency. The
25 San Diego Model School Development Agency shall have all the powers of a
26 redevelopment agency pursuant to **Part 1 (commencing with Section 33000) of**
27 **Division 24 of the Health and Safety Code**, all of the powers of a housing
28 authority pursuant to Part 2 (commencing with Section 34200) of Division 24 of
29 the Health and Safety Code, and all of the powers of the San Diego Unified School
30 District, as well as all the powers of a joint powers agency granted pursuant to this
31 chapter, to acquire property and to construct and improve and finance one or more
32 schools, housing projects, parks, recreational facilities, and any other facilities
33 reasonably necessary for their proper operation. Further, the San Diego Model
34 School Development Agency shall have all of the powers of the City of San Diego
35 pursuant to its charter and state law to acquire property and to finance and operate
36 parks and recreational facilities and any other facilities reasonably necessary for
37 their proper operation.

38 (2) Notwithstanding paragraph (1), neither the San Diego Model School
39 Development Agency nor the Redevelopment Agency of the City of San Diego
40 shall expend any property tax increment revenues to acquire property, and to
41 construct, improve, and finance a school within the City Heights Project Area.

42 (3) Nothing in this section shall relieve the San Diego Model School
43 Development Agency or the Redevelopment Agency of the City of San Diego

1 from its obligations to increase, improve, and preserve the community’s supply of
2 low- and moderate-income housing, including, but not limited to, the obligation to
3 provide relocation assistance, the obligation to provide replacement housing, the
4 obligation to meet housing production quotas, and the obligation to set aside
5 property tax increment funds for those purposes.

6 (4) The San Diego Model School Development Agency shall perform any
7 construction activities in accordance with the applicable provisions of the Public
8 Contract Code, the Education Code, and the Labor Code that apply, respectively,
9 to the redevelopment agency, housing authority, housing commission, school
10 district, or city creating the San Diego Model School Development Agency.
11 Funding pursuant to Proposition MM, a local San Diego County bond measure
12 enacted by the voters for the purpose of school construction, shall be used only for
13 the design, development, construction, and financing of school-related facilities
14 and improvements, including schools, as authorized and to the extent authorized
15 under Proposition MM.

16 (c) Any member of the joint powers agency, including the school district, may,
17 to the extent permitted by law, transfer and contribute funds to the agency,
18 including bond funds, to be deposited into and to be held in a facility fund to be
19 expended for purposes of the acquisition of property for, and the development and
20 construction of, any school, housing project, or other facility described in this
21 section.

22 (d) Nothing contained in this section shall preclude the joint powers agency
23 from distributing funds, upon completion of construction, the school, housing
24 project, park, recreational facility, or other facility to a member of the agency to
25 operate the school, housing project, park, or other facility that the member is
26 otherwise authorized to operate. These distribution provisions shall be set forth in
27 the joint powers agreement, if applicable.

28 (e) The San Diego Model School Development Agency may construct a school
29 in the City Heights Project Area pursuant to Chapter 2.5 (commencing with
30 Section 17250.10) of Part 10.5 of the Education Code.

31 (f)(1) For contracts for public works projects awarded prior to the effective date
32 of the regulations adopted by the Department of Industrial Relations pursuant to
33 subdivision (g) of Section 1771.5 of the Labor Code, the San Diego Model School
34 Development Agency shall establish and enforce, with respect to construction
35 contracts awarded by the joint powers agency, a labor compliance program
36 containing the requirements outlined in Section 1771.5 of the Labor Code or shall
37 contract with a third party to operate a labor compliance program containing those
38 requirements. This requirement shall not apply to projects where the agency has
39 entered into a collective bargaining agreement that binds all of the contractors and
40 subcontractors performing work on the project, but nothing shall prevent the joint
41 powers agency from operating a labor compliance program with respect to those
42 projects.

1 (2) For contracts for public works projects awarded on or after the effective date
2 of the regulations adopted by the Department of Industrial Relations pursuant to
3 subdivision (g) of Section 1771.5 of the Labor Code, the agency shall reimburse
4 the department for its reasonable and directly related costs of performing
5 prevailing wage monitoring and enforcement on public works projects pursuant to
6 rates established by the department as set forth in subdivision (h) of Section
7 1771.5 of the Labor Code. All moneys collected pursuant to this subdivision shall
8 be deposited in the State Public Works Enforcement Fund created by Section
9 1771.3 of the Labor Code, and shall be used only for enforcement of prevailing
10 wage requirements on those projects.

11 (3) In lieu of reimbursing the Department of Industrial Relations for its
12 reasonable and directly related costs of performing monitoring and enforcement on
13 public works projects, the San Diego Model School Development Agency may
14 elect to continue operating an existing previously approved labor compliance
15 program to monitor and enforce prevailing wage requirements on the project if it
16 has either not contracted with a third party to conduct its labor compliance
17 program and requests and receives approval from the department to continue its
18 existing program or it enters into a collective bargaining agreement that binds all
19 of the contractors performing work on the project and that includes a mechanism
20 for resolving disputes about the payment of wages.

21 (g) Construction workers employed as apprentices by contractors and
22 subcontractors on contracts awarded by the San Diego Model School
23 Development Agency shall be enrolled in a registered apprenticeship program,
24 approved by the California Apprenticeship Council, that has graduated apprentices
25 in the same craft in each of the preceding five years. This graduation requirement
26 shall be applicable for any craft that was first deemed by the Department of Labor
27 and the Department of Industrial Relations to be an apprenticeable craft prior to
28 January 1, 1998. A contractor or subcontractor need not submit contract award
29 information to an apprenticeship program that does not meet the graduation
30 requirements of this subdivision. If no apprenticeship program meets the
31 graduation requirements of this subdivision for a particular craft, the graduation
32 requirements shall not apply for that craft.
