



MEMORANDUM

TO: Oversight Board for the City of Brisbane
FROM: Gary M. Baum, Oversight Board Counsel
SUBJECT: Summary of AB 1484, Redevelopment Dissolution Trailer Bill
DATE: August 6, 2012

I. Introduction

AB x1 26 (the "Dissolution Act") dissolved redevelopment agencies ("RDAs") as of February 1, 2012.¹ The Dissolution Act also directed the cities and counties that formed the RDAs to initiate the process of unwinding the affairs of the dissolved RDAs. On June 27, 2012, the Legislature passed and the Governor signed AB 1484. AB 1484 was intended to clarify AB x1 26 and make technical and substantive amendments to the Dissolution Act. As a budget trailer bill, AB 1484 took effect immediately upon receiving the Governor's signature. AB 1484 was enacted just two days after it first appeared in bill form, and as such few municipal attorneys have had sufficient time to comprehensively interpret its provisions. Due to the complexity of this "clean up" legislation, this memo focuses largely on AB 1484's changes to the roles and responsibilities of Successor Agencies and Oversight Boards. Oversight Board members should consult the text of the legislation itself, or Board Counsel, if they have questions or require additional information. In addition, a timeline of key dates drafted by the League of California Cities is attached for reference. This memorandum comes with the caveat that this law is new and untested. As the law is followed in the coming months these conclusions may change or be altered. Also court clarification or change to any of these points may occur as well.

II. Successor Agencies

a. Redefined

The Dissolution Act defined "successor agency" as the dissolved RDA's Sponsoring Entity (the city, county or city and county that formed the dissolved RDA), unless the Sponsoring Entity opted not to serve in that capacity. AB 1484 redefines "successor agencies" as "successor entities to the former redevelopment agencies."² As such, a Successor Agency is "a separate public entity from the public agency that

¹ Government Code §34170(a). All other statutory references refer to the Government Code, unless otherwise specified.

² §34173(a).

provides for its governance and the two entities shall not merge.”³ Unless the Sponsoring Entity opted otherwise, the Sponsoring Entity’s governing body and staff will serve as the governing body and staff of the Successor Agency.⁴ The dissolved RDA’s employees do not automatically become Successor Agency employees, and the Successor Agency retains its collective bargaining status.⁵ The Successor Agency retains the liabilities of the dissolved RDA, “has its own name, can be sued, and can sue.”⁶ All litigation involving the dissolved RDA automatically transfers to the Successor Agency.⁷ The Successor Agency’s liability is limited to the value of property tax revenues it receives, and the value of the assets transferred to it.⁸ However, certain penalty provisions of AB 1484 impose additional penalties and liability for Successor Agency actions or inactions, so AB 1484’s purported limitation on liability does not present a complete picture.

b. Successor Agency Roles and Responsibilities Clarified by AB 1484

AB 1484 clarifies the Successor Agency’s authority to conduct certain activities. The Successor Agency may assume existing cleanup plans and liability limits under Polanco Redevelopment Act.⁹ It may also hold reserves when required by bond indenture or when the next property tax allocation from the Redevelopment Property Tax Trust Fund will not cover all of its bond debt obligations due in the next 6 months.¹⁰ Under AB 1484, Successor Agencies may create enforceable obligations to wind-down the dissolved RDA, such as hiring staff, and securing administrative services, and legal counsel.¹¹ Successor Agencies may also enter into loan contracts with the Sponsoring Entity for administrative costs, enforceable obligations, or project expenses (these should be shown on the ROPS and are subject to Oversight Board approval.)¹² Perhaps most importantly, AB 1484 directs the Successor Entity to review the “financial transactions and records of the Successor Agency ... at least annually by a certified public accountant.”¹³ Whether the costs of conducting the audit may be included on a Recognized Obligation Repayment Schedule (“ROPS”) is unclear.

c. AB 1484’s Limits on Successor Agency Actions

AB 1484 also places some new limitations on the Successor Agency’s functions. The Successor Agency cannot enter into new enforceable obligations under the Dissolution Act or undertake new redevelopment work, except if done to comply with enforceable obligations that existed before June 28, 2011.¹⁴ Nor can a Successor Agency

³ §34173(g).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ §34173(e).

⁹ §34173(f).

¹⁰ §34171(d)(1)(A).

¹¹ §34177.3(b).

¹² §34173(h).

¹³ §34177(n).

¹⁴ §34177.3(a).

transfer any powers or revenues to any other party, except for enforceable obligations listed on a Department of Finance-approved ROPS.¹⁵ “Any such transfers . . . are hereby declared to be void, and the Successor Agency shall take action to reverse any of those transfers.”¹⁶

Although the Dissolution Act authorized a Successor Agency to re-enter agreements with Sponsoring Entities with Oversight Board approval¹⁷, AB 1484 narrows this authority. Now, neither the Successor Agency nor the Oversight Board can restore funding for an enforceable obligation between the Successor Agency and a Sponsoring Entity if the Department of Finance deleted or reduced that obligation under §34179(h).¹⁸

d. AB 1484’s Treatment of Successor Agency’s Administrative Costs

AB 1484 attempts to solve confusion over which Successor Agency costs must be paid from the administrative cost allowance, and which can be placed on a ROPS. Section 34171(b) excludes from administrative costs “any litigation expenses related to assets or obligations, settlement and judgments, and the costs of maintaining assets prior to disposition.” Project-specific employee costs, such as the costs of construction inspection, project management, and actual construction, are also excluded.¹⁹ This means that a Successor Agency can list enforceable obligations for these costs on the ROPS for payment outside of the administrative cost allowance.

AB 1484 also permits the Oversight Board to reduce the Successor Agency’s administrative cost allowance below the \$250,000 minimum required by Dissolution Act, under certain circumstances.²⁰ Further, if a Successor Agency fails to submit its ROPS by the applicable deadlines (Oct. 14 & Mar. 13 annually, or Sept. 10 for Jan. 1 2013 – Jun. 30 2013 ROPS), the Department of Finance may reduce the Successor Agency’s maximum administrative cost allowance per fiscal year can be reduced by 25%.²¹

e. Housing Assets

Unlike AB 26, AB 1484 offers the Housing Successor Agency more flexibility to deal with housing assets of the former RDA. While AB 26 did not define “housing asset”, and the Department of Finance put forth a very narrow definition on its “Frequently Asked Questions” section of its website, AB 1484 provides a much more inclusive definition. Section 34176(e) provides a highly detailed list of items to be included as housing assets, listed below:

¹⁵ §34177.3(c).

¹⁶ *Id.*

¹⁷ §34178(a), §34180(h).

¹⁸ AB 1484 provides for some minor exceptions to this rule if the funding was required pursuant to court order, the meet and confer process or pursuant to new authority granted by AB 1484 for certain contracts between the Successor Agency and the Sponsoring Entity. See §34178(a), §34180(a) and §34180(h).

¹⁹ §34171(b).

²⁰ *Id.*

²¹ §34177(m), §34177(l)(2).

1. "Any real property, interest in, or restriction on the use of real property, whether improved or not, and any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses, and mapping programs, that were acquired for low- and moderate-income housing purposes, either by purchase or through a loan, in whole or in part, with any source of funds;"²²
2. "Any funds that are encumbered by an enforceable obligation to build or acquire low- and moderate-income housing, as defined by the Community Redevelopment Law . . . unless required in the bond covenants to be used for repayment purposes of the bond;"²³
3. "Any loan or grant receivable, funded from the Low and Moderate Income Housing Fund, from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low or moderate income as defined by the Community Redevelopment Law;"²⁴
4. "Any funds derived from rents or operation of properties acquired for low- and moderate-income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits;"²⁵
5. "A stream of rents or other payments from housing tenants or operators of low- and moderate-income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low- and moderate-income housing;"²⁶
6. "Repayments of loans or deferrals owed to the Low and Moderate Income Housing Fund . . . which shall be used consistent with the affordable housing requirements in the Community Redevelopment Law."²⁷

The role of the Oversight Board in reviewing the Housing fund and housing activity has been expanded and formalized. AB 1484 also requires that the Housing Successor submit a list of all housing assets to the Department of Finance by August 1, 2012.²⁸ The list should include an explanation of how each housing asset meets the statutory definitions listed above, and "shall include assets transferred between February 1, 2012, and the date upon which the list is created."²⁹ The Department of Finance shall have up to 30 days, upon receipt, to

²² §34176(e)(1).

²³ §34176(e)(2).

²⁴ §34176(e)(3).

²⁵ §34176(e)(4).

²⁶ §34176(e)(5).

²⁷ §34176(e)(6(A)).

²⁸ §34176(a)(2).

²⁹ *Id.*

object to any of the assets or transfers on the list, and the Housing Successor may request a meet and confer process within 5 business days of receipt of the Department's objection.³⁰

f. Successor Agency's Use of Housing Bond Proceeds

AB 1484 changes the way the Housing Successor can use housing bond proceeds not yet committed to a specific project. Section 34176(g) states that the Housing Successor can use the excess housing bond proceeds only if the following conditions are met:

First, the Housing Successor must notify the Successor Agency of the intended use of excess housing bond proceeds at least 20 days before the deadline to submit the ROPS to the Oversight Board.³¹ Second, the Successor Agency must list the proposed expenditure as a separate line item on the ROPS, and no use of the funds is valid unless the ROPS is valid and approved.³² Third, the review of the use of the excess housing bond proceeds by the Oversight Board, Department of Finance and Successor Agency "shall be limited to a determination that the designations and commitments are consistent with bond covenants and that there are sufficient funds available."³³

g. Successor Agency Wind Down

AB 1484 directs that "[w]hen all of the debt of a redevelopment agency has been retired or paid off, the successor agency shall dispose of all remaining assets and terminate its existence within one year of the final debt payment."³⁴ Yet AB 1484 does not specify which entity will receive the transferred assets, how the transfer is to be affected, or the Oversight Board's role in the wind-down.

III. The Audit

a. Procedures and Timing

One of the key new provisions of AB 1484 requires the Successor Agency to hire a licensed accountant, "approved by the county auditor-controller and with experience and expertise in local government accounting, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities."³⁵ The goal appears to be to distribute cash assets to the taxing entities in fiscal year 2012-13. Section §34179.5 provides specific definitions for the accountant to follow in conducting the audit.

³⁰ *Id.*

³¹ §34176(g)(1)(B).

³² *Id.*

³³ *Id.*

³⁴ §34187(b).

³⁵ §34179.5(a). AB 1484 is silent on how the auditor is to be paid.

The audit is to be complete by Oct. 1, 2012 for the Low and Moderate Income Housing Fund, and by Dec. 15, 2012 for all other funds.³⁶ The audit's results "shall be submitted to the oversight board for review," and the Successor Agency shall submit a copy of the ROPS to ROPS to the county administrative officer, county-auditor controller and the Department of Finance, simultaneously.³⁷ Upon receipt, the Oversight Board shall convene a public comment session at least 5 business days before voting to approve the audit's findings.³⁸ AB 1484 requires the Oversight Board to "review, approve, and transmit" its determination of the amount of "cash and cash equivalents" available for taxing entities to the Department of Finance and the County-Auditor Controller by Oct. 15, 2012 for the Low and Moderate Income Housing Fund, and by Jan. 15, 2012 for all other funds and accounts.³⁹

The Oversight Board may adjust any amount provided in the review "to reflect additional information and analysis," and "shall be empowered to authorize a successor agency to retain" restricted funds, non-cash assets, and cash balances contractually committed or needed for items to be placed on ROPS during the fiscal year.⁴⁰ (*Id.*) Similarly, the Department of Finance may adjust the amounts determined to be available for allocation to the taxing entities.⁴¹ If the Successor Agency and Sponsoring Entity dispute "the amounts or sources of funds identified as determined by the department", they may request to meet and confer with the Department of Finance.⁴²

b. Penalties if Successor Agency Fails to Remit Funds Identified in the Audit

Each Successor Agency "shall transmit to the county auditor-controller the amount of funds required pursuant to the determination of the department within 5 working days of receipt of notification" from the Department of Finance.⁴³ AB 1484 provides for a variety of penalties if the Successor Agency can't "promptly recover the funds" transferred to another public agency without an enforceable obligation. The Department of Finance can order an offset of the sales and use tax of the local agency that received the funds, or County Auditor-Controller can offset the property tax of the local agency.⁴⁴ The Department of Finance or County Auditor-Controller can also demand the return of funds improperly spent or transferred, plus a 10% penalty and interest.⁴⁵ If the city that created the former RDA is also acting as a Successor Agency, as in Brisbane, the Department of Finance can order an offset of the city's sales and use

³⁶ (§34179.6)

³⁷ (*Id.*)

³⁸ §34179.6(b).

³⁹ §34179.6(c).

⁴⁰ (*Id.*)

⁴¹ §34179.6(d).

⁴² §34179.6(e).

⁴³ §34179.6(f). See §34179(c) for the dates by which the Department of Finance is required to provide notice.

⁴⁴ §34179.6(h)(1)(A).

⁴⁵ §34179.6(h)(1)(B).

tax, or the County Auditor-Controller can offset it.⁴⁶ Finally, AB 1484 permits the Department of Finance to deduct the unpaid amount from future property tax allocations to the Successor Agency.⁴⁷ Many municipal attorneys and the League of California Cities agree that the state Constitution prohibits these tax “claw backs”, and litigation is anticipated on this issue.

IV. Finding of Completion and Safe Harbors

Although the potential penalties AB 1484 introduces are quite punitive, AB 1484 does offer Successor Agencies some benefits, or “safe harbors”, once the Successor Agency returns the funds and makes the payments identified by the audit. “Upon full payment of the amounts determined in subdivision (d) or (e) of Section 34179.6 . . . or upon a final judicial determination of the amounts due and confirmation that those amounts have been paid,” the Department of Finance shall issue a “finding of completion” within 5 business days.⁴⁸ This triggers four safe harbors for Successor Agencies. First, certain loans are now enforceable, and their repayments can be listed on the ROPS.⁴⁹ Second, bond proceeds may be spent for purposes for which they were sold.⁵⁰ Third, real property assets may be used or sold, once the Successor Agency completes a “Long Range Property Management Plan”.⁵¹ Lastly, the statute of limitations on redevelopment plan actions and other legislative actions is tolled.⁵²

a. Certain Loans Now Enforceable

The Dissolution Act made many loans made by cities and counties to dissolved RDAs unenforceable as of Feb. 1, 2012; in other words, the Successor Agency did not have to repay them. Once the Department of Finance issues a finding of completion, AB 1484 permits a Successor Agency to apply for Oversight Board approval of such loans, so long as the Oversight Board finds that the loans were for “legitimate redevelopment purposes.”⁵³ It should be noted that if the Oversight Board approved a loan agreement before June 27, 2012 and the Department of Finance did not object to placement on the ROPS then the prior loan agreement is still valid.

Note that Section 34191.4 sets forth several conditions that may reduce repayment amounts. Interest accumulated on the remaining principal “shall be recalculated from origination at the interest rate earned by funds deposited into the Local Agency Investment Fund.”⁵⁴ This supersedes any interest calculations in original loan agreement. Interest is also limited to the Local Agency Investment Fund rate going forward.⁵⁵

⁴⁶ §34179.6(h)(1)(C).

⁴⁷ §34179.6(h)(1)(D).

⁴⁸ §34179.7.

⁴⁹ §34191.4(b).

⁵⁰ §34191.4(c).

⁵¹ §34191.5.

⁵² §33500, 33501.

⁵³ §3419.4(b)(1).

⁵⁴ §34191.4(b)(2).

⁵⁵ *Id.*

Further, loan repayments cannot begin until fiscal year 2013-14, must be made pursuant to a statutory formula, must be applied to outstanding amounts previously borrowed by the dissolved RDA from its Low and Moderate Income Housing Fund, and twenty percent of the remaining repayments received by city or county must be placed in Housing Assets Fund, which is maintained by Housing Successor.⁵⁶ All of these conditions are likely to reduce the repayment amounts.

b. Bond Costs May be Lowered and Bond Proceeds Spent

Once the Department of Finance issues a finding of completion, AB 1484 provides the Successor Agency additional means to refund bonds to lower long-term financing costs.⁵⁷ Bond refinancing still requires Oversight Board approval and Department of Finance review. AB 1484 gives the Successor Agency the authority to spend bond proceeds from bonds issued before 2011.⁵⁸ If the remaining bond proceeds cannot be spent consistent with the existing bond covenants, they shall “be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.”⁵⁹

c. Real Property Asset Management

AB 1484 provides a mechanism for the Successor Agency and Sponsoring Entity to direct the use of real properties and the revenues generated from them for community development, such as affordable housing, by setting up a Community Redevelopment Trust Fund. This provides a way to handle such properties in a manner similar to the way property was handled by dissolved RDAs. To take advantage of this, once the Department of Finance has issued a finding of completion, the Successor Agency must submit a Long Range Property Management Plan within 6 months.⁶⁰

The Long Range Property Management Plan must contain an inventory of all properties in the trust, including the property name, date of acquisition, purpose, parcel data, value, and other attributes, and information on the use or disposition of each property.⁶¹ Once the Plan is complete, permitted uses of the property include governmental use pursuant to §34181(a), future development, sale, or use for an enforceable obligation.⁶²

d. Statute of Limitations Tolloed

The Dissolution Act had a 2 year statute of limitations on challenges to redevelopment plans, bond issuances, RDA & legislative body findings. AB 1484 tolls the statute until the Department of Finance issues a finding of completion to the

⁵⁶ *Id.*

⁵⁷ §34177.5(a).

⁵⁸ §34191.4(c).

⁵⁹ (*Id.*)

⁶⁰ §34191.5(b).

⁶¹ §34191.5(c).

⁶² §34191.5(c)(2).

Successor Agency.⁶³ Once this occurs, statute reverts to original 90 day period.⁶⁴ A Successor Agency can request that the Department of Finance waive the 2 year statute of limitations for actions taken after Jan. 1, 2011.⁶⁵

V. Oversight Boards

a. Changes to Composition and Roles

Under the Dissolution Act, the largest special district with territory in the dissolved RDA's jurisdiction selected one Oversight Board member. AB 1484 gives County-Auditor-Controller the authority to determine which special district is the largest, in order to solve disputes over this.⁶⁶ AB 1484 also clarifies issues regarding the appointment of an Oversight Board member from a dissolved RDA union, and clarifies that no conflict of interest exists under Gov. Code §1090 when an Oversight Board member, employed by Successor Agency or Sponsoring Entity, votes to approve a contract as an enforceable obligation.⁶⁷

b. Staffing and Authority

AB 1484 clarifies several issues regarding Oversight Board authority. Namely, Oversight Board members "are protected by the immunities applicable to public entities and public employees."⁶⁸ An Oversight Board can direct Successor Agency to provide additional legal or financial advice, and can contract with county or other public or private agencies for administrative support.⁶⁹ "On matters within the purview of the oversight board," its decisions supersede those of Successor Agency or its staff.⁷⁰ The Oversight Board can reduce Successor Agency's administrative cost allowance below the \$250,000 statutory minimum, under certain circumstances.⁷¹ Lastly, all Oversight Board actions must still be taken by resolution.⁷²

VI. ROPS Issues

a. Department of Finance Review of Oversight Board Actions

AB 1484 makes a few procedural changes to the Department of Finance's review of Oversight Board Actions. Oversight Board actions must be transmitted to Department of Finance by electronic means, in manner of DOF's choosing.⁷³ The Dissolution Act

⁶³ §33500, §33501.

⁶⁴ *Id.*

⁶⁵ §34177.5.

⁶⁶ §34179(a)(3)(B).

⁶⁷ §34179(a)(7).

⁶⁸ 34171(d).

⁶⁹ §34179(n), (§34179)(o).

⁷⁰ §34179(p).

⁷¹ 34171(b).

⁷² §34179(e).

⁷³ §34179 (h).

gave the Department of Finance 3 business days to request review of Oversight Board actions - now it has 5.⁷⁴ If the Department of Finance does not request review within 5 business days, the Oversight Board action is deemed effective.⁷⁵ If the Department of Finance requests review, it has 40 calendar days to approve action or return it to the Oversight Board for reconsideration, and may extend that review period in some circumstances.⁷⁶

b. New Dates for Submittal of Initial and Subsequent ROPS

AB 1484 removes the requirement that the initial ROPS be certified by the County-Auditor-Controller, but the Oversight Board and Department of Finance must still approve it.⁷⁷ AB 1484 also modifies the dates for the Successor Agency's submittal of the initial ROPS, due to delays in implementing Dissolution Act. The Initial ROPS must include January – June 2012 payments, and estimate payments through June 30, 2012.⁷⁸ The Successor Agency must submit its ROPS for the period ending June 30, 2013 (the “Third ROPS”) by Sept. 1, 2012, not by Oct. 1, 2012 as the Department of Finance previously stated.⁷⁹ The ROPS for July 1, 2013 – Dec. 1, 2013 (the “Fourth ROPS”) must be submitted no less than 90 days prior to the property tax distribution.⁸⁰

c. Department of Finance Review of ROPS

AB 1484 expands the Department of Finance's authority to review the ROPS. It provides that the Department “shall make its determination of the enforceable obligations *and the amounts and funding sources* of the enforceable obligations no later than 45 days” after the ROPS is submitted by Successor Agency.⁸¹ The Department of Finance can eliminate or modify any ROPS item being reviewed under Section 34179, which governs non-ROPS and other Oversight Board actions.⁸²

The Successor Agency may request a review of the Department of Finance's ROPS determination, within 5 business days of the determination.⁸³ This may vary the meet and confer period, particularly if ROPS is submitted untimely.⁸⁴ The Department of Finance “shall notify the Successor Agency and the county auditor-controller as to the outcome of its review at least 15 days before the date of property tax distribution.”⁸⁵ The deadline will be Dec. 18 for the Jan. 2 distribution, and May 17 for the June 1 distribution.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ §34177(1)(2)(A) and (B).

⁷⁸ §34177(1)(3).

⁷⁹ §34177(m).

⁸⁰ *Id.*

⁸¹ §34177(m). (emphasis added).

⁸² *Id.*

⁸³ §34177(m).

⁸⁴ *Id.*

⁸⁵ *Id.*

d. **Penalties for Successor Agency's Untimely ROPS Submittal**

AB 1484 imposes significant penalties if Successor Agency submits the ROPS late. It states that the Sponsoring Entity "shall be subject to a civil penalty equal to \$10,000 per day for every day the schedule is not submitted to the department."⁸⁶ This penalty will be paid to the County Auditor-Controller and distributed to taxing entities.⁸⁷ In addition, any creditor of the Successor Agency, the Department of Finance, or an affected taxing entity may request a writ of mandate to require the Successor Agency to perform.⁸⁸ If the Successor Agency fails to submit the ROPS within 10 days of the deadline, AB 1484 provides for a 25% reduction in its administrative cost allowance for relevant period.⁸⁹ If the Successor Agency fails to submit the ROPS within 5 business days after the April 1 and Oct 1 dates when the County Auditor-Controller releases its estimated property tax allocations, the Department of Finance may determine if any amount should be withheld to pay enforceable obligations.⁹⁰

VII. Conclusion

While AB 1484 was intended to clarify AB x1 26 and make technical and substantive amendments to the Dissolution Act, it adds significant punitive and likely unconstitutional penalty provisions as well. This memorandum serves as an overview of the bill's changes to the roles and responsibilities of Successor Agencies and Oversight Boards. Attention to AB 1484's many new deadlines is critical, due to the very real possibility of an imposition of monetary penalties on a Successor Agency for noncompliance.⁹¹ It is anticipated that interpretation of AB 1484 may change as it is followed by the Oversight Boards and the County and State. Also future litigation may change interpretation of the statutes.

ATTACHMENTS:

A: Timeline of key AB 1484 dates drafted by the League of California Cities. *Available at:* <http://www.cacities.org/UploadedFiles/LeagueInternet/39/39f3c8fa-c697-4593-a7e7-73544335c8af.pdf> (last checked on July 19, 2012).

Memo to Oversight Board Brisbane AB 1484 Summary 8-6-12

⁸⁶ §34177(m)(2)

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.* The deadlines are Oct. 14 for the Jan. 2 distribution and March 13 for the June 1 distribution.

⁹⁰ *Id.*

⁹¹ See Attachment A, LEAGUE OF CALIFORNIA CITIES "Timeline of AB 1484: Important Dates", July 2, 2012. *Available at:* <http://www.cacities.org/UploadedFiles/LeagueInternet/39/39f3c8fa-c697-4593-a7e7-73544335c8af.pdf>



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

AB 1484: Important Dates

- July 9: County auditor-controller notifies successor agency of amount of funds owing taxing entities based upon December 2011 property tax payment¹
- July 12: Successor agency must make payment to auditor-controller for deposit into Redevelopment Property Tax Trust Fund and distribution to taxing entities.²
- July 16: Auditor-controller distributes money received from successor agencies to taxing entities. Monies received after July 12 date distributed within 5 days of receipt.³
- July 18: **City sales tax payment suspended if successor agency doesn't make July 12 payment.**⁴
- August 1: Successor housing entity must submit to DOF a list of housing assets that contains explanation of how assets meet criteria set forth in the law. DOF will prescribe format for list. DOF may object to any of the assets within 30 days. If after meet and confer, DOF continues to object, asset must be returned to the successor agency.⁵
- August 10: Successor housing entity notifies successor agency of any designations of use or commitments of funds that successor housing entity authorizes successor agency to retain.⁶
- August 15 +/-: Oversight board meets to consider ROPS for January 1, 2013 through June 30, 2013 which must be submitted to DOF by September 1.
- September 1: ROPS for January 1, 2013 through June 30, 2013 must be submitted electronically to DOF after oversight board approval.⁷ DOF makes determinations within 45 days. Within 5 days of determination, successor agency may request additional review and meet and confer.

¹ Section 34183.5(b)(2)(A). Note: The statute, that may be drafted in error, states that if June 1 property tax payment has not been made to successor agencies, the amount owing to taxing entities will be deducted from that same June 1 payment (34183.5(b)(1)).

² Section 34183.5(b)(2)(A).

³ Section 34183.5(b)(2)(A).

⁴ Section 34183.5(b)(2)(A)

⁵ Section 34176(a)(2). Definition of "housing asset" found at section 34176(e).

⁶ Section 34179.6(c)

⁷ Section 34177(m). Future ROPS must be submitted to DOF 90 days prior to property tax distribution. City subject to civil penalty of \$10,000 per day for successor agency's failure to timely submit ROPS (Section 34177(m)(2)).

- October 1: Auditor-controller may provide notice to successor agency of any objections to items on January – June 2013 ROPS.⁸
- October 1: Successor agency submits to oversight board, county auditor-controller, State Controller, and DOF results of the review of the LMIHF conducted by the licensed accountant agency must retain.⁹ Note: licensed accountant must be approved by the county auditor-controller.
- October 1: County auditor-controller completes agreed-upon procedures audit of each redevelopment agency.¹⁰ Auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period.¹¹
- October 15: Oversight Board must review, approve, and transmit LMIHF audit to DOF, auditor-controller. Note that oversight board must hold a public session to consider audit at least five business days prior to the meeting of oversight board in which LMIHF audit is considered for approval.¹²
- November 9: Last day for DOF to complete review of LMIHF audit and reports findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets.¹³
- W/in 5 days of receipt of DOF audit findings: Successor agency may request meet and confer to resolve disputes with DOF findings on LMIHF audit.¹⁴ DOF must confirm or modify its determination and decisions within 30 days.
- W/in 5 days of receipt of DOF final audit determination: Successor agency to transfer LMIHF funds to auditor-controller.¹⁵ City sales tax/property tax may be offset for unfunded amounts.
- December 1: Successor agency may report to auditor-controller that total amount of available revenues will be insufficient to fund enforceable obligations.¹⁶

⁸ Section 34182.5.

⁹ Section 34179.6(a). The requirement to retain a licensed accountant is found in section 34179.5. The audit provided by the county auditor-controller can be substituted for an audit by a licensed accountant if it contains the information required by Section 34179.5.

¹⁰ Section 34182(a)(1).

¹¹ Section 34182(c)(3)

¹² Section 34179.6(c) and (b)

¹³ Section 34179.6(d)

¹⁴ Section 34179.6(e)

¹⁵ Section 34179.6(f)

¹⁶ Section 34183(b)

December 15: Successor agency submits to oversight board, county auditor-controller, State Controller, and DOF results of the review of all other fund and account balances by licensed accountant.¹⁷

2013

- January 2:** Auditor-controller makes distributions of property tax for January – June 2013 ROPS.¹⁸
- January 15:** Oversight board must review, approve, and transmit other funds audit to DOF, auditor-controller.¹⁹
- March 3:** Successor agency submits ROPS for July 1, 2013 through December 31, 2013 to DOF after oversight board approval.²⁰
- April 1:** County auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period.²¹
- April 1:** DOF completes review of other funds audit and reports findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets.²²
- April 6 +/-:** No later than 5 days after receiving DOF determination on other funds audit, successor agency may request meet and confer to resolve disputes with DOF findings. DOF must confirm or modify its determination and decisions within 30 days.
- April 10: +/-** Successor agency to transfer other “cash and assets” audit payment to auditor-controller if meet and confer process complete.²³ **City sales tax/property tax may be offset for unfunded amounts.**
- May 1:** Successor agency reports to auditor-controller if total amount of available revenues will be insufficient to fund enforceable obligations.²⁴

¹⁷ Section 34179.6(a).

¹⁸ Section 34183(b).

¹⁹ Section 34179.6(a).

²⁰ Section 34177(m).

²¹ Section 34182(c)(3)

²² Section 34179.6(a)

²³ Section 34179.6(f). The statute does not allow sufficient time between completion of DOF review on April 1 and required payment on April 10.

²⁴ Section 34183(b).

June 28, 2012