



In the Midst of California's Budget Crisis, Redevelopment Agencies Are Fighting For Their Lives

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In November, voters approved Proposition 22, which redevelopment agencies around the state applauded as a tool to help prevent the state from siphoning off redevelopment funds to help stabilize California's faltering budget. But before the agencies had even finished celebrating a hard-fought victory at the polls, newly sworn in Governor Jerry Brown responded with a proposal that jeopardizes redevelopment agencies' very existence.

In his January 10 budget proposal, Governor Brown proposed myriad measures to solve California's budget woes. One of the most sweeping changes being proposed involves California's redevelopment agencies. The Governor's budget proposal includes "disestablishing" redevelopment agencies, ultimately reallocating redevelopment funds to California's general fund.

On January 21, a broad coalition of mayors and city council members vowed to fight back, calling the proposal an "illegal money grab," and vowing to sue the state if it continues down this path.

The Background

The large pool of tax increment revenue flowing to the state's 400-plus redevelopment agencies has long made a tempting target for a cash strapped State. Time and again Sacramento has dipped into this pool to offset budget deficits. Local interests have fought back, both at the ballot box (e.g., 2004's successful Proposition 1A, "Protection of Local Government Revenue"), and in the courts. Sometimes local interests gained the upper hand and sometimes the advantage went to the State.

Proposition 22, approved by the voters in November, was intended by its backers to be the ultimate trump card: a constitutional amendment protecting local government funding sources from State "raids."

Before Proposition 22, the State had the power to require redevelopment agencies to shift revenues to local school districts for purposes of reducing State General Fund costs for education and other programs. Recently, this resulted in the State requiring redevelopment agencies to shift \$2 billion dollars, or roughly 15% of total redevelopment revenues, to schools over a two-year period.

Proposition 22 changed all of that. It amended Section 25.5 of Article XIII of the California Constitution to limit the ability of the State to modify the allocation of ad valorem property tax funds. With the exception of funds appropriated to fund low-to-moderate income housing, Proposition 22 imposed an absolute prohibition on the State's ability to transfer taxes allocated to redevelopment agencies to or "for the benefit of" the State, any agency of the State, or any other jurisdiction. (Article XIII, Section 25.5(a)(7).)

Governor Brown's Proposal

To address long term systemic deficits, the Governor's proposed budget for 2011-2012 "calls for a vast and historic realignment of government services in California." At its core, the "realignment" involves shifting responsibility for various programs and the funding thereof from the State to local governments. This would remove \$5.9 billion dollars in program costs from the State's books, as those costs would now be borne by counties.

The plan is to pay for this realignment in the short term by an extension of four temporary tax increases. With or without a comprehensive "realignment," tax revenues previously allocated to redevelopment agencies would be redirected to offset State Medi-Cal and court costs, as well as schools and other local agencies.

This is precisely what Proposition 22 was designed to prevent. The Governor has a simple solution: abolish redevelopment agencies entirely. More specifically, his plan includes:

- "prohibit[ing] existing [redevelopment] agencies from creating new contracts or obligations effective upon enactment of urgency legislation;
- "disestablishing" redevelopment agencies, effective July 1;
- using huge portions of the agencies' existing revenue streams over the next few years to help pay off existing debts; and
- creating successor agencies to manage existing debt service, which is expected to take 20 years.

The Governor's reasoning is that since redevelopment agencies were created by legislative enactment (Health and Safety Code sections 3300, et seq.), they can likewise be abolished by legislative enactment. No redevelopment agencies means no special allocation of tax increments, which in turn means the tax revenues otherwise allocated to redevelopment agencies would be distributed to cities, counties, and school districts in amounts proportionate to their share of the base county wide property tax. As explained by the Governor's Budget Director, Anna Matosantos, "If the legislature eliminated redevelopment agencies, then it's just property tax."

The Legislative Analyst's Office (LAO) issued a report on January 12 that endorses the Governor's basic proposal, but warns that he may have understated the debt service – and that implementing the changes will be a complicated process that may require unraveling several voter-approved constitutional measures.

The LAO recommends immediate urgency legislation to prevent redevelopment agencies from taking on any new bonded indebtedness or contractual obligations while the issues are sorted out.

The Agencies' Response

Not surprisingly, the agencies do not intend to accept their unceremonious demise without a fight. The California Redevelopment Association has begun organizing a multi-pronged assault on the Governor's proposal, and it has already identified at least three potential constitutional provisions which the Governor's proposal could violate:

- Article XVI, section 16 of the California Constitution, which established tax increment financing and requires tax increment to be paid to redevelopment agencies;
- Article XIII, section 25.5 (Propositions 1A and 22), which prohibits legislation requiring the transfer of tax increment to the State, any agency of the State, or any local jurisdiction; and
- State and Federal constitutional provisions prohibiting legislation impairing the obligation of contracts.

Some agencies are even reportedly trying to rush forward with planned projects as quickly as possible, hoping to get contracts signed and/or funds committed before the legislature can take any action to preclude such activities.

Most recently, on January 21, a coalition of more than 100 representatives of cities across the state vowed to sue the state if it proceeds with the Governor's plan, calling it an "illegal money grab." Within hours, the Governor's office responded, claiming the proposal was thoroughly vetted, and that the "budget proposal is legally sound."

This will be a fascinating story to follow, and the battle could prove to be one of the stories we remember most about 2011 when we look back on it years from now. For the most up-to-date information on how the battle progresses, please follow us on our blog, at www.CaliforniaEminentDomainReport.com.

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