

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

MEMORANDUM

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| TO: RULES COMMITTEE | FROM: HARRY S. MAVROGENES EXECUTIVE DIRECTOR |
| SUBJECT: SEE BELOW | DATE: MARCH 10, 2006 |

SUBJECT: REDEVELOPMENT AGENCY LEGISLATIVE UPDATE: AB 2922 (JONES), SB 1206 (KEHOE), AND AB 2197 (DEVORE)

RECOMMENDATION

That Rules Committee recommend to the City Council and Agency Board:

- (a) Oppose AB 2922 (Jones); Redevelopment.
- (b) Oppose SB 1206 (Kehoe); Low and Moderate Income Housing Fund Set Aside.
- (c) Oppose AB 2197 (DeVore); Redevelopment.

OVERVIEW

The Redevelopment Agency of the City of San Jose has been active in reviewing and tracking State legislation related to eminent domain and redevelopment "reform" and will continue to update the Agency Board on the status of priority redevelopment legislation. Currently, three bills are working their way through the Legislative process that would severely hinder the Agency's programs and initiatives, including its housing, economic development, job creation, and neighborhood improvement efforts. Many of these bills are still being revised, yet the process is moving quickly in Sacramento. The California Redevelopment Association Board is currently meeting and has just taken positions (consistent with ours) on several of these bills, so we have fresh analysis. Because there may be Senate and Assembly committee hearings in the next few weeks on some of these bills, it is imperative that we seek the Agency Board's position on the three bills highlighted as soon as possible.

AB 2922 (JONES) Low and Moderate Income Housing Fund: 50% set aside

This bill would amend several provisions of the Redevelopment Law dealing with the Low and Moderate Income Housing Fund (LMIHF) to: 1) increase the mandatory set aside from redevelopment tax increment from the current 20% to 50% as of July 1, 2007; 2) increase accountability and control of the Low and Moderate Income Housing Fund; 3) expand enforceability of affordable housing restrictions; 4) increase lead time for adoption of Replacement Housing Plans; 5) change income level targeting to 50% Extremely Low and Very Low income categories.

Analysis

The California Redevelopment Association's Board and membership agree that the measure is detrimental to redevelopment agencies and will cause agencies to curtail or eliminate programs. More importantly, in many cases, it will not result in additional funding for affordable housing.

The substantive provisions of this bill that would impact San Jose's redevelopment program, including its Low and Moderate Income Housing Program, are as follows:

A. Low and Moderate Income Housing Fund Set-Aside

- **WOULD RAISE SET-ASIDE FROM 20% TO 50%.** The principal feature of the legislation is the proposed increase in the required deposit of tax increment in the Low and Moderate Income Housing fund from 20 to 50 % of the tax increment allocated to a redevelopment agency.
- **PERMITS AGENCY TO REDUCE SET-ASIDE IN SPECIFIED CIRCUMSTANCES.** Under the new Sections 33334.2 and 33334.6, there would be two specified circumstances where an agency could set-aside less than 50%, but not less than 20% of the deposit requirement:
 - **Existing Obligations.** An agency could set-aside less than 50% of the deposit (but not less than 20%) if necessary to make payments on existing obligations. Although the bill contains several complicated definitions of "existing debt" depending on when redevelopment plans

were adopted and whether a project area is currently setting aside 20% of tax increment, these distinctions do not apply in San Jose because we do set aside 20% of our tax increment from all of our tax increment generating project areas. Therefore, for the purposes of this bill "existing obligations" would mean any debt incurred to finance any redevelopment project created on or before January 1, 2007 and listed in an adopted "statement of existing obligations".

- **Existing Programs.** Until January 1, 2012, an agency could set-aside less than 50% of the deposit (but not less than 20%) if necessary in order to provide for the orderly and timely completion of existing programs. This would consist of public and private projects, programs, or activities approved by the agency before January 1, 2007, and contained in a "statement of existing programs."
- **Liability for Deficit.** Any amount less than 50% deposited would constitute a deficit of the project. In each fiscal year in which the agency had such a deficit, it shall "adopt a plan to eliminate that deficit as soon as feasible." If the agency were to take longer than five years to eliminate the deficit, simple interest, at the average rate earned by the housing fund, would be added to each year's deficit until paid in full. Such debt may be paid for by tax increment funds.

IMPACT ON SAN JOSE

Due to the very active nature of San Jose's redevelopment program, both in the affordable housing program and the "80%" program, San Jose would qualify for the permitted deferral of the 50% set-aside requirement. In fact, it is estimated that the Agency's obligations will be more than the amount of tax increment collected. In other words, there will be no tax increment available after payment of debt service on existing obligations. Therefore, there can be no additional set aside above the existing 20%. This could be the case for the foreseeable future. As such, we would be carrying a set-aside "deficit" that would be impossible to eliminate, with no benefit to our affordable housing program.

It should be noted that while the claims on tax increment are greater than our projected tax increment revenues in FY 2007, the Agency has other mostly one-time revenues from which to pay obligations and to complete projects. However, the margins are very thin for the foreseeable future, and there is no way that the

accumulating housing deficit could be eliminated, even if the entire redevelopment program were terminated. Furthermore, eliminating non-housing redevelopment activity would have the effect of hindering tax increment growth which also negatively impacts the Housing Fund.

B. Low and Moderate Income Housing Fund Accountability/Control

▪ PLANNING AND ADMINISTRATIVE EXPENSES

○ **Planning and administrative expenses.** Money "budgeted or spent" from the fund for any fiscal year for planning and general administrative activities associated with the development, improvement, and preservation of the housing shall not be disproportionate to the amount actually "budgeted or spent" from the fund during that fiscal year for the cost of production, improvement, or preservation of that housing.

○ **Expansion of annual findings required for administrative expenses.** The legislation would expand the findings required annually in connection with using housing fund money for administrative expenses to include the following: (1) the expenditures are directly related to authorized programs and activities, and (2) the expenditures are not disproportionate to the amount actually spent during that fiscal year for costs of production, improvement and preservation of housing. The determinations would have to be in writing and supported by substantial evidence. If challenged, the burden of proof would be on the agency.

▪ **MAINTAIN DOCUMENTATION REGARDING COMPENSATION.** Under the legislation, agencies would also be required to maintain records that document the salaries, wages, related costs, time spent, and substance of the activity on each affordable housing development by each employee, agency, or contractor compensated by the fund.

IMPACT ON SAN JOSE

The language, as currently written, requires spending be proportionate to the amount actually budgeted or spent from the fund (20% Low and Moderate Income Housing Fund). It also requires that local governments bare the "burden of proof" if challenged on whether its administrative expenses are "disproportionate."

Additionally, the bill would require the documentation of salaries, wages, time spent, and other time keeping activities by each employee working on a development.

While it makes sense that the LMIHF should be spent appropriately, the City is concerned that the level of accounting called for in this bill would be administratively onerous, time consuming, and expensive.

C. Enforceability of Covenants and Restrictions

- **ENFORCEABILITY.** Existing law requires covenants and restrictions on the affordability of all new or substantially rehabilitated housing units developed or assisted with funds from the Low and Moderate Income Housing Fund to be recorded and makes such covenants and restrictions enforceable by the agency or the community. This legislation would make them enforceable by "any interested party," including a person or family of low or moderate income that is eligible to reside in the property.
- **MAINTAIN COPY OF COVENANTS.** The legislation would require an agency to obtain and maintain a copy of the covenants and restrictions.

D. Displaced Occupants Given Right of First Refusal

- If the agency exercises its authority under Section 33334.3(h) to expend housing fund money to preserve affordability of rental housing units assisted by the federal, state, or local government, by replacing those units with equally affordable and comparable rental units in another location within the community, persons and families of low or moderate income who would be displaced must be given a right of first refusal to occupy the replacement units.

E. Replacement Housing

- **RIGHT OF FIRST REFUSAL.** The legislation would require that a community replacing housing with equally affordable and comparable units may only do so if persons and families of low or moderate income who would be displaced would be given a right of first refusal to occupy the replacement units.

- **PRESUMPTION OF LOW INCOME.** The legislation would modify the requirement that replacement units be proportionate to the income level of the displaced occupants by providing that if income level of the occupant could not be verified, the household would be presumed to be "extremely low income." Section 33413.
- **INCREASE IN LEAD TIME FOR REPLACEMENT HOUSING PLAN.** The legislation would increase the lead time for the adoption of replacement housing plans from 30 to 180 days prior to approval of agreements for acquisition of property. A draft would have to be made available at least 90 days prior to adoption, making the effective lead time 270 days (9 months).

F. Income Targeting

- Under the legislation, at least half of the units assisted by the Low and Moderate Income Housing Fund would have to be targeted for extremely low and very low income persons (the other half being for low and moderate income housing). This would be a change from the current law, which requires that the housing targeted for each income level match the proportion of each level's share of the population.

IMPACT ON SAN JOSE

AB 2922 contains a provision that would require making available "at least the same number of housing units that are affordable to, and occupied by, extremely-low and very-low income persons that is equal to the number of units that are affordable to low and moderate income persons."

While the City of San Jose has created nearly half of all its units affordable to Extremely-Low Income (ELI) and Very-Low Income (VLI) households since 2001/2002, placing such a provision in any given year would be restrictive and does not truly represent the actual need for these units in a community. Additionally, this provision is in direct conflict with the State's Regional Housing Needs Allocation (RHNA) numbers. The State Housing and Community Development Department (HCD) has determined that San Jose has need for 14,787 affordable housing units. RHNA also stipulates that 5,337 of these units are needed for Very-Low Income households. This represents 36% of the total. By requiring funds be spent in greater proportion for VLI and ELI, the housing needs of low income households may not be addressed.

Status: The bill will be heard in the Assembly Housing and Community Development Committee in early April.

Because of the complexities of this bill, the Agency and the Housing Department will continue to provide additional information to the Council as it is being considered in Sacramento.

Recommended Agency Board Position: Oppose

SB 1206 (KEHOE) Redevelopment Reform

SB 1206 would make major revisions to the statutory definition of blight, thereby making it more difficult for an agency to meet the new criteria of blight. The bill would delete many of the variables of blight, including defective design or physical construction, lack of parking, impaired investments, and abandoned buildings. Remaining blight would need to meet a specific numerical or percentage test or a metric. SB 1206 would also limit an agency's ability to issue bonds following the 10th year of the life-span of a redevelopment plan by requiring a finding that *significant blight* remains in the project area. SB 1206 would also make legal challenges of redevelopment plans easier by increasing the statute of limitation on an action from 60 to 90 days.

Analysis

SB 1206 would severely limit the San Jose Redevelopment Agency's ability to establish indebtedness since all tax increment generating project areas in San Jose are beyond the 10th year of their life-cycle.

Under the provisions of SB 1206, in order to issue bonds, the Agency would be required to make a finding of significant blight under a more restrictive definition of blight. (The agency is not currently required to make blight findings prior to issuing bonds.)

This new requirement ignores the way redevelopment works. Existing law recognizes that the elimination of blight is a gradual process that occurs over a long period of time. Presumably, in a successful redevelopment area, some blight has been eliminated ten years after a Project Area has been established. Furthermore, in order to finance the process of eliminating blight, an Agency must rely on the gradually increasing tax increment. To require an Agency to find that

substantial blight remains in the project area, using a definition that is even more stringent than the one that was in place when the plan was adopted several years before, is asking the impossible. The bill seems to require that the redevelopment program be halted many years before the project is completed.

This requirement also does not take into account how the public finance market works. The bill requires that the City Council make this finding of "significant remaining blight", but does not provide a definition. The bill also makes such a finding more vulnerable to legal challenge by extending the validation period to 90 days. The result of these elements of the bill is that it will be very difficult to sell bonds without bringing a legal action to validate the Council's finding that significant blight remains in the project area, at great cost to the redevelopment program.

Finally, this requirement completely ignores the concept of the merged financing of different project areas. San Jose has 19 different project areas that are in varying stages of redevelopment. As such, some areas have more blight remaining than others. In fact, the newer project areas are being financed with the tax increment from the older, more established and presumably less blighted, project areas. This bill does not address how a finding of "significant remaining blight" could be made before Merged Area debt could be issued.

If the Agency is unable to issue bonds for the purpose of completing project plans and future projects, the following programs and initiatives could not be funded:

- Neighborhood community centers, libraries, parks, streetscape projects, and day care centers;
- North San Jose Infrastructure investments to accommodate projected job growth and housing;
- Facilitating private development and agency investment in the Downtown for retail, building rehabilitation, and lighting along the transit mall;
- Construction of public facilities and spaces, such as the North San Pedro Infrastructure Project, Center for the Performing Arts improvements, and downtown streetscape projects.

Status: SB 1206 passed Senate Local Government Committee, of which Kehoe is Chair. The measure has now been referred to Senate Judiciary Committee, where it will be heard on March 21, 2006.

Recommended Agency Board Position: Oppose

AB 2197 (DEVORE)

This bill would prohibit a redevelopment agency from adopting a redevelopment plan, and amending or merging a plan that would decrease the amount of property tax revenue received by a county, unless the county board of supervisors approves a plan, amendment, or a plan merger.

Analysis

The measure was proposed by Orange County Supervisor Chris Norby and is supported by the Orange County Board of Supervisors. AB 2197 would require the County Board of Supervisors to review and approve actions to adopt a plan, amend, or merge project areas of redevelopment agencies within the County. The bill would impose a State-mandated local program requiring the State to reimburse counties for their costs. The California State Association of Counties (CSAC), as well as Santa Clara County, had testified at the November Joint Legislative Hearing in Sacramento on redevelopment reform their support for a change in state law granting a county the authority to approve a redevelopment plan, amendments, or mergers.

Status: AB 2197 has been double-referred first to the Assembly Housing and Community Development where it is set for hearing April 5, 2006. If passed, the bill will then be referred to the Assembly's Local Government Committee for hearing.

Recommended Agency Board Position: Oppose

Eminent Domain

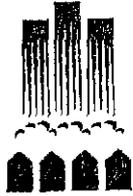
There are a number of bills proposed regarding eminent domain. In addition, there is a movement to obtain signatures statewide in order to place a constitutional amendment forward to severely curtail the use of eminent domain. We will provide a separate report on these bills in the near future, as these are still moving targets.

For your further information, I am providing, as attachments, the official position from the California Redevelopment Association on the bills discussed above, as well as a comprehensive analysis of other bills pending and their potential impacts. Again, these other bills can be dealt with in future reports. California Redevelopment Association's attorneys are also coordinating these bills with the California League of Cities.



HARRY S. MAVROGENES
Executive Director

attachments



California
Redevelopment
Association

ATTACHMENT 1

NO on SB 1206 and SB 1210

Measures Would Threaten Many Vital Community Revitalization Projects

SB 1206 (Kehoe) and SB 1210 (Torlakson) were recently introduced in the wake of the Supreme Court's decision in *Kelo v. City of New London*. While the decision did not change California law, it raised the profile over the use of eminent domain by local agencies, giving property rights advocates, who have wanted to abolish eminent domain for years, a platform to run on. It's also given legislators an excuse to try to overhaul all of redevelopment law – even that which has nothing to do with eminent domain. While we support responsible reforms, SB 1206 and SB 1210 represent the most far-reaching changes to Community Redevelopment Law in over a decade. They would threaten local governments' ability to eradicate blight, clean-up environmentally polluted properties, build affordable housing, and create jobs and economic opportunity. Below are just some of the problems with these bills:

SB 1206 (Kehoe)

While SB 1206 contains other provisions that are duplicative or unnecessary, below are the major concerns:

- **Greatly limits communities' ability to identify and clean-up blight:** SB 1206 would abolish many of the current factors used by redevelopment agencies to show the existence of blight, such as "defective design or physical construction," "impaired investments," "high turn-over rates, abandoned buildings and excessive vacant lots." Remaining blight factors would have to meet specific numerical or percentage tests severely limiting a community's ability to eradicate blight by:
 - Creating arbitrary distinctions.
 - Eliminate any flexibility in methodology for demonstrating the existence of blight.
- **Opens the door to frivolous lawsuits and legal challenges:** SB 1206 contains several provisions which are legally problematic for local governments including:
 - Prohibits agencies from requiring developers to indemnify the agency and local government from the costs of defending lawsuits. This could expose the general fund of cities or counties with limited financial resources to exorbitant costs associated with defending lawsuits without merit from project opponents.
 - Increases the statute of limitations on actions challenging redevelopment plans from 60 to 90 days. Gives the Attorney General and various state agencies authority to intervene in an action challenging the adoption of a redevelopment at anytime, not subject to time limitations.
 - Creates a new cause of action against redevelopment agencies that could be used to prevent or delay the issuance of bonds.
- **Creates new unworkable financing restrictions for merged redevelopment projects.** SB 1206 would limit the use of funds in merged redevelopment project areas by requiring all debt from one project to be repaid before using funds from that project in any other merged redevelopment project area. This would discourage or eliminate new mergers.
- **Requires new findings of blight if indebtedness issued after 10 years.** An agency would be prohibited from issuing debt after 10 years from the adoption of the redevelopment plan unless the agency finds that significant blight remains within the project area. This would give opponents a new cause of action to delay issuance of bonds.

SB 1210 (Torlakson)

It's important to note that, for the most part, the provisions of this bill amend sections of Eminent Domain Law which are applicable to ALL public agencies which use the power of eminent domain. While SB 1210 contains other provisions that are duplicative or unnecessary, below are the major concerns:

- **Greatly increases costs associated with acquiring properties for public projects and penalizes public agencies for attempting to be prudent with taxpayer dollars:**
 - If the court determines fair market value is greater than the public agency's last offer, the public agency would be required to pay twice the difference between the final offer and the market value. This would encourage public agencies to make offers well in excess of fair market value in order to avoid the risk of this penalty, resulting in a windfall to a few property owners at taxpayer expense.
 - Where an eminent domain action is abandoned or dismissed for any reason, the public agency would be required to pay three times the amount of all damages caused by the proceeding. The bill would create a penalty for abandoning eminent domain actions where, for example, a jury award of just compensation made the project financially infeasible.
 - Would limit ability to quickly acquire property by making it easier for a property owner to obtain a stay of an order of prejudgment possession. This could delay major public works projects and drive up costs significantly.
- **Requires new blight findings if time for using eminent domain is extended:** If the time limit on the exercise of eminent domain (current 12 years) is extended, resolutions of necessity to condemn property adopted subsequent to the extension would have to find that substantial blight exists in the project area and the acquisition of the parcel is necessary for eradicating the remaining blight. This would re-open the issue of blight in the middle of the project and would conflict with existing law which provides that the finding of blight made by the local governing body when the redevelopment plan is adopted is conclusive.

ATTACHMENT 2

Recommendations of Housing Committee on AB 2922

March 8, 2006

1. **Increase in Housing Set-Aside to 50%**
 - Oppose; Won't increase money to housing fund.
 - Alternatives:
 - > Provide incentives for devoting more money to housing, e.g., plan time extensions (a workable SB 211).
 - > Preserve flexibility – not one size fits all approach.
2. **Eliminate Exceptions to Housing Set-Aside Requirement**
 - Could support concept in an otherwise acceptable bill.
3. **Eliminate Authority for Pre-1977 Projects to Set Aside Less Than 20% in Order to Pay Indebtedness Incurred Prior to 1986.**
 - Oppose.
4. **Planning and Administration – Additional Findings; Detailed Documentation**
 - Apply only to agencies reporting they are spending more than 50% (or some other high figure) of their housing fund on administrative expenses over a multi-year period.
5. **Make Affordable Covenants Enforceable By Any Interested Person**
 - Could support in an otherwise acceptable bill.
6. **Right of First Refusal**
 - Oppose; Timing problems; current law already requires preferences.
7. **Application of Replacement Housing Requirement to Units Destroyed by Other Governmental Agencies**
 - Oppose if this means any units within the project area regardless of involvement of agency; hold other entities responsible for replacement of housing they remove.
8. **Priority Rules**
 - Could support concept in an otherwise acceptable bill.
9. **Presumption of Extremely Low Income for Undocumented Replacement Housing Units**
 - Oppose; Better rule is to use proportion of documented units.
10. **Extended Times for Preparation and Adoption of Replacement Housing Plans**
 - Oppose.
 - Alternative: Agree to 30-day notice before approaching replacement housing plan.
11. **Elimination of Ability to Share Housing Set-Aside Among Projects**
 - Oppose.
12. **Income Targeting for Extremely Low Income**
 - Oppose; Give recent legislation a chance to work.

ATTACHMENT 3

CRA BOARD OF DIRECTORS LEGISLATIVE REPORT

March 9, 2006

2006 Legislation

REDEVELOPMENT-RELATED BILLS

AB 1783 (Nunez). Infrastructure Financing. **Status:** Assembly. This bill was introduced to serve as a vehicle for infrastructure proposals. **Recommendation:** Current CRA Position is Watch.

AB 1783 provides for the financing of state and local government infrastructure through various funding sources, including bonds, fees, assessments, and other sources. It funds transportation, flood control, safe water systems, environmental improvement, housing, hospital seismic safety repair, and emergency public safety communications equipment.

AB 1838 (Oropéza). Transportation Bond Acts of 2006, 2008, and 2012. **Status:** Assembly. This bill was introduced to serve as a vehicle for the Governor's infrastructure proposals. **Recommendation:** Current CRA position is watch.

AB 1838 authorizes general obligation bonds for various transportation purposes. It pledges a percentage of existing fuel excise taxes and truck weight fees to offset the general fund cost for bond debt service. The bill also authorizes transportation entities to use a design-build process for contracting on transportation projects.

SB 1024 (Perata) Public Works and Improvements: Bond Measure. **Status:** Approved by Senate. To Assembly. **Recommendation:**

SB 1024 enacts the Safe Facilities, Improved Mobility, and Clean Air Bond Act of 2005 to authorize state general obligation bonds for specified purposes, including levee improvements, restoration of Proposition 42 transportation funds, port infrastructure and security projects, trade corridors of significance, emissions reduction projects, environmental enhancement projects, and transportation needs in cities and counties relative to housing as well as transit-oriented development, flood control, passenger rail improvement, housing, regional growth, and infill development.

SB 1024 appropriates unspecified amount of general obligation bonds for the above purposes. It passed the Senate Transportation and Housing Committee, 10-3. SB 1024 passed out of Appropriations and went to the Senate Floor. It was passed, 23-12. Amendments in the Senate removed the dollar amounts, added findings regarding land use, housing, and transportation interrelationships, the importance of levees, and other provisions. Amendments place the measure on the June ballot instead of the November.

AB 1893 (Salinas). Redevelopment. Status: Assembly Housing and Community Development Committee **Recommendation:**

This bill relates to existing law which prohibits a redevelopment agency from using tax increment funds for the construction of a city hall or county administration building. It extends this prohibition to the acquisition of land upon which such building is to be constructed.

AB 1990 (Walters). Eminent Domain. Status: Assembly. **Recommendation:**

AB 1990 prohibits a city, county, special district, school district, community redevelopment agency, or community development commission or joint powers agency from exercising the power of eminent domain to acquire any real property if ownership of the property will be transferred to a private party or private entity.

AB 1990 was introduced in February 2006. In 2005, Assembly member Walters authored AB 590 prohibiting eminent domain for economic development; it was defeated in committee.

AB 2157 (Chu). Redevelopment: El Monte. Status: Assembly. Reintroduction of concept carried by last year's AB 1167, which died in the 2005 session. CRA had maintained a Watch position on AB 1167 stating that CRA prefers a holistic approach to project area extensions rather than an agency-specific approach. **Recommendation:**

Authorizes the City of El Monte and the El Monte Community Redevelopment Agency to amend the Redevelopment Plan of the Downtown El Monte Redevelopment Project to allow it to carry out one or more transit oriented redevelopment projects.

AB 2197 (DeVore). Redevelopment Plans: Tax-Increment Financing. Status: Assembly **Recommendation:**

AB 2197 requires county board of supervisors' approval of redevelopment plan, amendment, or mergers. It prohibits a legislative body from adopting a redevelopment plan that provides for the uses of tax-increment financing, amending a redevelopment plan in a manner that would decrease the amount of property tax revenues received by a county, or merging redevelopment project areas unless the county board of supervisors reviews and approves of the plan, amendment, or merger. AB 2197 requires that the process include a public hearing and that specified public entities be invited. The bill provides that a redevelopment agency may appeal a negative decision and may resubmit the proposal, if the appeal fails, after a year. This bill imposes a "state-mandated" local program."

AB 2197 is sponsored by Orange County Board of Supervisors' member Chris Norby.

AB 2286 (Torrico). Infrastructure financing districts in housing opportunity zones. **Status:** Assembly **Recommendation:**

AB 2286 authorizes legislative bodies of a city or county to create infrastructure financing districts in "housing opportunity zones," which it defines. It outlines the requirements for doing so including a prohibition on overlapping with redevelopment project areas.

AB 2346 (Oropeza). Redevelopment: Los Angeles Harbor District. **Status:** Assembly. Reintroduces concepts carried by last year's AB 1330 (Karnette), which died in the 2005 session. **Recommendation:** CRA's position on AB 1330 was Watch.

AB 2346 establishes the Harbor District Development Authority in the City of Los Angeles. Authorizes the City Council of the City of Los Angeles, by resolution, to designate the Los Angeles Board of Harbor Commissioners as the redevelopment agencies for the Los Angeles Harbor District. It makes an ordinance adopted approving a redevelopment plan for the Los Angeles Harbor District subject to referendum as prescribed by the Charter of the City of Los Angeles for the ordinances of the City Council of the City.

AB 2483 (Baca), State Highways: Sale of Excess Property. **Status:** Assembly **Recommendation:**

This bill authorizes the Department of Transportation, prior to disposing of its excess real property to first offer the property for sale, exchange, or lease to a local agency for redevelopment purposes. It specifies that this provision does not apply to land of notable environmental value.

AB 2682 (Daucher). Redevelopment: Tax Increment Revenues. **Status:** Assembly **Recommendation:**

AB 2682 requires the share of property tax increment revenues diverted from local educational agencies to be directed to the county instead of the local educational agencies when a redevelopment agency is deactivated if the county has provided adequate affordable housing.

AB 2922 (Jones). Redevelopment: Low and Moderate Income Housing Fund. **Status:** Assembly. The bill raises the set aside to 50%. The bill contains other requirements regarding the LMIHF and relocation of low- and moderate-income tenants. **Recommendation:** This bill will be considered by the CRA Housing Committee at its March 8th meeting.

AB 2922 relates to redevelopment agencies and the low and moderate income housing fund. Increases the amount a redevelopment agency would be required to set aside for its low- and moderate-income housing obligation. This bill permits a redevelopment agency to set aside less in specified circumstances and would make an agency liable for the deficit so created.

ACA 27 (McCarthy). State budget: capital outlay. **Status:** Assembly **Recommendation:**

This proposed constitutional amendment would require that the Governor introduce a budget bill and that the Budget Bill passed by the Legislature and signed by the Governor allocate General Fund revenues to fund capital outlay projects of statewide significance and interest, as defined in the bill, in an annual amount determined pursuant to a specified schedule. This bill includes a prohibition on the use of General Fund revenues to fund the acquisition of property, where the power of eminent domain has been used (except for purposes of constructing a building at California State University or University of California, a highway, or a water storage facility).

SB 1165 (Dutton). Transportation Bond Acts of 2006, 2008, and 2012. **Status:** Senate Transportation and Housing Committee. SB 1165 was introduced to be a vehicle for the Governor's infrastructure proposals. It has been referred to both the Senate's Transportation and Housing and the Environmental Quality Committees. **Recommendation:**

SB 1165 authorizes state general obligation bonds for various transportation purposes. It also authorizes certain state and local transportation entities to use a design-build process for contracting on transportation projects.

SB 1206 (Kehoe). Redevelopment. **Status:** Amendments prior to the March 1st hearing in Senate Local Government Committee sought to ameliorate some of the criticism; however, they did not go far enough to make this bill supportable. The bill was passed out of Local Government, 5-0, and sent to the Senate Judiciary Committee. A hearing is set for March 14th.

SB 1206's provisions include major revisions to the statutory definition of blight. The proposed legislation would delete many of the factors contained in existing law and relied upon by redevelopment agencies to show the existence of blight, such as "defective design or physical construction," "lack of parking," "impaired investments," "high turn-over rates, abandoned buildings, and excessive vacant lots." Remaining blight factors would have to meet specific numerical or percentage tests. Other provisions include: limitations on use of funds in merged redevelopment projects; limits establishment of indebtedness; would authorize the Attorney General and specified state agencies to intervene in an action challenging a redevelopment plan adoption; increases the time for submitting referendum of redevelopment plans to 90 days for all jurisdictions; prohibits indemnity agreements; and, eliminates "antiquated subdivisions" as a condition of blight; and eliminates the use of funds to acquire land for city halls (which CRA believes is already in existing law).

SB 1210 (Torlakson). Eminent Domain. **Status:** Senate Judiciary Committee **Recommendation:** This bill is currently on CRA's watch list.

For the most part, SB 1210 amends sections of the Eminent Domain Law which are applicable to all public agencies that use the power of eminent domain. There are a few provisions that relate more specifically to redevelopment agencies. They include amending the law to provide that a public use does not include the taking of property in order to transfer it to a nongovernmental

entity for the purposes of economic development or increasing tax revenues, except as specifically provided under the Community Redevelopment Law. This provision of the bill responds to the holding in the *Kelo* case while at the same time preserving the use of eminent domain by redevelopment agencies.

SB 1210 also deletes the requirement that the court find that the property owner will probably prevail before issuing a stay against the taking. The condemning agency would be required to pay the cost of the property owner's appraisal of their property, regardless of need. If the court determines fair market value is greater than the public agency's last offer, SB 1210 requires the agency to pay twice the difference between the final offer and the market value. If the eminent domain action was abandoned, dismissed, or a judgment rules the public agency may not acquire the property, the agency would be required to pay three times the amount of all damages proximately caused by the proceeding (this creates a penalty for abandoning eminent domain actions where, for example, a jury award of just compensation made the project financially infeasible). SB 1210 amends CRL to require that if the time limit on the use of eminent domain is extended, that a resolution of necessity be adopted that demonstrates that substantial blight still remains and the property or parcel is necessary to its eradication.

SB 1329 (Alquist). Redevelopment: Supermarkets. Status: Senate Recommendation:

SB 1329 authorizes an agency to establish a program to award planning grants and other financial incentives to large supermarket chains, independent grocers, small markets, and ethnic grocers to assist with predevelopment activities, feasibility studies, land and building acquisition, construction, machinery and equipment purchases and working capital for the placement of supermarkets in underserved sectors within a project area.

SB 1650 (Kehoe). Eminent Domain: Future Uses. Status: Senate Recommendation:

SB 1650 requires the governing body of a public entity to adopt a new resolution of necessity and send related notices before the public entity may use the property, in whole or in part, for a public use other than the public use for which the public entity originally acquired the property.

SB 1809 (Machado). Real Property Disclosures: Redevelopment. Status Senate Recommendation:

SB 1809 requires a specified disclosure statement in connection with the transfer of residential real property that is located in a redevelopment project area regarding whether the property may be subject to eminent domain proceedings. It requires notice to a prospective purchaser in the case of a transfer of any other real property, if that property is located within a redevelopment project area. The bill also requires a redevelopment agency to provide specified information regarding real property.

SCA 20 (McClintock). Eminent Domain: Condemnation Proceedings. **Status:** Senate Judiciary Committee **Recommendation:** Currently CRA opposes SCA 20.

SCA 20 provides that private property may be taken or damaged only for a stated public use and not without the consent of the owner for purposes of economic development, increasing tax revenue, or any other private use, for maintaining the present use by a different owner. It also provides that if the property ceases to be used for the stated public use, the former owner would have the right to reacquire the property for its fair market value.

SCA 21 (Runner G). State Budget. **Status:** Senate Budget and Fiscal Review Committee **Recommendation:** CRA Position as of Feb 27th is Watch

SCA 21 requires the Governor's Budget to contain a separate estimate of General Fund Revenue, and of the principal and interest payable on outstanding General Fund-supported debt.

BROWNFIELDS RELATED BILLS

AB 2092 (Hancock). Public Health Priority Sites. **Status:** Assembly **Recommendation:**

AB 2092 makes certain legislative findings and declarations regarding the cleanup and redevelopment of brownfields.

AB 2144 (Montañez). Hazardous Materials: Land Use. **Status:** Assembly **Recommendation:**

AB 2144 relates to specified immunity from liability for response costs or damage claims with regard to a site in an urban infill area. The bill's provisions require a bona fide purchaser, innocent landowner, or contiguous property owner who seeks to qualify for the immunity to enter into an agreement with an agency, including the performance of a site assessment.

AB 2145 (Montañez). Hazardous Materials: Liability. **Status:** Assembly **Recommendation:**

AB 2145 defines applicable law as meaning certain state statutory and common laws that impose liability on an owner or occupant of property for pollution conditions caused by a release or threatened release of hazardous material on, under, or adjacent to the property.

AB 2490 (Ruskin). California Toxic Release Inventory Program. **Status:** Assembly **Recommendation:**

Pursuant to the federal Emergency Planning and Community Right-to-Know Act (EPCRA). AB 2490 enacts the Toxic Release Inventory Program Act of 2006. AB 2490 requires Cal-EPA, to establish the Toxic Release Inventory Program. It further requires that program to impose the same, or more stringent, requirements as within this state, including, but not limited to, any regulations adopted pursuant to EPCRA.

AB 2547 (Ridley-Thomas). Corporation Taxes: Deductions: Brownfields. **Status: Assembly Recommendation:**

AB 2547 relates to the Corporation Tax Law. Its provisions allow a deduction in the amount of interest received by financial corporations from loans made for the purpose of redeveloping brownfields that are located within blighted areas.

AB 2610 (Keene). Redevelopment Agencies. **Status: Assembly Recommendation:**

AB 2610 authorizes a redevelopment agency to adopt a biennial budget. It extends specified immunity to a person who acquires the property from an agency if the agency undertakes and completes a remedial or removal action or causes another person to undertake and complete that action and the agency is immune from liability as set forth in existing law.

AB 2933 (Houston). Environmental Protection: Environmental Quality Act. **Status: Assembly Recommendation:**

AB 2933 makes non-substantive, technical changes to a California Environmental Quality Act provision that requires a local agency to prepare and certify the completion of, an environmental impact report on a project they intend to carry out or approve that may have a significant effect on the environment.

ACA 27 (McCarthy). State budget: capital outlay. **Status: Assembly Recommendation:**

This proposed constitutional amendment would require that the Governor introduce a budget bill and that the Budget Bill passed by the Legislature and signed by the Governor allocate General Fund revenues to fund capital outlay projects of statewide significance and interest, as defined in the bill, in an annual amount determined pursuant to a specified schedule. This bill includes a prohibition on the use of General Fund revenues to fund the acquisition of property, where the power of eminent domain has been used (except for purposes of constructing a building at California State University or University of California, a highway, or a water storage facility).

SB 1798 (Perata). California Environmental Quality Act. **Status: Senate Recommendation:**

SB 1798 relates to existing law that exempts from California Environmental Quality Act a residential project on an infill site within an urbanized area, that meets specified criteria, including that the site of the project is not more than 4 acres in total area and the project does not contain more than 100 residential units. The bill requires the total area of the project site to be not more than 10 acres, and the project to not contain more than 200 units.

HOUSING RELATED BILLS

AB 2286 (Torrico). Infrastructure Financing Districts in Housing Zones. **Status:** Assembly **Recommendation:**

AB 2286 authorizes the legislative body of a city or county to designate one or more proposed infrastructure financing districts in housing opportunity zones to be financed by tax increment financing.

AB 2378 (Evans). Housing: Density Bonus. **Status:** Assembly **Recommendation:**

AB 2378 relates to existing law requiring housing developers to agree to construct a percentage of total units for specified income households. It extends the continued affordability agreement to moderate-income dwelling units.

AB 2503 (Mullin). Affordable Housing. **Status:** Assembly **Recommendation:**

AB 2503 authorizes cities and counties to enter into a joint powers agreement to form an affordable housing pooling arrangement for the acquisition, construction, or development of housing that is affordable to lower income families within the jurisdiction of the joint powers agency, created by the agreement. The bill specifies how the public agencies may contribute funds to a housing trust fund of the joint powers agency and how the funds may be used.

AB 2503 has the support of the League of California Cities.

AB 2922 (Jones). Redevelopment: Low and Moderate Income Housing Fund. **Status:** Assembly **Recommendation:**

AB 2922 relates to redevelopment agencies and the low and moderate income housing fund. Increases the amount a redevelopment agency would be required to set aside for its low and moderate income housing obligation. It permits a redevelopment agency to set aside less in specified circumstances and would make an agency liable for the deficit created.

FOR YOUR INFORMATION

AB 1783 (Nunez). Infrastructure Financing. **Status:** Assembly **Recommendation:** Current CRA Position is Watch.

AB 1783 provides for the financing of state and local government infrastructure through various funding sources, including bonds, fees, assessments, and other sources. It proposes funding transportation, flood control, safe water systems, environmental improvement, housing, hospital seismic safety repair, and emergency public safety communications equipment.

This bill was introduced to serve as a vehicle for infrastructure proposals.

AB 1838 (Oropeza). Transportation Bond Acts of 2006, 2008, and 2012. **Status:** Assembly. **Recommendation:** Current CRA Position is Watch.

AB 1838 authorizes general obligation bonds for various transportation purposes. The bill pledges a percentage of existing fuel excise taxes and truck weight fees to offset the general fund cost for bond debt service. It authorizes transportation entities to use a design-build process for contracting on transportation projects.

This bill was introduced to serve as a vehicle for the Governor's infrastructure proposals.

AB 1893 (Salinas). Redevelopment. **Status:** Assembly Housing and Community Development Committee **Recommendation:**

This bill relates to existing law which prohibits a redevelopment agency from using tax increment funds for the construction of a city hall or county administration building and it extends this prohibition to the acquisition of land upon which such building is to be constructed.

AB 2157 (Chu). Redevelopment: El Monte. **Status:** Assembly **Recommendation:**

AB 2157 authorizes the City of El Monte and the El Monte Community Redevelopment Agency to amend the Redevelopment Plan of the Downtown El Monte Redevelopment Project to allow it to carry out one or more transit-oriented redevelopment projects.

AB 2157 reintroduces concepts carried by last year's AB 1167, which died in the 2005 session. CRA had maintained a Watch position on AB 1167 stating that CRA prefers a holistic approach to project area extensions rather than an agency-specific approach.

AB 2158 (Evans). Regional Housing Needs. **Status:** Assembly **Recommendation:**

AB 2158 relates to existing law requiring each council of governments or delegates subregion to develop a proposed methodology for distributing the existing and projected housing need to cities within the region or subregion. The bill also adds to the list of factors in that methodology adopted spheres of influence for all local agencies in the region and adopted policies of the local agency formation commissioning the region that relates to logical and orderly urban growth patterns.

AB 2228 (Evans). Real Property Disclosures. **Status:** Assembly **Recommendation:**

Current law requires the Department of Real Estate to publish a booklet to educate and inform consumers on common environmental hazards. AB 2228 requires inclusion of information regarding the availability of environmental hazard disclosure reports. Other provisions require a person intending to offer subdivided lands to include in a notice of intention a true statement, referencing any environmental hazard disclosure reports. It also requires a transferor of residential real property to disclose availability of a report on environmental hazards.

AB 2682 (Daucher). Redevelopment: Tax Increment Revenues. **Status:** Assembly
Recommendation:

AB 2682 requires the share of property tax increment revenues diverted from local educational agencies to be directed to the county instead of the local educational agencies when a redevelopment agency is deactivated if the county has provided adequate affordable housing.

AB 2307 (Mullin). State Mandates: Housing Element. **Status:** Assembly **Recommendation:**

AB 2307 relates to a levy to pay cost of a mandated program or service and includes a joint powers authority within the definition of local agency for purposes of mandate reimbursement. AB 2307 repeals the authority of councils of government to charge a fee to local governments for their role in determining housing needs.

AB 2331 (Villines). Prevailing Wage Exclusion: Qualified Transfers. **Status:** Assembly
Recommendation:

AB 2331 excludes from specified prevailing wage requirements any project that is funded in whole or in part by a qualified transfer by a city, county, or redevelopment agency of qualified real property to a nonprofit corporation.

AB 2464 (Saldana). California Environmental Quality Act: Rental Housing. **Status:** Assembly
Recommendation:

AB 2464 amends the California Environmental Quality Act by providing that a project is not exempt from CEQA if specified conditions related to the removal of rental housing units in a city with a population of over 250,000 or in a county with a population of over 1,000,000, apply.

AB 2468 (Salinas). Planning: Housing Element. **Status:** Assembly **Recommendation:**

AB 2468 authorizes a jurisdiction to participate in a self-certification process that would require the inventory of land included on the housing element to accommodate 100% of its allocated regional housing need for very low-income households on sites zoned to permit owner-occupied and rental multifamily residential use *by right* during the planning period.

AB 2484 (Hancock). Housing Development: Density Bonuses. **Status:** Assembly
Recommendation:

AB 2484 relates to existing law regarding housing developments and general requirements of a city and county to grant density bonuses if the developer agrees to construct a housing development that includes specified percentages of the total housing units for lower income

households. AB 2484 provides that these requirements shall not apply to a housing development on a parcel with certain maximum allowable residential densities and parking requirements do not exceed designated standards.

AB 2484 is a part of the League of California Cities supported legislative package. This bill exempts from the Density Bonus Law those parcels that are already zoned at high density.

AB 2511 (Jones). Land Use: Housing. Status: Assembly Recommendation:

AB 2511 relates to the Planning and Zoning Law. It requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that bears relation to its planning and includes the land use, circulation, housing, open space, and conservation elements.

AB 2572 (Emmerson). Housing Element: Student Dormitories. Status: Assembly Recommendation:

AB 2572 relates to the approval process for a city or county's draft housing element by the Department of Housing and Community Development. AB 2572 requires the department, in evaluating a proposed or adopted housing element for consistency with state law, to count student dormitories that are identified within the housing element of a city or county for purposes determining whether the city or county meets its share of regional housing needs.

AB 2572 is a part of the League of California Cities' package of housing-related bills it is supporting.

AB 2634 (Lieber). Housing Elements. Status: Assembly Recommendation:

AB 2634 provides that extremely low-income households be included in the required analysis of population and employment trends and quantification of the locality's existing and projected housing needs for all income levels.

AB 2638 (Laird). Housing Trust Fund. Status: Assembly Recommendation:

AB 2638 requires the Department of Housing and Community Development make grants for the purpose of supporting local housing trust funds. It eliminates the distinction between housing trusts that existed before a specified date, and those that are created after that date as well as a requirement that the program be operated under guidelines adopted by the department that are exempt from the requirements of the Administrative Procedure Act.

AB 2723 (Pavley). Solar Energy: Low-Income Revolving Loan Program. Status: Assembly Recommendation:

AB 2723 establishes the Low-Income Housing Development and Nonprofit Building Revolving Loan Program to help finance solar energy systems in eligible low-income housing and nonprofit buildings located in the service areas of an electrical corporation. It creates a program fund for

that program, to be annually appropriated and used for the purposes of the program and requires the Energy Commission to consider and evaluate the level of funding necessary.

AB 3042 (Evans). Regional Housing. Status: Assembly Recommendation:

AB 3042 provides an additional procedure by which a city or county may enter into an agreement to transfer a percentage of its share of the regional housing needs to another city or county.

AB 3042 is supported by the League of California Cities.

AJR 47 (Ridley-Thomas). California Housing Affordability. Status: Assembly Recommendation:

This resolution memorializes the President and Congress to recognize the high cost of purchasing a home in California and to act to raise the Federal Housing Authority and conforming loan limit to make it more possible for residents to own a home.

SB 1177 (Hollingsworth). Housing: Density Bonus. Status: Senate Transportation and Housing Committee Recommendation:

This bill amends existing law which prohibits a city or county from applying a development standard that has the effect of precluding the construction of a development meeting the affordable housing criteria that entitles the developer to a density bonus and incentives or concessions. It deletes the requirement that the developer show that the waiver or modification of development standards is necessary to make the housing units economically feasible.

SB 1322 (Cedillo). Housing: Use by Right. Status: Senate Transportation and Housing Committee Recommendation:

SB 1322 relates to the Planning and Zoning Law requiring the housing element of the general plan of a city or county to include a program to implement the goals and objectives of the housing element. It requires the program to provide for sufficient sites with zoning for emergency shelter and residential service providers.

SB 1330 (Dunn). Housing Developments: Attorney's Fees. Status: Senate Recommendation:

SB 1330 relates to housing development projects and to the density bonus for the production of lower income housing units. It requires that in any action in which the court finds a violation of specified provisions, the court is required to award to the plaintiff reasonable attorney's fees and costs.

This bill expands who can claim reimbursement of attorney's fees and costs from cities.

SB 1376 (Cheshbro). Community Services Block Grant Program: Funding. Status: Senate Recommendation:

SB 1376 amends existing law which sets forth a method for allocating federal assistance to agencies. It revises the method by which federal assistance is allocated for each agency that increases, as provided, and to provide for additional allocations. The bill requires the Director of Community Services to convene the network of agencies receiving grant funds to determine whether changes to the allocation system should be contemplated and referred to the Legislature for consideration.

SB 1432 (Lowenthal). Mello-Roos Districts. Status: Senate Recommendation:

SB 1432 adds other services that may be financed by a district and specifies that the services may not be funded by the issuance of bonds. This bill authorizes a district to fund programs to create incentives for or to subsidize lower income housing. It makes various revisions and additions concerning procedures and required notices.

SB 1477 (Runner G). Owner-Occupied Housing. Status: Senate Recommendation:

This bill states the intent of the Legislature to enact legislation to address the problems associated with absentee landlords, including mortgage fraud and more effective enforcement of contracts requiring owners occupy their houses.

SB 1509 (Soto). Zoning Regulations. Status: Senate Recommendation:

SB 1509 requires the Office of Planning and Research, to adopt one or more model ordinances for voluntary use by cities, and counties, suitable for modification by a local agency, that encourage mixed use urban form and design that meet specifies criteria and perform other duties.

The bill requires DPR to consult with the League of California Cities, California State Association of Counties, and other relevant organizations in the development of the model ordinances.

SB 1754 (Lowenthal). Housing and Infill Infrastructure Financing Districts. Status: Senate Recommendation:

SB 1754 establishes a pilot project allowing for the information, under criteria developed by councils or governments, of housing and infill infrastructure financing districts. It authorizes a district to finance the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of real or other tangible property, for various purposes.

The League supports SB 1754.

SB 1800 (Ducheny). General Plans: Housing. Status: Senate Recommendation:

SB 1800 relates to a comprehensive, long-term general plan for the physical development of the county or city, including a housing element. It requires the legislative body of a local agency to adopt the general plan.